On June 27, 2010, the Baltimore Sun reported that Baltimore City had the highest percentage of unfounded rape cases of any city in the country for the past four years (see Appendix A).

More than 30 percent of the cases investigated each year were determined by officers to be false or baseless. This is five times the national average. The paper reported that in four of 10 emergency calls to police involving allegations of rape, officers classified the calls as false or baseless and were not referred to sex crimes detectives for investigation. The increase in unfounded rape cases coincided with an 80% decline in the number of rapes reported by the Baltimore Police Department – compared to a national decline of 8% during the same period as reported by the Federal Bureau of Investigations. (The Baltimore Sun, 6/27/2010)

Baltimore’s Mayor, Stephanie Rawlings-Blake, responded to the article on June 28, 2010 with the following statement: “I am deeply troubled to learn about the high number of unfounded rape complaints and the decline in reported rapes over the past decade. The data shows the critical need to immediately address the issue with a comprehensive review of investigative practices and response.

Sadly, rape is one of the most underreported crimes because women are often ashamed and afraid to confront their attackers. We need to do everything in our power to ensure victims of sexual assault feel safe reporting incidents to [the] police. No victim should ever suffer in silence.

The Uniform Crime Report and Maryland law both define rape as forced or attempted forced vaginal intercourse; therefore, many sexual assaults are not captured by this statistics, e.g., forced anal or oral intercourse. Similarly, Maryland law also defines “rape” as involving vaginal intercourse; so many sexual assaults are not captured by this term. Criminal Law Art. §3-303-304.

For the purposes of this report, we have chosen to use the word “victim” instead of “survivor” or “victim/survivor” because it is the term used by Maryland law and within the criminal justice system. We acknowledge that some people who have experienced sexual assault prefer “survivor” and encourage respect for those choices.
The Baltimore Police Department must examine their current practices and work with leading sexual assault experts to develop and implement new best practices that encourage victims to come forward. Accordingly, I have tasked the Mayor’s Office on Criminal Justice to take a leadership role with the Sexual Assault Response Team to oversee the development and implementation of improved Baltimore Police Department practices. Commissioner Bealefeld has assured me that the Department is conducting a full audit of unfounded complaints and an internal review of training and investigative practices."

"WE NEED TO DO EVERYTHING IN OUR POWER TO ENSURE VICTIMS OF SEXUAL ASSAULT FEEL SAFE REPORTING INCIDENTS TO [THE] POLICE. NO VICTIM SHOULD EVER SUFFER IN SILENCE.”
MAYOR STEPHANIE RAWLINGS-BLACE

On December 1, 2010, Mayor Rawlings-Blake and Police Commissioner Frederick H. Bealefeld, III instructed administration officials to:
- Conduct a full and transparent audit of unfounded rape cases;
- Review internal procedures and improve investigative processes;
- Work with Sexual Assault Response Team (SART) partners to develop and implement best practices;
- Improve training for Baltimore City detectives and other relevant staff;
- Reduce the number of unfounded sexual assault complaints; and
- Treat all victims with dignity and respect.

City officials began by announcing the creation of a new helpline for victims of rape and sexual assault in Baltimore City. The helpline is operated by TurnAround, Baltimore City’s rape crisis and recovery center. Victims who had experienced a rape or sexual assault in Baltimore City were encouraged to call the helpline to seek support and services. In addition to those cases already determined unfounded by the police, any victims who contacted the TurnAround helpline expressing concern with the Baltimore Police Department’s handling of their cases were to be referred to the Mayor’s Office on Criminal Justice for inclusion in the audit.

The Mayor also assigned the Office on Criminal Justice to lead the audit process, in cooperation with the SART. The Office on Criminal Justice expanded the SART beyond its original members which included: the State’s Attorney’s Office; the Baltimore Police Department, including the crime laboratory; the Mercy Medical Center Forensic Nurse Examiner Program and TurnAround. The following partner organizations joined the original members: the Baltimore Child Abuse Center; additional departments within the Baltimore Police Department, including the Child Abuse Unit and Legal Affairs; the Mayor’s Office on Criminal Justice; the Maryland Coalition Against Sexual Assault and the Sexual Assault Legal Institute.

A SART IS
A MULTI-DISCIPLINARY TEAM THAT INCLUDES LOCAL LAW ENFORCEMENT, FORENSIC NURSE EXAMINERS, PROSECUTORS AND VICTIM ADVOCATES.

The expanded SART first met on July 8, 2010 and identified the following initial steps:
- Creation of a protocol for addressing and transferring calls made to the helpline from TurnAround to the Baltimore Police Department;
- Request and review of a legal opinion regarding inclusion of external parties in the audit;
- Development of training for Baltimore City Police’s audit team, as well as for the sex offense detectives;
- Exploration of case management software to aid in tracking and managing cases across agencies; and
- Submission of a grant to support SART activities to the Governor’s Office on Crime Control & Prevention through the Edward J. Byrne Memorial Justice Assistance Grant.

This annual report provides a summary of the SART’s activities for the fiscal year, which ended on June 30, 2011. The report also provides lessons learned from the experiences of the SART and its participants in hopes that this may be of help and support to other jurisdictions across the State of Maryland and nationally.

*A SART is a multi-disciplinary team that includes local law enforcement, forensic nurse examiners, prosecutors, victim advocates, crime lab personnel and others depending on the jurisdiction.
The SART met monthly beginning on July 8, 2010 and throughout the first year. Two committees were established to address best practices and the audit, and it was determined that a representative from each organization would participate on the committees. The Best Practices Committee met monthly throughout the reporting period, and the Audit Committee met regularly from August 2010 through October 2010. A third committee addressing public outreach was subsequently established in March 2011. An overview of the committees and their key outputs are provided below.

**BEST PRACTICES**
The Best Practices Committee was charged with identifying national and local best practices and drafting a SART mission statement and memorandum of understanding (MOU). (Please see Appendix B for a full listing of committee members.)

The committee reviewed the following best practices and guidance documents:

- A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents, U.S. Department of Justice, Office on Violence Against Women, September 2004
- Sexual Assault Investigative Guidelines, International Association of Chiefs of Police, 2008
- SART Handbook, Oregon Attorney General’s Sexual Assault Task Force, 2009
- False Reports: Moving Beyond the Issue to Successfully Prosecute and Investigate Non-Stranger Sexual Assault, Lonsway, Archambault, and Lisak, National Center for the Prosecution of Violence Against Women, The Voice, American Prosecutors Resource Institute, Volume 3, Issue 1, 2009
- SART Toolkit: Resources for Sexual Assault Response Teams, Department of Justice, Office for Victims of Crime, March 2011
- SART Handbook, Oregon Attorney General’s Sexual Assault Task Force, 2009
- False Reports: Moving Beyond the Issue to Successfully Prosecute and Investigate Non-Stranger Sexual Assault, Lonsway, Archambault, and Lisak, National Center for the Prosecution of Violence Against Women, The Voice, American Prosecutors Resource Institute, Volume 3, Issue 1, 2009
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- SART Toolkit: Resources for Sexual Assault Response Teams, Department of Justice, Office for Victims of Crime, March 2011
would be able to obtain paper records of their SAFE documentation and copies of photographs taken during the exam, because these items serve a dual purpose as medical records and forensic evidence. Requests for these records are made through the Mercy Medical Center Forensic Nurse Examiner Program.

Following its review of best practices, the committee provided drafts of a mission statement and MOU for the consideration and eventual approval of the full SART. The SART approved the following mission statement: To provide a collaborative, victim-centered response to sexual violence in our community. An MOU was ratified by the full SART and executed on April 13, 2011 by representatives from the following member organizations: The Baltimore Child Abuse Center, the State’s Attorney’s Office, the Baltimore Police Department, the Maryland Coalition Against Sexual Assault, the Mayor’s Office on Criminal Justice, the Mercy Medical Center Forensic Nurse Examiner Program and TurnAround. (A copy of the MOU is provided in Appendix C of this report.)

THE SART’S MISSION IS TO PROVIDE A COLLABORATIVE, VICTIM-CENTERED RESPONSE TO SEXUAL VIOLENCE IN OUR COMMUNITY.

Further output from this committee includes the development of a Best Practices checklist (see Appendix D), a 24-hour SART flow of response (see Appendix E) and a new process for data collection and sharing. As a result of recommendations of the best practices committee, basic data on number of victims served, cases investigated, forensic interviews completed,SAFE kits administered and processed and sex offenses prosecuted will be reported monthly at the SART meetings (see Appendix F for complete list of data points).

This data collection process will inform the scope of the multidisciplinary database that is being implemented across agencies. Victim service providers also completed a services assessment (see Appendix G) to take inventory of existing services and identify any areas of overlap or gaps in services.

The Baltimore Police Department reviewed its operations as a part of the Best Practices Committee and implemented new policies and procedures to help ensure that sex offense complaints are properly investigated. These include:

- Referring all sex offense complaints to the Sex Offense Unit where a full report must now be written; patrol officers can no longer “unfound” sexual assault complaints without the approval of a sex offense detective;
- Requiring a detective from the sex offense unit to respond to all sexual assault calls for service where a victim is located;
- Requiring the approval of an immediate supervisor and a commanding officer of the Sex Offense Unit to unfound a sex offense complaint; and
- Instituting a more rigorous supervisory review of all sex offense investigations.

See Appendix H to review the Baltimore Police Department’s Personal Crimes Unit Standards Operation Procedures, Sexual Assault Investigations and a General Order issued January 7, 2011 regarding rape and sexual assault.

A DETECTIVE FROM THE Sex Offense Unit [IS NOW REQUIRED] TO RESPOND TO ALL SEXUAL ASSAULT CALLS FOR SERVICE WHERE A VICTIM IS LOCATED.

The shift in policies and procedures also led to personnel changes within the Sex Offense Unit. A new commander was appointed and the unit’s staffing was increased to meet the expanded investigative needs.
The new State’s Attorney, who was elected in the fall of 2010 and took office in January 2011, is committed to working with the SART to improve the quality of sex offense investigations and trials in Baltimore City. To achieve this goal, a set of best practices for sex offense cases is being identified and developed. The incorporation of these practices into the daily work of the State’s Attorney’s Office will enable the strongest possible cases to be brought to court. At the same time, these efforts will be designed to ensure that sex offense victims are fully informed of the progress of their cases and connected with the services and support they may need.

The new State’s Attorney’s Office administration has made personnel changes to the Sex Offense Unit, including the hiring of a new Division Chief, who is an expert in the prosecution of cases involving complex forensic evidence, and a new Deputy Division Chief, who is a former senior attorney and training coordinator at the National District Attorneys Association in the area of sex offense and sexual child abuse. The State’s Attorney’s Office has also transferred a senior homicide prosecutor into the unit to further bolster the trial expertise of the unit.

The State’s Attorney’s Office will meet with the victim to explain the reasons for the decision.

The State’s Attorney’s Office has hired a Training Director who is working with the Division Chief of the Sex Offense Unit to identify training programs for the prosecutors in the unit.

The State’s Attorney’s Office and the Baltimore Police Department will continue to strengthen collaboration between detectives and prosecutors in the investigation of sex offense cases.

In addition, representatives from the Mercy Medical Center Forensic Nurse Examiner Program enacted a new advocacy sign-in process, and TurnAround has completed revisions to its helpline protocol and policies.

The Best Practices Committee changed its name to the Policies and Procedures Workgroup in June 2011 to reflect its goals of continuing to advance and improve team and agency policies and procedures in the next calendar year.

**AUDIT**

The Audit Committee was charged with reviewing all unfounded rape cases from the period beginning January 2009 and ending August 2010. (Please see Appendix B for a full listing of committee members.) The committee members met regularly from August 2010 through October 2010 and reviewed cases referred through the helpline and all the unfounded reports of the sex offense detectives and a sampling of those from patrol. Additionally, they also revised a sampling of other forms of sexual assault (exclusive of rape) that were unfounded. After November 2010, the committee moved to monthly meetings to review all unfounded cases occurring within the past month and a random sampling of other cases during that time period.

Detectives partnered with victim advocates from TurnAround to re-interview the victims from the 2009 and 2010 cases that were audited. Information from these interviews was presented to the Audit Committee to determine whether the cases were correctly classified. The committee members also reviewed the cases to inform best practices for investigations moving forward.

The committee made recommendations regarding whether each case should remain unfounded, be reopened, reclassified and further investigated. Where there was disagreement among members of the committee, the committee determined to reopen the case. If a case was reopened, the committee then recommended an appropriate classification for the reported crime based on available information.

From August 2010 through October 2010, the committee reviewed 134 cases of rape and/or sexual assault that had been unfounded between January 2009 and August 2010. Sixty cases were found to be properly unfounded.

<table>
<thead>
<tr>
<th>Audited Cases Unfounded by Baltimore Sex Offense Unit</th>
<th>Reported Rapes</th>
<th>Calls for Service</th>
<th>Sampling of Other Sexual Assault Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reclassified as Rape</td>
<td>25</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Reclassified as Attempted Rape</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reclassified as Age-Based Sex Offense</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reclassified as Sexual Abuse of a Minor</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reclassified as 1st Degree Sex Offense</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reclassified as 3rd Degree Sex Offense</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Reclassified as 4th Degree Sex Offense</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reclassified as Possible Sex Offense</td>
<td>20</td>
<td>10</td>
<td>3</td>
</tr>
<tr>
<td>Reclassified as Incest</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Recoded from Rape to Assault</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Recoded as Domestic Assault</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Correctly Unfounded</td>
<td>43</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>98</strong></td>
<td><strong>20</strong></td>
<td><strong>16</strong></td>
</tr>
</tbody>
</table>

Please see Appendix I for Maryland sexual crime statutes.
Additionally, the Audit Committee reviewed 14 calls that were taken by the TurnAround helpline staff:

- One case that was unfounded was reopened as a sex offense.
- Four cases were currently open and, to date, no suspect had been identified.
- Two cases had been investigated by the Baltimore Police Department and were closed by exception with the concurrence of the State’s Attorney’s Office.
- Two cases resulted in charges being brought against the suspects; however the victims were dissatisfied with the court outcomes.
- One incident did not occur within Baltimore City and was referred to the District of Columbia where the assault occurred.
- Four cases had not been previously reported and were investigated.

During the course of its work, the Audit Committee also identified a number of policy and procedural changes that have been implemented by members of the SART. They include:

**Law Enforcement**

The Baltimore Police Department will:

- Transport victims directly to an emergency room for care prior to a police interview.
- Define unfounded cases as false, baseless or cases in which a crime did not occur.
- Require a case review and authorization by an immediate supervisor and the Unit Commander before a case is classified as unfounded.
- Not unfound a case simply on the basis of reported inconsistencies in the victim’s statement (for example, dates, the color of an offender’s clothing, etc.); corroboration is required in such instances to unfound a case.
- Require that recantations are thoroughly investigated and corroborated before they are used as a basis to unfound a case.
- Require additional evidence when there is a lack of medical evidence (i.e., genital injury); the lack of medical evidence is not, in and of itself, sufficient to unfound a case.
- Include general sensitivity and information about how victims react when they have had multiple traumas (e.g., the child sexual abuse survivor who is raped as an adult) in all trainings for sex offense detectives. Trainings will also include information about victim-selection by offenders.
- Follow up on statements of fear to help assess whether a “threat of force” element could be supported, in consultation with the State’s Attorney’s Office.
- Not use threat of arrest to impact a victim’s statement or actions. In cases where it is discovered that the victim is wanted on an outstanding warrant, the Baltimore Police Department will advise the victim at the end of the preliminary investigation of the warrant, and she/he will proceed to processing. It should also be noted that if a person comes to the Baltimore Police Department under arrest for a crime committed prior to reporting a sexual assault, she/he will be advised that the preliminary investigation will still move ahead, but she/he will still be processed for the charge.
- Verify a perpetrator’s age when the victim is under the age of consent.

**State’s Attorney’s Office**

The State’s Attorney’s Office will:

- Establish a process to assure that victims receive information regarding their case and provide victims, their advocate and their attorney with an opportunity to meet with the State’s Attorney’s Office.
- When a determination is made by law enforcement to unfound a case or by the State’s Attorney’s Office not to prosecute the case, the State’s Attorney’s Office, in coordination with the Baltimore Police Department, will meet with the victim to explain the reason for the decision.

**SAFE Programs**

- Victims age 12 and under will be transported to University Hospital for care; victims ages 13 and above will be transported to the Mercy Medical Center Forensic Nurse Examiner Program.
- Rape kits will be processed on all cases involving children, even when the complaint involves only verbal reports or is otherwise unclear.

**State’s Attorney’s Office**

The State’s Attorney’s Office will:

- Support an amendment of the sex crimes statutes to classify as a crime the penetration of a child without regard to which orifice on the child is penetrated or which body part/object the perpetrator used.

Lastly, the audit process identified issues and trends in those sexual assault cases which had previously been incorrectly unfounded to determine corrective action through changes in policies, procedures and training. Previous national studies have shown that characteristics of the victim and of the sexual assault incident can have a significant impact in charging decisions. The audit process undertaken by the SART identified that victim characteristics and behavior at the time of the incident may have influenced decisions regarding some initial investigations, which has had implications for training and for changes in protocols — for example, a victim’s recantation, a description of the assault which may change over time, a previous intimate relationship with the alleged perpetrator, use of alcohol and/or drugs, etc.
PUBLIC OUTREACH
The Public Outreach Committee is charged with identifying an outreach strategy to reach Baltimore City’s residents. (Please see Appendix B for a full listing of committee members.) The committee is still executing its work, but has identified two key messages for the campaign:

- Reach survivors of sexual assault with the message that help is available and refer them to the TurnAround helpline for support; and
- Alert the citizens of Baltimore that the Baltimore City government is working diligently across city departments so that all victims of sexual assault are treated with “dignity and respect.”

The campaign, which is expected to launch in Fall 2011, will include a kick-off press conference, a broadcast public service announcement featuring the Mayor, bus advertisements, educational postcards, educational stickers placed in area restaurants, web and social marketing components and town-hall style meetings.

TRAININGS
Meeting the Mayor’s charge to increase training opportunities for members of the Baltimore Police Department, the following trainings have occurred during the reporting period:

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Presented by</th>
</tr>
</thead>
<tbody>
<tr>
<td>August</td>
<td>Sexual Assault Myths and Misconceptions, Statistics, Impact of Trauma, Interviewing/Interrogation</td>
<td>Maryland Coalition Against Sexual Assault (MCASA) and a partner from Howard County Police Department</td>
</tr>
<tr>
<td>October</td>
<td>Training on Human Trafficking</td>
<td>Mercy Medical Center Forensic Nurse Examiner Program, with the following speakers: Detective Adrian Sanders and Susan Ritter, LSW, Immigration and Customs Enforcement; Julie Janovsky, Polaris Project; and Diane Bayly, U.S. Conference of Catholic Bishops</td>
</tr>
<tr>
<td>November</td>
<td>Forensic SAFE Exams</td>
<td>Mercy Medical Center Forensic Nurse Examiner Program SAFE Coordinator</td>
</tr>
<tr>
<td>November</td>
<td>Serology, DNA and CODIS</td>
<td>Baltimore Police Department Trace Analysis Unit</td>
</tr>
<tr>
<td>November</td>
<td>Realities of Sexual Assault and Victim Behavior: Best Practices for Law Enforcement Investigations</td>
<td>MCASA and state partners from Johns Hopkins University, the Maryland Crime Victim’s Resource Center, and Prince George’s County Police Department</td>
</tr>
<tr>
<td>November</td>
<td>Sexual Assault from the Victim’s Perspective</td>
<td>TurnAround, Inc.</td>
</tr>
<tr>
<td>April</td>
<td>International Conference on Sexual Assault, Domestic Violence &amp; Stalking</td>
<td>End Violence Against Women International (EVWI)</td>
</tr>
<tr>
<td>May</td>
<td>Investigating and Prosecuting Sexual Assault: Beyond the Basics</td>
<td>Joanne Archambault, Executive Director of EVAWI and President and Training Director of SATI, Inc. (Sexual Assault Training &amp; Investigations)</td>
</tr>
<tr>
<td>May</td>
<td>Sixth National SART Training Conference</td>
<td>SANE-SART Resource Service through the U.S. Department of Justice, Office for Victims of Crime</td>
</tr>
</tbody>
</table>

The Baltimore Police Department has expressed a commitment to provide ongoing training on topics that include interviewing techniques targeted to identified patrol officers, as well as detectives.

APPLICATION TO THE EDWARD J. BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM
On behalf of the SART, the Mayor’s Office on Criminal Justice submitted and subsequently received a grant for the 2010 Edward J. Byrne Memorial Justice Assistance Grant in the amount of $278,000. The grant started on October 1, 2011 and funds:

- A full-time SART Coordinator to support the work of the SART and oversee the implementation and monitoring of the recommended policies and procedures. Ms. Heather Brantner has been hired as the SART Coordinator. She holds a master’s degree in counseling and has more than 14-years’ experience in the field of violence against women.
- A victim advocate at TurnAround. Ms. Laura Young has been hired as the Victim Advocate. Ms. Young has a masters degree in social work and more than 7 years of experience working with victims of sexual assault and domestic violence.
- A public outreach campaign (see previous discussion under Public Outreach).
- Video Equipment to record victim interviews as a prosecution aid has been installed.
- Software for a database to allow tracking of functions across all participating agencies. The Mayor’s Office on Criminal Justice will partner with the Baltimore City Health Department to adapt an existing case management system.
- Outsourcing of more than 60 backlogged rape kits for analysis. The Crime Lab has issued a request for proposals to outsource analysis. We expect analysis of these kits to begin in October 2011.
- Training for sex offense detectives (see previous discussion under Trainings).
INITIAL IMPACT
Early measures of success are just that—early. However, the SART members are encouraged by the progress made to date. In addition to key changes to law enforcement protocols and processes discussed earlier, the City of Baltimore has realized:

• A 68% increase in the number of reported rapes (as of May 31, 2011). Given that incidents of rape and sexual assault are vastly under-reported, this is positive as more of Baltimore City’s victims are reporting their assaults. (National studies show that only 36% of non-stranger and 55% of stranger assaults are reported to the police.)

• The number of unfounded rape and unfounded attempted rape cases has decreased 93% (as of May 31, 2011) compared to the same period last year. As of May 31, 2011, 5 reports of rape were deemed unfounded.

• The number of unfounded sex offense cases has decreased 67% (as of May 31, 2011). Thirteen reports of sexual assault were deemed unfounded.

LESSONS LEARNED FOR OTHER JURISDICTIONS
Care has been given throughout the year to memorialize steps taken by the SART and subsequent revisions to agency protocols and processes. While the ultimate goal of the SART’s efforts is to provide a victim-centered, collaborative response to sexual assault in Baltimore, the SART is also committed to sharing lessons learned so that other jurisdictions – both across Maryland and nationally – can benefit.

THIS UNPRECEDENTED REVIEW LED TO NUMEROUS REFORMS THAT HAVE FOREVER CHANGED AND IMPROVED THE WAY SEXUAL ASSAULT CASES ARE INVESTIGATED IN BALTIMORE, ENSURING THAT FUTURE VICTIMS OF SEXUAL ASSAULT WILL HAVE THEIR COMPLAINTS INVESTIGATED FULLY AND ARE TREATED WITH DIGNITY AND RESPECT.

MAYOR STEPHANIE RAWLINGS-BLAKE highlighting reforms during the 2011 State of the City Address

Specifically, we offer the following recommendations for law enforcement, SARTs and public officials.

For Law Enforcement

• It is imperative that reports of sexual offenses be addressed from a victim-centered perspective. Commitment to such a perspective must come from the top-down and be communicated early and often.
• Incident reports should be written for all claims of sexual offense.
• Reports of sexual assault should not be deemed unfounded at the patrol level; approval of the sex offense unit’s commanding officer should be required.
• Rigorous reviews of a department’s standard operating procedures should be regularly conducted – with care taken to include a victim-centered, offender-focused perspective.
• Annual training on violence against women crimes should be provided for all sex offense unit detectives at a minimum. Patrol officers and dispatchers would also benefit from training.

For SARTs

• SARTs should execute an MOU to include all of the key member agencies and clarify key roles for each agency so as to avoid duplication. The MOU should be revisited on an annual basis.
• Members of the SART should be open-minded as to whether and how to include new members, new agencies or initiatives within a jurisdiction. SARTs should include representation from law enforcement, advocacy, the State’s Attorney’s Office, medical and crime lab. Additional community partners such as child advocacy centers, victims’ attorneys, representatives from local colleges and/or universities and non-traditional service providers should be considered.

• Representatives should hold decision-making authority within their organizations/departments, and front-line staff should be included as appropriate.
• Case reviews should be conducted regularly. Some jurisdictions, depending on the amount of cases, may conduct reviews on a monthly basis and others on a quarterly basis.
• A random, annual audit of cases should be conducted, and the audit team should include representatives from multiple disciplines, including medical, advocacy and victims’ attorneys, in addition to law enforcement.
• SART members should receive annual training on updated research and laws pertaining to sexual assault and new relevant methods for working with victims. Cross-training is strongly recommended.
• Team members in the criminal justice field should receive regular training on how to remain victim-centered and offender-focused to avoid victim blaming and re-traumatization and to promote offender accountability.

For Public Officials

• A commitment to treating victims with dignity and respect and to holding offenders accountable should be clearly communicated.
• Shortcomings should be acknowledged and fixed.
• Progress should be communicated early and often.
• All communications should be open, transparent and clear.

THE NUMBER OF UNFOUNDED RAPE AND SEX OFFENSE CASES HAS DECREASED BY 93%.

A Word on Collaboration

It is difficult to address the mission and work of a SART without directly speaking to the issue of collaboration. While the SART has encountered its share of challenges and successes during this reporting period, ultimately, it recommends two key tenets be held firmly to support effective collaboration:

1) Commit yourself and your organization to transparency. A critical factor to gains made by the Baltimore City SART during this reporting period has been the ability of each SART member to open the relevant parts of its organization to review and consideration of the full SART. Without such transparency, the progress made to date in terms of changes to protocols, processes and procedures would not have been possible.

2) Respect one another’s roles and expertise. While we encourage cross-training to better facilitate and support effective communications and understanding, it is important to respect professional boundaries across disciplines. Some seemingly obvious, yet important, examples include: a victim advocate should not offer medical advice; a forensic nurse should not offer legal advice; a police officer should not provide mental health counseling; and a prosecutor should not dust for fingerprints at a crime scene. As important, the perspective of each member of a SART is different. Forensic nurses must remain neutral in order to be effective witnesses; advocates follow the direction of the victims; and prosecutors ultimately represent the State, not the victim. While all SART members may share the goal of responding to victims and promoting justice, that does not mean their roles are the same.

In the Coming Year

Over the next year, the SART will continue to work diligently on the following ongoing tasks:

1) Continued bimonthly case review to ensure appropriate victim care and treatment, sound investigative practices and case prosecution.

2) Review of any new or updated best practices, research or techniques in the investigation and prosecution of sexual assault crimes.

3) Concentrated outreach to victims in the community to ensure they are aware of available services.

4) Track cases as they progress through the system to identify and address issues and follow outcomes.

Future goals include:

1) Instituting victim satisfaction surveys and focus groups to ensure that the changes in policy are making a difference to those directly affected.

2) Conducting continued outreach to the community with an effort to reach primary and secondary victims, as well as bystanders.

3) Implementing a new SART Officer Initiative that would identify patrol officers on every shift in every district who are already competently investigating and managing sexual assault cases to: a) provide them with additional specialized training and b) allow them to serve as role models and resources in their districts.

4) Providing SART cross training between SART members, as well as outside content and skills training, to ensure that all partners understand the issues of sexual assault and are well-qualified to assist victims in a variety of contexts.

The Mayor’s Office on Criminal Justice has applied for additional Byrne grant funds to support efforts in year two. Regardless of the receipt of additional funds, however, the Mayor’s Office is dedicated to correcting any outstanding issues and will be committed to ensuring that all sexual assault victims receive the best care, thorough investigation of their cases and prosecution consideration.
City rape statistics, investigations draw concern
Police defend tactics, but mayor orders review

By Justin Fenton, The Baltimore Sun
10:27 a.m. EDT, June 27, 2010

The 32-year-old woman was walking through a midtown alley last January when a man pressed a gun to her shoulder and told her, “Don’t scream.”

At the hospital, where she was treated for vaginal bleeding, the woman recounted being raped at gunpoint, in a vehicle with black leather seats. When it was over, her attacker told her to walk away slowly and not look back.

The police detective’s report reflects the tone of his questioning in the hospital room: Why had she waited two hours to call police? Why didn’t she flag down a squad car? Where was she coming from before she was assaulted? Who was she with? Frustrated, the woman retracted her statement and signed a new one saying that nothing had happened.

No longer a rape, the incident was now classified as “unfounded,” police parlance for saying the victim was lying or they do not believe a crime occurred.

It’s the type of change that happens dozens of times each year, and more often in Baltimore than any place else.

The Baltimore Police Department has for the past four years recorded the highest percentage of rape cases that officers conclude are false or baseless of any city in the country, according to The Baltimore Sun’s review of FBI data.

More than 30 percent of the cases investigated by detectives each year are deemed unfounded, five times the national average. Only Louisville and Pittsburgh have reported similar numbers in the recent past, and the number of unfounded rape cases in those cities dropped after police implemented new classification procedures.

The problem in Baltimore may go deeper.

In 4 of 10 emergency calls to police involving allegations of rape, officers conclude that there is no need for a further review, so the case never makes it to detectives — a proportion that experts say is disturbingly high.

The increase in unfounded cases comes as the number of rapes reported by Baltimore police has plunged —from 684 in 1995 to 158 last year, a decline of nearly 80 percent. Nationally, FBI reports indicate that rapes have fallen 8 percent over the same period.

Advocates who work with rape victims and experts who have reviewed police figures in other cities say they are concerned about Baltimore’s statistics. They worry that investigative tactics used by police might distort the scope of the problem and discourage victims from coming forward.

They say Baltimore police have expressed a commitment to working with medical providers and victims groups, and they praise the efforts of many detectives. Still, women continue to report that they are interrogated by detectives, some times questioned in the emergency room or threatened with being hooked up to lie detectors.

Overall, say those who have reviewed the findings, the numbers just don’t add up.

“There’s nothing that we see in our work that makes a [more than] two-thirds drop in the number of sexual assaults and rapes in Baltimore make any sense, on any planet,” said Rosalyn Branson, executive director of Turn Around, a Towson-based group for victims of sexual assault and domestic violence.

Baltimore’s “excessively high unfounded rate with such a small number of rapes reported in the first place” should merit a look from the FBI, said Carol E. Tracy, who works with a nonprofit that has been reviewing rape reports for Philadelphia police for a decade. In that city, the department had been systematically miscounting sexual crimes.

Current and former sex offense detectives in Baltimore defended their investigations. Part of their mission, they say, involves rooting out illegitimate complaints that in the past would result in wasted effort and false arrests.
Many reports of rape are made for “ill gain, in order to gain assistance or cover up not coming home,” said one of the commanders of the unit, Lt. Thomas Uzarowski, in a March interview.

“The bottom line is, the case is only unfounded when the investigative facts prove the crime did not occur,” said Uzarowski, who retired from the department this month. “It’s not an opinion. It’s not anything other than where the facts fall.”

While Police Commissioner Frederick H. Bealefeld III and other top officials declined requests for interviews, Mayor Stephanie Rawlings-Blake ordered an audit of police procedures and statistics last week after The Baltimore Sun contacted her aides about these findings.

‘Victims do lie’

Experts on sexual assaults and police investigations say victims sometimes recant their stories to avoid interacting with police and prosecutors, particularly if they feel that their account is not being taken seriously. In those cases, they say, police should not record the incident as a false report.

Reports reviewed by The Sun were redacted to remove information about victims, witnesses and locations of the crimes. The omissions made it difficult to verify the police account and to learn whether the victims agreed with the officer’s decision.

This article refers to the women who made the reports as “victims” because that is how they have identified themselves, regardless of whether law enforcement agrees with that label.

Of 194 reports of rape or attempted rape received by Baltimore detectives last year, about 32 percent — or 62 in all — were determined to be unfounded, according to a March audit provided by the department. Police said that in the vast majority of those cases, the victim “admitted that the original allegation was unfounded.”

The reports show the complexity of cases brought to police. In a significant number of the cases, victims gave detailed accounts of an attack only to later say under questioning that the sex was consensual. In recanting, some said they had been afraid that they were pregnant or had contracted sexually transmitted diseases and did not know how to explain to boyfriends or parents. Many other cases involved children as victims.

One woman said she was high on drugs and that the encounter had been a hallucination; another was a prostitute who lied, promising to seek camera footage or cell phone records, and focusing on inconsistencies.

In one instance, he wrote that a 15-year-old girl vomited from anxiety as he threatened to leave and retrieve crime-scene video to discern whether she was lying about having been raped. When he came back, she recanted, but refused to sign a statement. “She crossed her arm and held her lips together in a manner suggesting that she had nothing additional to say,” the report reads. “This investigation is closed as unfounded.”

Advocates say police, here and elsewhere, too often put the initial focus on the victim in sex crimes. Victims often were engaged in activity that they are ashamed of or believe their story has to fit a certain account and end up changing details, they say. When they are challenged or feel the police are not interested in helping, many will change their stories. Studies suggest the percentage of rape claims that are false is between 2 percent and 8 percent.

“The same things we know is that victims do lie,” said Gail Reid, the emergency room program manager for Turn Around, the victims group. “When the story doesn’t fit together, all these red flags go off and police start a biased process of challenging their credibility.”

Cities make changes

Rates of rapes and methods for classifying the crimes vary widely from place to place, but Baltimore’s numbers stand out. It is one of only two cities in the country that records significantly more homicides than rapes, the other being New Orleans, where police are also facing questions. More than half the rape reports there have been classified as noncriminal “complaints,” the Times-Picayune reported last year.

The rate of rapes per 100,000 people in Philadelphia and St. Louis — two cities that were found in recent years to be manipulating rape data and have made reforms — are more than double that of Baltimore.

“Unless there is an extraordinary crime prevention program going on in Baltimore that every other city would like to learn about, I think the numbers are very suspect,” said Tracy of the Women’s Law Project in Philadelphia.

Washington, San Diego, San Francisco and Atlanta are among cities with rates comparable to Baltimore’s, Rawlings-Blake said in a statement. After The Sun sought a response from City Hall, Rawlings-Blake ordered an audit of unfounded complaints and an internal review of training and investigative practices. She met Friday with Bealefeld and Sheryl Goldstein, director of the mayor’s office on criminal justice.

“I am deeply troubled to learn about the high number of unfounded rape complaints and the decline in reported rapes over the past decade,” Rawlings-Blake said in a statement. “The data shows the critical need to immediately address the issue with a comprehensive review of investigative practices and responses.”

Some cities experiencing high numbers of unsubstantiated rape reports have also been troubled by the statistics and changed reporting practices to avoid wiping reports off the books.

Sgt. Larry Scirotto said that when he took over the Pittsburgh Police Department’s sex offense unit two years ago, many cases in which the victim recanted or didn’t want to move forward were being marked unfounded, meaning the incident did not happen.

Scirotto said that was the wrong approach in a city that for years was, along with Baltimore, leading the nation in the percentage of police reports labeled unfounded.

He changed the procedures so those cases would be tagged “cleared by exception,” a designation that keeps the incident counted among the city’s crime totals but allows detectives to focus resources on other cases. The case can be revisited if the victim decides — whether through counseling or a change of heart – to pursue charges later.

“When you classify a crime as unfounded, it says you didn’t believe the victim, or that we determined a crime didn’t occur to begin with,” Scirotto said. “I’m not concerned with the statistics. I’m concerned about being able to prosecute at a later time.”

Interviews with advocates and victims, and a review of reports requested under a Public Information Act request, reveal an attitude of distrust by police toward victims and a reflex to dismiss rape reports both in the field and after investigating.

Lauren — who did not want her last name used to protect her privacy — believed that she might have been sexually assaulted last year after a night of drinking with friends. She drove to Mercy Hospital to get examined and reluctantly agreed to speak to a detective.

The initial officer listened and was comforting, she said, but a detective from the sex crimes unit immediately started an interrogation.

“He was lecturing me on the justice system and was giving me lectures about drinking,” she said. “He was also questioning me about, ‘Do you have a boyfriend? Does your boyfriend know about this? Sometimes people make up this stuff because they made a mistake. Just because you didn’t remember everything, doesn’t mean you didn’t want something to happen.’”

No report was taken to document Lauren’s concerns. Years ago, that might have happened, too, in Louisville, another city that once rivaled Baltimore’s rape statistics. But now, Louisville investigators say, such a case would result in a police report and a classification of “unsubstantiated,” which allows detectives to focus resources elsewhere.
Sgt. Andy Abbott said the Kentucky department has recently been using the in-house classification of “unsubstantiated” to keep cases open but put them on the back burner when necessary. Because of that change and others, the percentage of Louisville’s unfounded cases has dropped and the number of reported rapes has increased by 17 percent.

“Unsubstantiated means there’s a possibility a crime may have occurred, but we don’t have enough to prove one way or the other,” Abbott said.

Police: Investigations improve

For years, Baltimore’s percentage of rape allegations labeled as unfounded was in line with the national average. But by 1998, the rate had doubled from its longtime average. Concern arose in 2003, and the Baltimore Police Department undertook an audit that found it had under-reported rapes by 15 percent.

By the next year, when Commissioner Leonard D. Hamm took over the department, the percentage of unfounded reports had doubled again and increased to a high of 37.6 in 2006. It hasn’t fallen below 29 percent since, even as reported rapes continue to fail. Police could not explain the increase.

A review of FBI data from across the country shows significant disparities in rates of unfounded rapes. Though most have a percentage in the single digits, some cities, including New York and Cleveland, report zero — a number that experts say is just as eyebrow-raising as Baltimore’s high rate. The FBI does little to monitor the accuracy of reporting.

“Why is it that women in the greater Baltimore area are more disposed to lying about sexual assault than anywhere else in America?” asked Branson of Turn Around. “Is it in the water? What exactly would make us the ones most likely to tell a story about being sexually assaulted?”

Uzarowski, who spent 35 years with the Police Department, said sex crimes investigations have come a long way. When he started, there was no specialized unit.

Officers scrutinize data more closely and with greater urgency, he said. A commander retrieves sex offense calls and checks to make sure they have been assigned to detectives. If not, “that’s where we backtrack and find out whether there was no one on the scene, or was not anything suspicious, or a vacant building or a false call,” Uzarowski said.

He and Lt. Jon Foster both said they were pleased at the results of a recent audit of last year’s numbers.

“We probably have some of the best investigators around, and as such, I think we get to the facts,” he said. “I really think that the protocols we have in place are some of the best.”

Still, a significant number of claims don’t make it to detectives.

Calls handled on the streets

Department statistics show that about 40 percent of the 911 calls involving rape allegations each year are determined not to have merit or result in reports not being taken at the scene. For most of those calls, there is no documentation of why they were handled in that way, officials say.

“That’s a huge, huge number,” said Joanne Achambault, a longtime San Diego sex crimes investigator who consults with major police departments and reviewed documents provided by The Sun. “They’re not supposed to be unfounding these in the field.”

Last year, there were a handful of publicized incidents in Baltimore in which women alleging rape said police failed to take a report. Three officers were suspended in September after failing to take a report from a woman in Northwest Baltimore. Police were also investigating an incident in which a 24-year-old nursing assistant said officers drove away and later ripped up a report after she told them that a man had raped her.

The department has received an average of about 900 calls alleging rapes or attempted rapes each year since 2003, with reports written in about 540 — or 60 percent — of those instances, according to records provided by the department.

A spreadsheet provided by the department showed that in about 50 calls each year, officers gave reasons for not taking reports, such as being unable to locate the victim or not being able to find the address.

But about 300 calls each year on average were more broadly dismissed, with designations such as “no police service necessary,” or “complaint abated.” The most prevalent option has been to simply mark them “unfounded,” which officials say has been on the decline but is still troubling.

“Patrol [officers] ought to be bringing in the specialized units,” said Adam Rosenberg, director of the Baltimore Child Abuse Center and a former city sex offense prosecutor. “They can’t be making snap judgments out there. That’s what those units are there for.”

Deborah Holbrook administers the Sexual Assault Forensic Exam program at Mercy Hospital, which treats all city and county rape victims. As part of a task force of sexual assault responders, she said she has worked with police to better educate officers at district roll calls, including tips on preservation of evidence and how to interact with victims. Though she acknowledges that she is involved only in the medical aspect, she gives police high marks and said she wasn’t aware of any concerns.

“We’ve been getting back to basics, retraining everybody, making sure everybody is understanding the rules,” Holbrook said. “We don’t have any big issues on our plate.”

Many women who report attacks are less concerned with statistics than with receiving respect and compassion from police.

On the morning of Oct. 25, Danielle Mascioli was asleep with her girlfriend in their Linden Avenue apartment when the bedroom light went on. A masked man was standing at the foot of the bed, holding a knife. He began to tie Mascioli with a hairdryer cord and blindfold her.

Mascioli said the man took her aside and began to take off her shirt. Suddenly, her girlfriend ran from the room yelling and began knocking on neighbors’ doors. The man fled.

In the report, police describe the incident as an attempted sex offense, and say the case was relayed to the sex offense unit and assigned to a detective — Anthony Faulk Jr., the detective with the high number of dismissed cases. The incident was publicized by police amid a string of rapes and attacks that occurred about the same time, mainly in East Baltimore.

But the report classifies the incident as an aggravated assault rather than a sex offense. And in a subsequent encounter, she said, Faulk was rude and dismissive. She hadn’t heard from him since, and doesn’t particularly want to see him.

“This was such a life-changing event for me, and he didn’t even care,” she said. “Making victims feel safe is part of his job, and that part of the job description was completely out of the window.

“I really didn’t do anything,” she said. “It wasn’t my fault.”

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Special Thanks are offered to the following members of the Baltimore City SART who have committed their time, talents and energies to address the concerns of sexual assault survivors in the city of Baltimore:

Baltimore City SART Members
- Altman, Anton, Sexual Assault Legal Institute
- Boden, Jennie, Maryland Coalition Against Sexual Assault
- Bowen, Bryan, Baltimore City Police Department
- Branson, Rosalyn, TurnAround, Inc.
- Brantner, Heather, Mayor’s Office on Criminal Justice
- Cardone, Amanda, Maryland Coalition Against Sexual Assault
- Chiafari, Francis, Baltimore Police Department, Crime Lab
- Embry, Elizabeth, State’s Attorney’s Office, Baltimore City
- Foster, Jon, Baltimore Police Department
- Goldstein, Sheryl, Mayor’s Office on Criminal Justice
- Green, James, Baltimore Police Department
- Hannan, Kerry, Baltimore Child Abuse Center
- Holbrook, Debra, the Mercy Medical Center Forensic Nurse Examiner Program
- McWhite, Cliff, Baltimore Police Department
- Reid, Gail, TurnAround, Inc.
- Young, Laura, TurnAround, Inc.

Baltimore City Audit Committee Members
- Altman, Anton, Sexual Assault Legal Institute
- Brantner, Heather, Mayor’s Office on Criminal Justice
- Chiafari, Francis, Baltimore Police Department, Crime Lab
- Embry, Elizabeth, State’s Attorney’s Office, Baltimore City
- Foster, Jon, Baltimore Police Department
- Goldstein, Sheryl, Mayor’s Office on Criminal Justice
- Holbrook, Debra, the Mercy Medical Center Forensic Nurse Examiner Program
- Holback, Sharon, State’s Attorney’s Office, Baltimore City
- Jones, Chris, Baltimore Police Department
- Jordan, Lisa C., Sexual Assault Legal Institute, Maryland Coalition Against Sexual Assault
- LaBee, Terri, Baltimore City Police Department
- McWhite, Cliff, Baltimore Police Department
- Palmere, Dean, Baltimore City Police Department
- Reid, Gail, TurnAround, Inc.
- Rosenberg, Adam, Baltimore Child Abuse Center
- Weaver, JoeAnn, Baltimore City Police Department

Baltimore City Public Outreach Committee Members
- Boden, Jennie, Maryland Coalition Against Sexual Assault
- Brantner, Heather, Mayor’s Office on Criminal Justice
- Chiafari, Francis, Baltimore Police Department, Crime Lab
- Embry, Elizabeth, State’s Attorney’s Office, Baltimore City
- Foster, Jon, Baltimore Police Department
- Goldstein, Sheryl, Mayor’s Office on Criminal Justice
- Holbrook, Debra, the Mercy Medical Center Forensic Nurse Examiner Program

Baltimore City Best Practice Committee
(now Policies and Procedures Workgroup) Members
- Brantner, Heather, Mayor’s Office on Criminal Justice
- Cardone, Amanda, Maryland Coalition Against Sexual Assault
- Chiafari, Francis, Baltimore Police Department, Crime Lab
- Embry, Elizabeth, State’s Attorney’s Office, Baltimore City
- Foster, Jon, Baltimore Police Department
- Green, James, Baltimore Police Department
- Hannan, Kerry, Baltimore Child Abuse Center
- Holback, Sharon, State’s Attorney’s Office, Baltimore City
- Jones, Chris, Baltimore Police Department
- Jordan, Lisa C., Sexual Assault Legal Institute, Maryland Coalition Against Sexual Assault
- LaBee, Terri, Baltimore City Police Department
- McWhite, Cliff, Baltimore Police Department
- Palmere, Dean, Baltimore City Police Department
- Reid, Gail, TurnAround, Inc.
- Rosenberg, Adam, Baltimore Child Abuse Center
- Weaver, JoeAnn, Baltimore City Police Department

APPENDIX B
Lists of Team, Committee and Workgroup Members

APPENDIX C
Memorandum of Understanding

The partners listed below have agreed to enter into a collaborative agreement as members of the Baltimore City Sexual Assault Response Team (SART). A SART is a multi-disciplinary, interagency, coordinated system of response to victims of sexual assault. The mission of the Baltimore City SART is to provide a collaborative, victim-centered response to sexual violence in our community. The partners herein desire to enter into a Memorandum of Understanding setting forth the duties to be performed by the SART.

1) Partner Agencies:
- Baltimore Police Department
- Baltimore Child Abuse Center, Inc.
- Baltimore State’s Attorney Office
- Maryland Coalition Against Sexual Assault
- Mayor’s Office on Criminal Justice
- Mercy Medical Center
- TurnAround, Inc.

Baltimore Police Department
The Baltimore Police Department (BPD) is a law enforcement agency duly constituted by State law with the responsibilities within the City of Baltimore to preserve the public peace, investigate and prevent crime, enforce the laws of this State and City, apprehend and arrest those persons who violate or are lawfully accused of violating such laws and ordinances, and to discharge its duties and responsibilities with the dignity and manner which will inspire public confidence and respect. The mission of the BPD, in partnership with the Baltimore community, is to prevent and preserve life, protect property, understand and serve the needs of the city’s neighborhoods, and improve the quality of life of our community.

Baltimore Child Abuse Center, Inc.
Baltimore Child Abuse Center ( BCAC) is a private non-profit 501 ( c) children’s advocacy center. BCAC is the oldest children’s advocacy center in Maryland, and is chartered, accredited member of the National Children’s Alliance and the Maryland Children’s Alliance. BCAC’s mission is to provide all reported victims of child sexual abuse and neglect in Baltimore and their non-offending caregivers with a multidisciplinary team response, forensic interviews, medical treatment, family advocacy, and referrals for mental health services in a supportive, child-friendly setting. All interviews are digitally recorded. BCAC operates an onsite medical clinic staffed by a pediatrics board certified in forensic medical exams for the children interviewed at BCAC. After-hours on-call interviewing is available to provide forensic interviews at area hospitals for acute cases as well as interview support for Baltimore County and federal investigations upon request. BCAC performs court ordered interviews for other jurisdictions and non-sexual related crimes upon request as well.

Baltimore State’s Attorney’s Office
The Office of the State’s Attorney for Baltimore City represents the State of Maryland in all criminal prosecutions that result from crimes charged by local law enforcement agencies occurring in Baltimore City. The Office is mandated under the Maryland Constitution and performs its duties in compliance with the United States Constitution, Maryland Constitution and the laws of the State.

Maryland Coalition Against Sexual Assault
The Maryland Coalition Against Sexual Assault, Inc. (MCASA) is the statewide collective voice advocating for accessible, comprehensive care for survivors of sexual assault, and accountability for all offenders. MCASA actively works toward sexual violence in the State of Maryland through public policy, education, community outreach, technical assistance, and legal services and referrals.

Mayor’s office on Criminal Justice
The Mayor’s Office on Criminal Justice (MOCJ) is responsible for coordinating criminal justice strategies within Baltimore City’s agencies, forming partnerships with state and federal agencies, community groups and non-profit organizations to address crime and criminal justice issues, assisting residents who are in
APPENDIX C
Memorandum of Understanding

Mercy Medical Center

Forensic Nurse Examiner Program at Mercy
Since 1994, the Forensic Nurse Examiner (FNE) Program at Mercy Medical Center is the designated multidisciplinary sexual assault center for Baltimore City for patients 13 and older. The FNE Program provides forensic nursing to patients and staff, providing immediate response to sexual assault victims in local emergency rooms since 1981.

TurnAround, Inc.
TurnAround is the designated assault crisis center for the jurisdictions of Baltimore City and County, providing a wide range of services to victims of sexual and intimate partner violence for over 30 years. In addition to crisis services for adults, adolescents, and children, TurnAround also provides community education, outreach, and victim advocacy. The 18 Victim Advocates Program has provided immediate response to sexual assault victims in local emergency rooms since 1981.

II) History of Relationships

In 1994, Mercy Medical Center and TurnAround joined forces to coordinate medical care and evidence examinations to victims of sexual assault in Baltimore City and County. Original members included Baltimore City Police, Baltimore City & State’s Attorney’s Sex Offender Unit, Mercy Medical Sexual Assault Forensic Examiners Program, Mercy Medical Department of Social Work, TurnAround (formerly known as the SADOVC), and Maryland Coalition Against Sexual Assault. This group formed the foundation for the current multidisciplinary SART framework in use today.

In April 2008, this group came together in a new consortium to address the plight of survivors and to establish the Baltimore Metropolitan Area SART (BMA SART). This group is comprised of representatives from Baltimore City Police Department, Baltimore City’s Sexual Assault Response Team of the Baltimore City Department of Social Services, and the Baltimore City and County Department of Health and Human Services. The BMA SART is designed to provide a multidisciplinary approach to the care of sexual assault survivors and to establish a system of communication and collaboration to address the needs of survivors.

III) Roles and Responsibilities

A) The Baltimore Police Department will provide to the SART and to victims of sexual assault:
   - The BPD will provide a victim-centered report to victims of sexual assault.
   - The BPD will continue to participate in the SART and appropriate subcommittees, with representation from the Baltimore Metropolitan Area Sexual Assault Response Team (BMA SART).
   - The BPD will provide the SART with periodic reports, case reviews, and additional data sharing.
   - The BPD will adopt and conform to the revised Standard Operating Procedures (SOPs) and General Orders governing responses to and investigation of reports of sexual assault drafted in collaboration with the SART.
   - The BPD will adopt and conform to the revised Standard Operating Procedure governing the screening and analysis of biological evidence collected in the investigation of cases of sexual assault drafted in collaboration with the SART.

B) Baltimore Child Abuse Center will provide to the SART and to victims of sexual assault under age 18:
   - A forensic interview by trained licensed social workers or psychologists for cases involving children under 18 and upon request for adults.
   - A digital copy of the interview conducted for law enforcement and prosecution. Digital copies may be reviewed upon request by the SART.
   - Availability of after-hours, on-call services to report and review sexual assault cases involving children under 18, in which forensic interviewers will respond to the appropriate hospital to conduct the interview.
   - Medical examinations for near-accrual cases.
   - Family Advocate support services as needed, in coordination with TurnAround’s victim advocacy services, including making referrals and assisting with connection to mental health services for victims and their families.
   - Support and treatment groups.
   - Training and prevention.
   - Collaboration and participation with partner agencies.
   - Participation in regular SART meetings and in case review involving children under age 18.

The Office of the State’s Attorney for Baltimore City will provide to the SART and to victims of sexual assault:
   - Participation with the Baltimore City Police Department in the investigation of sexual offenses.
   - Prosecution of legally sufficient sexual offenses.
   - Collaboration with SART member organizations to improve the investigation and prosecution of sexual offenses and the experience of victims in the criminal justice system.
   - Training for and in partnership with SART member organizations on legal aspects of the investigation and prosecution of sexual offenses.
   - Participation in monthly SART meetings, and committees/subcommittee meetings as appropriate.

MCASA (Maryland Coalition Against Sexual Assault) will provide to the SART:
   - The Maryland Coalition Against Sexual Assault, Inc. (MCASA) will participate in monthly Baltimore City SART meetings during Fiscal Year 2011 (October 2010 to September 2011).
   - A representative of MCASA will attend all other meetings and participate in relevant committees.
   - MCASA will provide training and technical assistance to Baltimore City SART members as it is needed under the terms of its funding streams.
   - MCASA will also support the SART in various training and professional development opportunities for SART members as it is needed.

MCASA will generally serve as an informational resource for statewide and national best practices and provide legal guidance or clarification through the Sexual Assault Legal Institute (SALI) as it is needed under the terms of its funding streams.
APPENDIX C
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MAYOR'S OFFICE OF CRIMINAL JUSTICE will provide to the SART:
The Mayor's Office on Criminal Justice (MOCJ) supports the SART model of providing a collaborative victim-centered response to sexual violence. The MOCJ will provide assistance to the SART in securing and administering grant funds, coordinating training for SART members providing employment supervision to SART Coordinators, and facilitating partnerships among local, state and federal agencies and organizations. The MOCJ will work with the SART to ensure that adopted policies and procedures are adhered to and periodically reviewed to ensure that they are promoting the physical and emotional well-being of sexual assault victims and successful investigation and prosecution of their attackers.

MERCY MEDICAL CENTER will provide to the SART and to victims of sexual assault:
• Specially trained Forensic Nurse Examiners to respond to any patient who is an assault victim of sexual assault aged 13 and above who presents to Mercy Medical Center or any acute care setting within Baltimore City;
• A comprehensive forensic medical interview;
• A comprehensive forensic medical examination; and prompt treatment and referral for acute injury;
• An evidentiary examination for patients victimized by sexual assault seen within 24 hours of discretionary judgment of the Forensic Nurse Examiner;
• An evidentiary examination for patients victimized by sexual assault seen within 24 hours of discretionary judgment of the Forensic Nurse Examiner;
• A medical or law enforcement examination for suspects of both actual and chronic major personal crimes including but not limited to sexual assault, rape, sodomy, homicide etc.;
• Crisis intervention utilizing a host of sexual assault advocacy services provided by Turnaround;
• Fact and expert testimony including deposition for all sexual assault victims;
• Participation in SART meetings and sub-committees;
• Fostering partnership between community agencies;
• Training in both proactive and reactive care of patient victims to law enforcement, schools, medical and nursing schools and universities and civic organizations;

TURNAROUND will provide to the SART and to victims of sexual assault:
• Trained victim advocates to respond 24/7 to victims of sexual assault;
• Victim advocacy services including crisis intervention, support, information, assistance with victimization, linkage to resources and services;
• Medical and law enforcement accompaniment;
• Follow-up and outreach, including individualized support plans;
• Vertical victim advocacy;
• Participation in regular SART meetings and in case/systems review;
• Collaboration with partner agencies including data collection;
• Provision of training and participation in training;
• Provide referrals to SART to prevent legal advice and representation for victims.

IV) Commitment to Partnership/SART
The partners recognize, in accordance with national standards, that the SART is an effective response to sexual assault victims experiencing competent, coordinated, and comprehensive services for the benefit of the victims and the community. The SART model is based on evidence that collaboration strengthens response and produces more effective outcomes for the victim and for the criminal justice system. Each partner agency agrees to commit to implementing and maintaining the SART by:
• Developing and upholding standards for practice and protocols to ensure a consistent, competent, and effective response to victims of sexual assault;
• Participating in regular SART meetings and activities, including case and systems review, and training;
• Identifying and addressing relevant trends and gaps in services, with an emphasis on constructive problem-solving;
• Ensuring equal access to services for all individuals by recognizing diversity and addressing barriers to service;
• Strengthening communication and collaboration among partner agencies;
• Contributing to and maintaining a SART database.

The Memorandum of Understanding shall be evaluated each year, no later than July 31st, (beginning in Fiscal Year 2012) to reflect changes to protocols and procedures, to add or remove partners as necessary, or for other needed updates. This MOU becomes effective upon signature by all parties and will remain in effect until an update has been agreed upon by the members of the Sexual Assault Response Team and signed by responsible signatories.

Any party may terminate this MOU by giving written notice of termination to the other parties with the understanding that any agreement not specified in the SART MOU shall be completed according to its own provisions.

We, the undersigned, have read and agree with this Memorandum of Understanding.

[Signatures and dates]

[Addresses and dates]
APPENDIX D
Best Practices Check List

States Attorney’s Office

1. ___ Victim-centered - the needs and wishes of the victim should always remain forefront in a prosecutor’s consideration

2. ___ Offender-focused - focuses on the actions, behaviors, history, character, lifestyle, and values of the offender

3. ___ Meet the victim in person
   a. ___ Inform victims of their rights as crime victims and for ensuring that those rights are respected by the criminal justice system.
   b. ___ In conjunction with advocates, take the time to explain to victims the details of the case and the likely outcome of the criminal justice process.
   c. ___ To provide the necessary support to victims; it is a best practice for prosecutors to arrange for an advocate to be present during all interviews and meetings with the victim.

4. ___ Inform victims of all case developments, including setbacks and potential barriers (motions for suppression of evidence by the defense, rulings to bar certain testimony, motions for case dismissal, etc.) and in a timely manner.

5. Deciding to charge:
   a. ___ It is best practice for prosecutors to directly communicate with law enforcement during review of the case for consideration of criminal charges.
   b. ___ Take a proactive role in identifying and acquiring information and corroborative details necessary to prosecute the case.
   c. ___ Prosecutors must understand that offenders purposefully select victims who will be seen as lacking credibility as a result of their lifestyle choices, conduct, presentation, age, cognitive ability, and background.
   d. ___ Choosing to file or not to file charges should be avoided until all of the information related to the circumstances leading up to and surrounding the sexual assault has been fully pieced together.
   e. ___ If a decision is made not to file charges; the prosecutor should discuss the “no prosecution” decision personally with the victim.
   f. ___ The prosecutor should also follow-up with law enforcement to discuss the issues surrounding the “no file” decision.

6. Prosecution
   a. ___ It is the best practices to utilize vertical prosecution in sexual assault cases — having the same prosecutor take the case from Grand Jury through final disposition.
   b. ___ In order to protect the privacy of the victim, enter a request for a protective order prohibiting the copying or dissemination of evidence or information of a sexually explicit nature that is part of a criminal case (if applicable).
   c. ___ Consult with the victim on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution.
   d. ___ Utilize sexual assault experts to assist with trial preparation and jury education whenever possible.
   e. ___ Address rape myths during Voir Dire – studies show it can significantly impact conviction.
   f. ___ Consult with the victim as part of the process to determine sentencing recommendations.
   g. ___ Consult with victims to determine any requests for fines and restitution.

Advocacy

1. ___ Advocacy services should be initiated automatically rather than asking the victim if she or he would like an advocate to be called (victims may then have the option to decline advocacy services when the advocate is on site).

2. ___ Community-based “acute” advocates should respond to the hospital or law enforcement when a victim presents there in order to provide support during a medical exam, evidence collection, and law enforcement interview.

3. ___ Advocates do not encourage or discourage victims to report or participate in the criminal justice system.

4. ___ Whenever possible, provide “vertical advocacy” where a victim has the same advocate from first contact until services are no longer wanted by the victim, with additional advocates from law enforcement, the DA’s office, or community agencies joining this team, as needed.

5. ___ Provide culturally competent services.

6. ___ Commit to continued training with a focus on a broad understanding of the issues of violence against women.

7. ___ Advocates must be available 24 hours/7 days per week.

8. ___ Offer services to the family and/or friends of a sexual assault victim, as well as to the victim.
   a. ___ Best practice is to use a different advocate for family/friends than the one responding to the victim.

9. Referrals
   a. ___ Keep all information accurate and their referral database up-to-date.
   b. ___ When making referrals, the Advocate should facilitate the contact between the victim and the agency, service, or individual.
   c. ___ Develop and maintain a list of local counselors who have the best training and the most interest in providing support to victims who have experienced sexual assault in the recent and more distant past.
   d. ___ Provide information to victims in writing, preferably in their first language, that they can refer to again.

10. ___ All advocacy agencies and programs must provide victims with a reasonable expectation of confidentiality with respect to their conversations and exchanges.
    a. ___ Obtain written permission from victims prior to contacting or sharing information with any other service providers and responders.
    b. ___ Inform victims, prior to the victim’s disclosure, about the level of confidentiality that can—and cannot—be afforded to them.

11. ___ Advocates should keep records of their contact with victims in such a way that recognizes that their conversations and interactions with a victim are subject to subpoena.

12. ___ Advocates should disclose to victims their reporting obligations (CPS, APS, etc.).

13. ___ Advocates should provide victims with the Crime Victim Compensation application and be fully knowledgeable about what it will/will not cover.

14. Documentation
   a. ___ Advocates should track and document services, information, and referrals.
   b. ___ Advocates should exclude details of the victim’s personal history and they should never document their own personal observations of the victim’s demeanor, disclosures, and responses to the provision, or lack thereof, of services.
   c. ___ Advocates should not take notes during the acute response (ER, SAO, police questioning)
Sexual Assault Investigations

1. ___ Victim-centered–treat each victim with consideration, professionalism and compassion; keep personal values, opinions judgments out of investigation. Acknowledge that victims are often selected by offenders because they are perceived as lacking in credibility. Understand impact of trauma and how it affects victim behavior.

2. ___ Offender-focused – Focus on victim’s lack of consent and/or offenders use of force/threat of. Acknowledges most sex offenders repeat their crimes and often commit related offenses (DV, child abuse, CSA, stalking); thus require complete background investigation. Looks at how “broad continuum” of force was used—most offenders use only the amount of “force” necessary to commit the assault.

3. ___ Standard practice of contacting and initiating advocacy & medical response, in addition to other needed responders such as translators, DSS
   a.___ Dispatch automatically initiates advocacy services when call received
   b.___ Do not be present during medical/forensic exam.
   c.___ SAFE nurse should take photos; non-genital photos may be taken by law enforcement

4. ___During initial interview, obtain the “who what where when and how,” avoiding interruptions.

5. Victim interview (in-depth):
   a.___ If applicable, confer with SAFE nurse prior
   b.___ Help victims gain back sense of control by involving them in decision of when and where to hold the interview.
   c.___ Ask if victim would like support person/advocate present.
   d.___ Explain all processes during each step of interview and investigation.
   e.___ Establish rapport.
   f.___ Avoid asking “Why did you?” or “Why didn’t you?” questions or others than can be perceived as victim-blaming, unless context and purpose is fully explained
   g.___ Due to trauma, more memories may come up after the in-depth interview; be available for further contact and additional interviews.
   h.___ Never polygraph victims

6. Suspect interview
   a.___ Should be standard part of investigative response
   b.___ Do not dismiss victim’s report even if offender denies the sexual act was nonconsensual or comes across as more credible than the victim
   c.___ Always conduct in person
   d.___ Elicit provable lies, implausible accounts, partial truths, lack of denial, partial or complete admissions
   e.___ Consider using pre-text phone calls for corroboration, if the victim is comfortable
   f.___ Polygraph results can be used to confront the suspect and possibly elicit partial or complete admission or confession

7. Investigation
   a.___ Outcry witnesses are often the first to learn of the sexual assault and may provide corroborative details and/or increase credibility of victim’s account
   b.___ Suspect disclosure witnesses are those to whom the offender may have bragged about or disclosed their sexual “conquests.”
   c.___ Identify prior bad acts (“similar”) by interviewing suspect’s friends, family, roommates, former romantic partners, colleagues, etc. Often, sex offenses are “he said/they said” meaning that perpetrators have a history of sexually violent acts.
   d.___ Thoroughly document any “grooming” behavior used by the suspect to gain the victim’s trust–testing, selecting, and isolating
   e.___ Keep victim “in the loop” at regular intervals even if there is not any new information to report

8. Reports
   a.___ Consider using IACP Sexual Assault Supplemental Report Form or similar, for all reports of sexual assault
   b.___ Contain all elements of the crime
   c.___ Written in first-person
   d.___ Written using victim’s language and terminology (not “cleaned up” or sanitized)
   e.___ Document what “no” looked like or felt like for the victim (may not have been the word “no”)
   f.___ Document what the perpetrator’s use of force looked like—keep in mind the Use of Force Continuum for law enforcement which starts with officer presence
   g.___ Create a timeline of events that includes events illustrating victim’s trauma/post-assault behavior (change in routine, dramatic weight loss, etc)
   h.___ Avoid using language of consent. For example “he forced his penis into her vagina” denotes lack of consent; “he had sex with her” implies consensual intercourse.

Crime Lab

1. ___ Acknowledge that law enforcement and prosecutors are in the best position to decide if evidence should be submitted for evidence, and thus processes those cases submitted.
2. ___ Work with law enforcement and prosecutors related to the investigation and prosecution of a sexual assault.
3. ___ Maintain an accurate and up-to-date list of local resources such as hospitals that are able to test for things that the lab may not (for example in some locations crime labs can’t blood test for drug-facilitated assaults).
4. ___ Foster open communication and an on-going relationship between the medical personnel/SANEs that processes the evidence so any issues with evidence collection can be quickly addressed.
Medical/Nursing

1. Victim-centered—maintain medical neutrality and provide quality patient care; avoid formulating opinions about whether the assault occurred.

2. Offender-focused—if conducting suspect exams, entryway must be separate from that used by victim.

3. Medical practitioner and support person/advocate are only appropriate individuals to be present during exam.

4. Not role of medical practitioners to encourage or discourage victims to report.

5. History of assault to determine where to look for and gather evidence on patient’s body.

6. Thorough, objective medical documentation critical. Include direct quotes. Use simple descriptive vs. medical terminology. Avoid non-neutral terminology (e.g., refuses, non-compliant, alleges) that can be misconstrued in legal setting.

7. Assess every victim for strangulation.

8. Medical evidence protected by HIPAA—develop and maintain proper consent and release forms.

9. Toxicology screens for drugs/alcohol should be obtained immediately if indicated by patient presentation or history.

10. Offer Emergency Contraception (EC) to all non-pregnant, post-menarcheal patients presenting within 120 hours.

11. Give specific follow-up information and referrals verbally and in discharged paperwork to address follow-up medical care needs.

12. Respect patient request for confidentiality; medical providers are not required to notify parents/guardians of minors.


14. Be aware of issues commonly faced by patients from specific populations.

15. Advocate can help explain what happens next in the legal process if victim has questions. Advocate can also help support family or friends (who may be showing signs of victim blaming).

16. SAFE nurse can ease transition to law enforcement officer by showing confidence in officer/detective’s approach.

17. Be flexible to change nature of exam if indicated by patient—may only want medical treatment at first but as comfort with process increases, may decide to want forensic exam. Or may wish to be “Jane Doe” and decide to report.

18. Ensure storage policies which maximize evidence preservation.

19. The need for testing for STIs should be considered on a case-by-case basis by examiners and patients.

20. Encourage patients to accept prophylaxis against STIs if indicated.

21. Do regular peer review with other SAFE nurses.

22. Maintain and improve technical skills such as forensic photography which will help strengthen documentation of injuries or lack thereof.

23. Medical facility may collect samples to be tested for drug facilitated sexual assault but should not test at medical facility.

Flow of Response to Sexual Assault in Baltimore City by 3 Most Common First-Contact Agencies

<table>
<thead>
<tr>
<th>Medical Center</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mercy Medical Center</td>
<td>• For sexual assault patients ages 13 and above</td>
</tr>
<tr>
<td></td>
<td>• Patient triage and registration; charge nurse to notify</td>
</tr>
<tr>
<td></td>
<td>• TurnAround/on call sexual assault advocacy agency</td>
</tr>
<tr>
<td></td>
<td>• Emergency medical treatment first if indicated</td>
</tr>
<tr>
<td></td>
<td>• Patient will wait for Forensic Nurse Examiner (FNE) and victim</td>
</tr>
<tr>
<td></td>
<td>• advocate in Emergency Department Treatment or Family Room</td>
</tr>
<tr>
<td></td>
<td>• (not general waiting area)</td>
</tr>
<tr>
<td></td>
<td>• If assault occurred &lt;120 hours, obtain consent for forensic exam</td>
</tr>
<tr>
<td></td>
<td>• If not accompanied by law enforcement: assist patient in</td>
</tr>
<tr>
<td></td>
<td>• completing Informed Consent form explaining the option for</td>
</tr>
<tr>
<td></td>
<td>• “Jane Doe” exam, and consent form from Maryland</td>
</tr>
<tr>
<td></td>
<td>• Department of Health and Mental Hygiene (MDHW)</td>
</tr>
<tr>
<td></td>
<td>• Will procure sexual assault evidence collection kit from police</td>
</tr>
<tr>
<td></td>
<td>• or “Jane Doe Evidence Locker,” ensuring kit has not expired</td>
</tr>
<tr>
<td></td>
<td>• Blood work and urine specimens will be procured</td>
</tr>
<tr>
<td></td>
<td>• FNE obtains and documents medical history of sexual assault</td>
</tr>
<tr>
<td></td>
<td>• which assists in determining bodily and/or clothing evidence</td>
</tr>
<tr>
<td></td>
<td>• location.</td>
</tr>
<tr>
<td></td>
<td>• Head to top physical examination performed</td>
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<tr>
<td></td>
<td>• As indicated by medical history, the Sexual Assault Forensic</td>
</tr>
<tr>
<td></td>
<td>• Examination may include</td>
</tr>
<tr>
<td></td>
<td>• Oral, genital, and other bodily swabs,</td>
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<td></td>
<td>• Debris collection</td>
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<td></td>
<td>• Underwear/clothing collection</td>
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<tr>
<td></td>
<td>• Vaginal/cervical examination</td>
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<tr>
<td></td>
<td>• Anal/moisture examination</td>
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<tr>
<td></td>
<td>• Pelvic hair combing</td>
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<tr>
<td></td>
<td>• Various methods to assist in identification of possible injury</td>
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<td></td>
<td>• will be utilized if indicated such as the Alternative Light Source</td>
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<tr>
<td></td>
<td>• (ALSO) test.</td>
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<td></td>
<td>• Forensic photographs will be taken</td>
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<tr>
<td></td>
<td>• Sexually transmitted infections (STI) prophylaxis provided</td>
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<tr>
<td></td>
<td>• Emergency contraception offered</td>
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<tr>
<td></td>
<td>• Discharge instructions provided and follow-up care discussed</td>
</tr>
<tr>
<td></td>
<td>• with patient.</td>
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<tr>
<td></td>
<td>• “Jane Doe” kits stored at hospital; police pick up kits from</td>
</tr>
<tr>
<td></td>
<td>• assaults reported to law enforcement</td>
</tr>
<tr>
<td></td>
<td>• Chain of custody log maintained</td>
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<tr>
<td></td>
<td>• All procedures documented thoroughly on evidentiary</td>
</tr>
<tr>
<td></td>
<td>• paper work</td>
</tr>
<tr>
<td></td>
<td>• Clothing to replace that which is needed as evidence is provided</td>
</tr>
<tr>
<td></td>
<td>• to survivors as needed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Baltimore Police</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dispatch</td>
<td>• Dispatch all calls for service; provide responding units with all</td>
</tr>
<tr>
<td></td>
<td>• relevant information</td>
</tr>
<tr>
<td></td>
<td>• WILL only accept codes of “written report required” [oral</td>
</tr>
<tr>
<td></td>
<td>• report not sufficient]</td>
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<tr>
<td></td>
<td>• Patrol</td>
</tr>
<tr>
<td></td>
<td>• If victim/reporting person is located, patrol will immediately</td>
</tr>
<tr>
<td></td>
<td>• contact Sex Offense or Child Abuse unit secure scene,</td>
</tr>
<tr>
<td></td>
<td>• Take initial statement to establish elements of the crime</td>
</tr>
<tr>
<td></td>
<td>• Broadcast suspect’s description; identify suspect &amp; suspect</td>
</tr>
<tr>
<td></td>
<td>• location if possible</td>
</tr>
<tr>
<td></td>
<td>• Protect crime scene &amp; any potential evidence</td>
</tr>
<tr>
<td></td>
<td>• Transport 13+ victims to Mercy Hospital for SAFE exam</td>
</tr>
<tr>
<td></td>
<td>• Transport 12 &amp; under victims to University of MD Medical Center</td>
</tr>
<tr>
<td></td>
<td>• Detectives</td>
</tr>
<tr>
<td></td>
<td>• Provide information victim advocate information to those</td>
</tr>
<tr>
<td></td>
<td>• victims not being transported to hospital due to late reporting</td>
</tr>
<tr>
<td></td>
<td>• Victims’ interview Room will be location of on-site follow-up</td>
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<tr>
<td></td>
<td>• investigative interviews</td>
</tr>
<tr>
<td></td>
<td>• Baltimore Child Abuse Center conducts forensic interviews for</td>
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<tr>
<td></td>
<td>• victims aged 17 and under, and for vulnerable adults as</td>
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<tr>
<td></td>
<td>• requested</td>
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<tr>
<td></td>
<td>• All interviews with victims and suspects recorded</td>
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<tr>
<td></td>
<td>• Suspect SAFE kit performed on suspects who are</td>
</tr>
<tr>
<td></td>
<td>• apprehended or when appropriate</td>
</tr>
<tr>
<td></td>
<td>• Suspect/s will be interrogated by 2 detectives</td>
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<tr>
<td></td>
<td>• In consultation with supervisor, will plan a thorough follow-up</td>
</tr>
<tr>
<td></td>
<td>• investigation using all pertinent and available resources</td>
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<tr>
<td></td>
<td>• Review other cases to ascertain if assault is part of a pattern</td>
</tr>
<tr>
<td></td>
<td>• Consult with State’s Attorney’s Office with legal questions</td>
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<tr>
<td></td>
<td>• Document all case activity in database</td>
</tr>
<tr>
<td></td>
<td>• Follow up with victims in open cases at least 1x/week for 30</td>
</tr>
<tr>
<td></td>
<td>• days, at 60 day mark, and upon arrest</td>
</tr>
<tr>
<td></td>
<td>• Supervisors</td>
</tr>
<tr>
<td></td>
<td>• Patrol Division Sergeant to respond to scene of sex offense</td>
</tr>
<tr>
<td></td>
<td>• calls for service to enforce conduct of initial investigation &amp;</td>
</tr>
<tr>
<td></td>
<td>• ensure appropriate procedure is followed</td>
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<td></td>
<td>• Shift commander to ensure subordinates’ compliance with</td>
</tr>
<tr>
<td></td>
<td>• procedures</td>
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<tr>
<td></td>
<td>• Sex Offense Unit Sergeants ensure investigation is conducted in</td>
</tr>
<tr>
<td></td>
<td>• fair, impartial manner, review case folders, ensure</td>
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<tr>
<td></td>
<td>• database notes are accurate and complete, approach/</td>
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<tr>
<td></td>
<td>• disappearance of cases classified as unfounded, randomly call</td>
</tr>
<tr>
<td></td>
<td>• victims to inquire about satisfaction with level of professional</td>
</tr>
<tr>
<td></td>
<td>• response from detective’s and patrol officers</td>
</tr>
</tbody>
</table>

Sources: Best Practices Oregon’s SART Handbook, IACP Sexual Assault Investigative Strategies and National Protocol for Sexual Assault Medical Examiners
Baltimore City SART Monthly Sexual Assault Data Collection Form

<table>
<thead>
<tr>
<th>Month:</th>
<th>Year:</th>
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</thead>
<tbody>
<tr>
<td>Agency</td>
<td>#</td>
</tr>
<tr>
<td>Baltimore Police Department</td>
<td></td>
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<tr>
<td>New sexual assault cases (victims 16+)</td>
<td></td>
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<tr>
<td>Rape/attempted rape</td>
<td></td>
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<tr>
<td>Other sex crimes</td>
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<tr>
<td>Cases referred for prosecution</td>
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<tr>
<td>Unfounded</td>
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<tr>
<td>Mercy Medical Center</td>
<td></td>
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<tr>
<td>Adult (18+) exams (police report)</td>
<td></td>
</tr>
<tr>
<td>Adult &quot;Jane/John Doe&quot;s</td>
<td></td>
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<tr>
<td>Adult Converted</td>
<td></td>
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<tr>
<td>Adolescent (13-17) exams (police report)</td>
<td></td>
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<tr>
<td>Adolescent &quot;Jane/John Doe&quot;s</td>
<td></td>
</tr>
<tr>
<td>Adolescent Converted</td>
<td></td>
</tr>
<tr>
<td>Baltimore Child Abuse Center</td>
<td></td>
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<tr>
<td>Sexual assault forensic interviews, total</td>
<td></td>
</tr>
<tr>
<td>0-12</td>
<td></td>
</tr>
<tr>
<td>13-15</td>
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<tr>
<td>16-17</td>
<td></td>
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<tr>
<td>18+</td>
<td></td>
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<tr>
<td>Office of the State's Attorney</td>
<td></td>
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<tr>
<td>Rape &amp; sex offenses charged</td>
<td></td>
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<tr>
<td>Nolle prosequi</td>
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<tr>
<td>STET</td>
<td></td>
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<tr>
<td>Convictions</td>
<td></td>
</tr>
<tr>
<td>Of sex crime</td>
<td></td>
</tr>
<tr>
<td>&quot;Jane/John Doe&quot;s</td>
<td></td>
</tr>
<tr>
<td>Police accompaniments</td>
<td></td>
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<tr>
<td>Court accompaniments</td>
<td></td>
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<tr>
<td>Helpline calls</td>
<td></td>
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<tr>
<td>BPD Laboratory</td>
<td></td>
</tr>
<tr>
<td>Det. Requested SAFE kits received</td>
<td></td>
</tr>
<tr>
<td>Child Abuse Unit</td>
<td></td>
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<tr>
<td>Sex Offense Unit</td>
<td></td>
</tr>
<tr>
<td>Total backlog</td>
<td></td>
</tr>
<tr>
<td>No Det. Request SAFE kits received</td>
<td></td>
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<tr>
<td>Child Abuse Unit</td>
<td></td>
</tr>
<tr>
<td>Sex Offense Unit</td>
<td></td>
</tr>
<tr>
<td>Total backlog</td>
<td></td>
</tr>
<tr>
<td>SAFE cases processed/tested</td>
<td></td>
</tr>
</tbody>
</table>
Baltimore City SART
Critical Elements and Agency Leadership for Sexual Assault Response—SART Assessment and Review

The purpose of this inventory is to encourage the multidisciplinary sexual assault response team to discuss and review which services are and are not offered, by which agency(s), and if duplication/overlap of services is a potential problem.

### Critical Elements of Sexual Assault Response

<table>
<thead>
<tr>
<th>Victim Adv.</th>
<th>T, P, M, CL, S</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receive report of victim sexual assault</td>
<td>T, P, M, CL, S</td>
</tr>
<tr>
<td>Activate other services on behalf of sexual assault victim</td>
<td>T, P, C, M, S</td>
</tr>
<tr>
<td>Ensure initial safety for victim</td>
<td>T, P, C, M, S</td>
</tr>
<tr>
<td>Offer info/options to victim about services, decisions, costs</td>
<td>T, P, C, M, S</td>
</tr>
<tr>
<td>Determine need/consent for medical care</td>
<td>P, C, M</td>
</tr>
<tr>
<td>Arrange transportation to/from medical care</td>
<td>P, C, M</td>
</tr>
<tr>
<td>Work with secondary victims (family, friends, witnesses)</td>
<td>T, P, C, SA, M</td>
</tr>
<tr>
<td>Record victim’s statements/condition</td>
<td>P, C, SA, M</td>
</tr>
<tr>
<td>Determine extent of medical attention and emergency care</td>
<td>P, M</td>
</tr>
<tr>
<td>Identify need and refer victim for emergency medical care</td>
<td>T, P, M, S</td>
</tr>
<tr>
<td>Inform victim of evidence collection/receive authorization</td>
<td>P, SA, M</td>
</tr>
<tr>
<td>Determine if victim wants advocate support during medical and/or forensic exam</td>
<td>T, P, M</td>
</tr>
<tr>
<td>Determine need and provide interpreters for victim</td>
<td>P, C, SA, M, S</td>
</tr>
<tr>
<td>Determine need for mandated reporting requirements</td>
<td>T, P, C, M, S</td>
</tr>
<tr>
<td>Determine need and activate legal guardianship</td>
<td>T, P, C, M, S</td>
</tr>
<tr>
<td>Conduct forensic examination</td>
<td>C, M</td>
</tr>
<tr>
<td>Collect and preserve evidence from the victim</td>
<td>P, C, M</td>
</tr>
<tr>
<td>Provide clothing/amenities for victim</td>
<td>M</td>
</tr>
<tr>
<td>Test for pregnancy/provide treatment for STD/EC</td>
<td>C, M</td>
</tr>
<tr>
<td>Obtain victim standards</td>
<td>T, P, M</td>
</tr>
<tr>
<td>Risk assessment/referral for suicide risk</td>
<td>T, P, C</td>
</tr>
<tr>
<td>Arrange for transportation home</td>
<td>T, P, C, SA, M</td>
</tr>
<tr>
<td>Inform victim of followup care resources</td>
<td>T, C, SA, M, S</td>
</tr>
<tr>
<td>Provide followup/aftermath services</td>
<td>T, P, C</td>
</tr>
<tr>
<td>Determine location of scene</td>
<td>C, M</td>
</tr>
<tr>
<td>Determine need for crime scene activation/resources</td>
<td>C</td>
</tr>
<tr>
<td>Determine if assailant is still nearby</td>
<td>C, S</td>
</tr>
<tr>
<td>Investigate crime scene, trace evidence, photos, etc.</td>
<td>SA, CL</td>
</tr>
<tr>
<td>Collect suspect/assailant standards</td>
<td>M</td>
</tr>
<tr>
<td>Inform/assist victim with CVRC reimbursement claim</td>
<td>T, SA, M, S</td>
</tr>
<tr>
<td>Inform victim of law enforcement investigation</td>
<td>C, SA</td>
</tr>
<tr>
<td>Keep victim informed of case status</td>
<td>C, SA, S</td>
</tr>
<tr>
<td>Inform victim of pre-trial hearings and motions</td>
<td>SA, S</td>
</tr>
<tr>
<td>Accompany victim through legal proceedings</td>
<td>T, SA</td>
</tr>
<tr>
<td>Consider needs/rights of victim in scheduling proceedings</td>
<td>SA, S</td>
</tr>
<tr>
<td>Inform victims of reasons to consider a negotiated plea</td>
<td>SA, S</td>
</tr>
<tr>
<td>Describe optional courses of action for victim</td>
<td>T, SA</td>
</tr>
<tr>
<td>Ensure opportunity for victim impact statement as part of sentence considerations</td>
<td>SA, S</td>
</tr>
<tr>
<td>Include victim needs as part of sentence, such as restitution</td>
<td>SA, S</td>
</tr>
</tbody>
</table>

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**APPENDIX G**

### Agency Service Assessment

- Notify victim about changes in offender status | SA
- Notify victim of scheduled parole hearings | SA
- Provide opportunity for victim testimony at parole hearings | SA
- Notify victim of release and status of release | SA
- Train/educate co-responding agencies on what each program does and what services are provided by each agency | T, C, S
- Develop materials and outreach for public about services | T, C, S
- Target hard-to-reach or at-risk populations about services | T, C, S
- Review sexual assault cases to improve interagency response | T, C, SA, S
- Share/compare data, trends, and timelines of how sexual assault cases move between systems | T, S

**APPENDIX G**

### Agency Service Assessment

- T= Turnaround
- C= Child Abuse
- CL= Crime Lab
- P= Police
- SA= States Attorney
- CL= Sexual Assault Legal Institute (SALI)
Baltimore Police Department’s Personal Crimes Unit Standards Operation Procedures, Sexual Assault Investigations and General Order Dated January 7, 2011, Regarding Rape and Sexual Assault

Personal Crimes Unit

Standards Operation Procedures

“Sexual Assault Investigations”

The Criminal Investigation Division’s Personal Crimes Unit (PCU) is responsible for investigating Rapes, Sodomy, and other Sexual Offenses pertaining to victims 16 years of age and older. Crimes of sexual violence are among the most difficult and most sensitive to handle as an Investigator. Often the intensity of the situation is determined by the emotional and physical condition of the victim. From the onset, it is the responsibility of the Investigator to create an environment of safety and trust with the victim so they feel comfortable when describing the assault. Each step of the investigation will be based on a “Victim Center Approach.”

It is a common response for victims of sexual assault to experience symptoms described as “Rape Trauma Syndrome”. Due to the trauma, a victim may present a wide variety of behaviors and reactions during the interview and investigative process. When working with a victim of a sexual assault, the role of the investigator is to obtain the necessary investigative information needed for a lawful arrest, without further traumatizing the victim. This can only be accomplished through patient and tactful questioning. Investigators must refrain from casting judgmental perspectives which could cause the victim to feel at fault for the crime.

General Crime Classification

It is the responsibility of the investigator to weigh and evaluate all information prior to making a determination on the crime classification. One historic element related to unfounding a crime is “Recantation” of the crime by the victim. Recantation of the crime is not the same as “withdrawing the complaint.” Recantation is a statement that the crime did not occur in the first place and the original statement was false. Detectives cannot use the single element of a “recant” by the victim to come to a conclusion that the case is unfounded. Detectives must explore why the victim is offering the recant. Victims may falsely offer “recants” to include but not limited to:

- Withdraw from the investigative process for various reasons
- Fear from the suspect (many times a DV incident)

Unfounded Sexual Assault Cases

For an investigator to classify a case as unfounded there shall be a combination of factors that on a whole demonstrate that the allegation of the crime is false or baseless. For the case to be unfounded because it is baseless, this means that no crime was ever committed.

In those cases where a crime is unfounded based on other circumstances absent a recant, there must be overwhelming and compelling evidence that the crime is false. Crimes cannot be deemed unfounded based on:
• Lack of documented injury/findings during the SAFE Exam
• Confusion or inconsistent statements by the victim
• Cases where the victim cannot remember what happened
• Victim is unable to articulate the elements of a crime due to developmental disability, mental illness, dementia, young age, intoxication, etc.
• Prior history of the victim such as prostitution, drug arrests

For the case to be unfounded because the incident is false, a combination of factors must be present to unfound the case. A recant alone is not sufficient to unfound the case. Detectives shall make all attempts to find out why the victim offered the recant.

As part of the supervisory review process, supervisors will re-contact victims in cases where the victim has “recanted” their allegation to determine if the victim may have reconsidered or changed their position on the recant.

Responsibilities

SOU Lieutenant

• Ensure that every investigation is conducted in a fair, impartial and sensitive manner.
• Ensure that General Order G-8 and this S.O.P are strictly adhered to by all members within the Sex Offense Unit.
• Observe Sergeants and detectives in the performance of their duties and provide direction as deemed necessary.
• Review all assigned cases to ensure effective case development.
• Maintain an equitable distribution of caseload assignments.
• Monitor overtime and other budgetary allowances.
• Identify major cases, which by their nature require extraordinary investment of investigative time.
• Ensure supervisors direct the investigative efforts of detectives by means of an overall investigative plan. Coordinate all investigations, which would require mid-level supervisory coordination beyond that normally required in routine investigations.
• Approve / disapprove all cases classified as unfounded.
• Ensure each detective creates and maintains a Case Status/Prosecution Report within the case folder.
• Establish and maintain a liaison with the States Attorney’s Office regarding cases investigated by the unit.
• Ensure the Unit operates in a collaborative and cooperative manner with outside agencies involved in Sexual Assault such as Victims Advocates, Hospital Personnel, State’s Attorney’s Office, etc.

SOU Sergeants

• Ensure that every investigation is conducted in a fair, impartial and sensitive manner.
• Ensure that General Order G-8 and this S.O.P are strictly adhered to by all members.
• Routinely observe Detectives in the performance of their assigned duties.
• Ensure that all cases are equitable assigned.
• Review case folders for compliance.
• Approve / disapprove all cases classified as unfounded.
• Ensure Lotus Notes entries are accurate, complete and current with the supervisors name and date inserted into all (progress reports) e.g., reviewed by Sgt John Doe 7/31/2010.
• Assist Detectives in planning, reviewing and supervising the execution of all search and seizure warrants. When a search and seizure warrant is obtained, the Sergeant shall ensure its prompt execution, and return to the issuing Judge.
• When an arrest warrant is obtained contact the Warrant Apprehension Task Force immediately for service.
• Ensure the stringent control of all overtime.

SOU Detectives

• Ensure that every investigation is conducted in a fair, impartial and sensitive manner.
• Ensure that General Order G-8 and this S.O.P are strictly adhered to.
• Maintain a thorough understanding of all applicable laws pertaining to charging and prosecution of sex offense related crimes.
• Be familiar with the utilization of all available scientific/legal resources.
• Ensure that every reported case assigned to the Personal Crimes Unit is handled in a respectful and supportive manner.
• Consult with supervisors for all case classifications.
• Conduct thorough and professional investigations to include skillful crime scene identification, evidence recovery and interpretation, competent and professional suspect interrogations, and witness interviews.
• Document all case activity in Lotus Notes. A 24-Hour report is due on all new assigned cases before the end of the tour of duty.
• Original investigative files must be kept in hardback case folders and stored within the administrative files of the unit.
• Case folders shall remain in the Personal Crimes Units administrative files except for court appearances and Assistant State’s Attorney’s review. Original case folders are not to be forwarded or left with the State’s Attorney’s Office; however, copies may be supplied.
NOTE: When a copy of the case folder is forwarded to the prosecuting Assistant State’s Attorney, the primary Detective will obtain his/her signature on a Case Folder Receipt Form, indicating their receipt of the copy.

“Sexual Assault Investigations”

The following guidelines are to be strictly adhered to by Detectives within the Personal Crimes Unit.

PRELIMINARY INVESTIGATION

- If necessary, immediately request emergency medical service.
- Debrief the Primary Officer regarding the reported incident.
- Speak with the victim and introduce yourself as the Primary Detective. Ask enough questions to establish the facts of the case. **NOTE:** This should be brief as the formal interview will take place after the SAFE Exam.
- The crime scene will be handled by the Secondary Detective or designee.
- Witnesses will be secured and transported to the unit office to be interviewed.
- If the crime scene is the suspect’s house, absent immediate safety concerns, entry will not be made without obtaining a Search & Seizure Warrant. Consent to Search Forms will not be utilized.
- The Primary Detective will complete the “Sexual Assault Preliminary Debriefing Form”.
- The Primary Detective will ensure the transport of the victim without delay to Mercy Hospital for a SAFE Exam. The Secondary Detective will remain at the crime scene to await the Crime Lab.
- In incidents where the victim is not taken to Mercy Hospital for a SAFE Exam, the victim shall be provided information to contact the designated victims advocate entity.
- Once a SAFE Exam has been requested at Mercy Hospital, the victim shall be provided information to contact the designated victims advocate entity.
- The Primary Detective may respond back to the Crime Scene and assist.
- Primary and/or Secondary Detectives will conduct an area canvass for possible witnesses.
- Once the victim has completed their SAFE Exam, the primary detective with ensure that the victim is transported to the Sex Offense Office for an interview. The interview will take place in the designated “Victims Interview Room.”
  - Detectives shall be mindful that victim’s emotional or physical state may require the interview to be postponed. The victim interview is usually in-depth and may be upsetting to the victim. If it is in the best interest of the victim to continue the interview at a later time, it will be rescheduled.
  - Detectives shall handle the interview with the needs and comfort of the victim as a priority.
  - Detectives should avoid asking questions that may be interpreted as blaming, such as “Why didn’t you run?” or “that doesn’t make sense”. Sometimes it will be necessary to explain to the victim the purpose of certain questions that may be thought of as blaming but are necessary to further the investigation.
  - Detectives must understand that certain people may be targeted by offenders because the offenders feel they may not report the crime. This targeted population may include those with substance abuse problems, victims engaging in prostitution, etc. Detectives must be mindful that victims may feel they will not be believed or possibly arrested if admitting to certain behavior leading up to the assault. Detectives shall advise the victim that their purpose is to investigate the sexual assault.
  - Formal victim interviews will be audio taped. The detective will explain to the victim the reason for this is to assist in the prosecution of the offender.
  - If a Suspect has been detained, same shall be transported to the investigation offices and placed in a holding cell.
  - Suspects are to be interrogated by two Detectives at **ALL** times in an interview room. Suspects shall be handled consistent with established procedures. In instances where the suspect may be involved in criminal activity outside the realm of sex offense investigations, i.e. street...
robberies, firearm trafficking, etc., the sex offense detective will contact that investigative unit for possible further interrogation.

- A FULL Suspect SAFE Exam should be obtained when any suspect is apprehended on scene or when appropriate. Suspect SAFE Exams are to be completed at Mercy Hospital by a FNE Nurse.

- SAFE Exam Kits shall be submitted consistent with established evidence submission guidelines.
  - Detectives shall complete a 24-Hour Report prior to the end of their tour of duty for any new cases. The 24-Hour Report shall contain the basic facts of the case, along with information regarding the results of the SAFE Exam and the submission of the SAFE Exam Kit and any clothing seized for evidence collection.

FOLLOW-UP INVESTIGATION

Detectives shall conduct a thorough follow-up investigation.

Supervisors shall meet with detectives and plan a follow-up investigation based on the method of assault. Also, other cases shall be reviewed to ascertain if the assault is part of a pattern.

Follow up investigations shall be conducted using all available resources to include but not limited to:

- Arrest viewer
- Maryland Court records
- 911 tapes
- DIG
- CAD Reports
- Criminal History Check
- MVA
- Lotus notes address/names/contact searcher
- I2 workup (Intel 2640)
- DIG Search (Intel 2640)
- Parole and Probation (Intel 2640)
- CLEAR Query (Intel 2640)
- Real Property Search
- Arrest Viewer
- Nickname Database
- Field/Stop Receipt Database

Detectives shall ensure all suspect descriptions are broadcast via existing means within the department. Detectives shall utilize district personnel for assistance that are familiar with known offenders, problem areas, burglary patterns, street robbery patterns, etc. Many sexual offenders that commit crimes against victims that are strangers may be committing robberies, burglaries, thefts, etc.

Sex Offense supervisors shall debrief district commanders on open sexual assaults in their districts. In cases such as those involving, “stranger on stranger”, deployment and enforcement initiatives will be considered.

Sex Offense Detectives shall utilize the Sex Offender Registry Unit for assistance to conduct door to door area canvasses for suspects.

Additional entities outside the Sex Offense Unit shall be considered on open cases. Those entities include the Violent Crime Impact Section, District Detective Units, Intelligence Section, Vice, and even outside agencies such as MTA Police, Immigration/Customs enforcement, etc.

Consultation with the State’s Attorney’s Office shall be made when legal questions arise concerning charging, “One Party Consent”, complex issues involving statements, etc.

Supervisors shall monitor each investigation of their detectives and ensure timely and thorough investigations coupled with updates in our Case Management database.

Detectives shall follow-up with victims advising them of case status and inquiring if any additional information can be provided to further the case. Detectives shall contact the victim on open cases, at a minimum, once a week for 30 days, and again after 60 days. Also, the victim shall be contacted upon the arrest of the offender.

Supervisors shall randomly call victims during the investigative process and inquire of the satisfaction level of the professional response of the uniformed patrol personnel and detectives.
“Case Folders”

The following guidelines are to be strictly adhered to by Detectives within the Personal Crimes Unit.

- **ALL** case folders will be filed in an approved secure location.
- Each case folder will be assigned a folder number that corresponds with the Unit Case number assigned in the Lotus Notes Database.
- Each case folder will also contain an “OUT” file card marked with the folder’s sequential number.
- When a case folder is removed from file, the “OUT” card will be completed as to the date, individual removing the folder, and the reason for removal, i.e. court/ASA office. The card will be placed in the file taking the place of the removed folder.
- When a case folder is returned to file, the “OUT” card will be placed back inside the case folder.
- Case folders will be maintained in a file cabinet for 12 months. As file storage space is needed, case folders from the preceding year will be removed and secured in an accessible storage area in the Sex Offense Unit.
- Supervisory personnel shall have access to all case folders on a 24-Hour basis.
- Active Case folders will be reviewed by Supervisors weekly. Any deficiencies or omissions within the case will be addressed in a timely matter for proper prosecution.
3. Broadcast the suspect's description and, if possible, identify and protect the crime scene and any potential evidence.

4. The primary Patrol Officer will write an unfounded report “ONLY” after contacting a Sex Offense Detective. Fax the report to the Sex Offense Unit at 410-396-2170.

5. At all times, show the utmost regard for the victim's physical and emotional well-being.

6. If there will be a long delay in the detective's arrival at the crime scene, follow the detective's instructions relative to transporting the victim to the hospital.

7. Before transporting an unescorted victim of the opposite sex in a departmental vehicle:

   7.1. The transporting officer must inform the Police Dispatcher of the location from which he or she is departing, the beginning and ending odometer reading and the intended destination.

   7.1.1. If any deviation from the originally declared destination occurs en route, immediately notify the Police Dispatcher by radio.

8. If an arrest is made for rape, attempted rape, sodomy, or for a first, second, or third degree sex offense, the arresting officer shall notify the Sex Offense Unit IMMEDIATELY.

9. If you are unable to locate a victim or reporting person:

   9.1. Request assistance from the Police Dispatcher in making subsequent efforts to re-contact the original caller by telephone.

   9.2. Speak with all persons, who might be present in the immediate vicinity, in an effort to locate the original caller and determine what events occurred prior to your arrival.

   9.3. Remain in contact with a permanent rank sector supervisor or your shift commander, if necessary, and advise him or her when you believe that all reasonable efforts to locate a victim or reporting person have been exhausted.

10. A written report, which describes your preliminary investigation and its findings, is required if:

   10.1. Your preliminary investigation determines:

       10.1.1. A sex offense call for service to be unfounded.

       10.1.2. A crime, other than a sex offense has occurred.

NOTE: No sex offense call for service may be closed with an Oral Reporting Code other than “X-X-Ray” - Written Report Required, along with the appropriate corresponding domestic violence-related “Y-Yes” or “N-No” code.
3. Once the medical examination is complete, ask the victim if there is any reason (such as unsafe conditions) that might prevent him or her from returning home.

4. Notify a parent or guardian as soon as possible if the victim is a minor (any age under 18 years) or has a mental disability. If the suspect is the child’s parent, guardian or other household or family member, or has the care, custody, control, or responsibility for the child’s supervision, promptly inform the Department of Social Services at 410-361-2235.

**NOTE:** If the crime involves child abuse issues, or the rape, attempted rape, commission of a first, second, or third degree sex offense, or any other sex offense(s), against a child 15 years of age and younger, follow the related procedures in General Order L-1, “Child Abuse Investigations.”

5. Shall be responsible for writing ALL offense reports, pertaining to incidents, which are deemed Founded.

**Detective Hospital Procedures**

1. Determine the appropriate medical facility for examination of sexual assault victims as follows:

   1.1. If a victim is 12 years of age and younger:

       University of Maryland Medical Center
       Pediatric Emergency Room
       22 South Green Street (main floor)
       410-328-6677

   1.2. If the victim is 13 years of age and older:

       Mercy Medical Center
       Emergency Department
       301 Saint Paul Place, (corner of Calvert and Pleasant Streets)
       410-332-9477

   **NOTE:** To preserve the dignity of the victim, officers will refer to the victim as an “assault victim.”

2. A relative or friend may transport the victim in a private vehicle; the victim should not drive.

3. Before transporting an unescorted victim of the opposite sex in a departmental vehicle:

   3.1. The transporting officer/detective must inform the Police Dispatcher of the location from which he or she is departing, the beginning and ending odometer reading and the intended destination.

      3.1.1. If any deviation from the originally declared destination occurs en route, immediately notify the Police Dispatcher by radio. Immediately notify the Police Dispatcher of your arrival at the medical facility and the ending odometer reading.

   3.2. At the emergency room, complete the appropriate blocks on the “Physical Examination and Collection of Evidence for Rape and Sexual Assault” form and return it to the Sexual Assault Forensic Examiner (SAFE) nurse.

   3.3. The CID Detective shall set an appointment with the victim for a follow-up interview. If the victim’s mental or physical condition is not conducive to an interview, the detective shall ensure the victim’s safe return home or a reasonable destination of his or her choice. Record the victim’s ultimate destination only in your CID supplement.

   3.4. Stress the importance of prompt medical treatment.

   3.5. Exposure to a communicable disease, if left untreated, may hurt health and well-being.

   3.6. Timely recovery of physical evidence is essential. Any delays will likely impede successful prosecution of the case.

7. If the victim chooses to see a private physician:

   7.1. Stress the importance of prompt medical treatment.

   7.2. Although private physicians are not required to complete police department forms or reveal the results of any examination unless compelled by court order, advise the victim that Rape Kits can easily be obtained from either the University of Maryland or Mercy Medical Centers or from a Sex Offense Detective by calling 410-396-2076 or Child Abuse Detective at 443-984-7379.

8. After the examination, make certain the victim is driven to the Sex Offense Unit office for further interviewing. If the victim’s mental or physical condition is not conducive to an interview, the detective shall ensure the victim’s safe return home or a reasonable destination of his or her choice. Record the victim’s ultimate destination only in your CID supplement.

   8.1. The CID Detective shall set an appointment with the victim for a follow-up interview.

9. Submit all recovered evidence to the Evidence Control Unit (ECU). Evidence will usually be collected by the Sexual Assault Forensic Examiner (SAFE) nurse during the medical examination. These items include, but are not limited to:

   9.1. All of the victim’s clothing, which must be packaged separately.

   9.2. The Rape Kit.

   9.3. All other evidence, whether recovered at the crime scene, from the victim or from the suspect, must be collected by the Laboratory Section’s Mobile Crime Lab Unit and promptly submitted to ECU.

   **NOTE:** For safety, use Biohazard Safety Techniques. Refer to General Order H-10, “Communicable Diseases, Blood-borne Pathogens and Human Bites” and General Order G-6, “Hazardous Material Incidents.”

**Police Dispatcher, Communications Section**

1. Promptly dispatch all sex offense calls for service and provide responding units with all relevant information, concerning these calls for service.

2. Do not accept any Oral Reporting Code other than “X-X-Ray” - Written Report Required, along with the appropriate corresponding domestic violence-related “Y-Yes” or “N-No” code for any sex offense call for service.
3. If a primary Patrol Officer's initial field investigation determines that a sex offense call for service is unfounded or that a crime other than a sex offense has occurred, change the incident as necessary and make all appropriate notations in the call history. Only accept a code of X-Ray.

4. When requested, notify the appropriate hospital of the imminent arrival of the officer and the victim.

5. Assist the primary Patrol Officer in making the required notifications to the Sex Offense Unit, Mobile Crime Lab Unit, Child Abuse Unit, etc.

DELAyED REPORTING OF A SEXUAL ASSAULT

DEFINITIONS

Delayed Reporting - For the purposes of this Order, is the act of reporting a sexual assault incident to qualified medical personnel without police involvement.

Jane/John Doe - For the purposes of this Order, is a reference to a sexual assault victim, who desires to remain anonymous and does not wish to disclose to a law enforcement officer any information concerning the offense.

GENERAL INFORMATION

The Violence Against Women Act (VAWA) allows a victim to report an alleged sexual assault crime to medical personnel and to receive a forensic medical examination without participation in the criminal justice system and/or cooperation with law enforcement agencies. Sexual assault victims may confidentially disclose to a Forensic Nurse Examiner (FNE) at Mercy Medical Center the particulars of an alleged offense, to include date, time, location, and the name and/or description of the perpetrator. The victim may obtain treatment and counseling from the FNE.

The FNE will collect all forensic evidence from the victim and assign an in-house tracking number to the case. The FNE will maintain the evidence and any reports confidentially for a period not to exceed one (1) year. If the victim does not pursue the matter within one (1) year of the reporting date, the FNE will destroy the evidence and any related reports. The FNE will notify the Sex Offense Unit of the final disposition of the evidence, in writing, via the United States Postal Service.

This policy applies to victims 13 years of age and older, but does not apply to victims 12 years of age and under, or victims under 18 years of age when the alleged sexual assault involves a parent, family member, household member or other person, who has permanent or temporary care and/or custody of the victim.

Whenever a reported sexual assault is delayed at the victim’s request, members shall adhere to applicable procedures for initiating a report and the collection of evidence. All other sexual assaults are handled in a timely manner in accordance with the procedures established by this Order.

REQUIRED ACTION

Member

1. When a victim reports a sexual assault offense, adhere to the procedures established in the main body of this Order.

2. Transport the victim to Mercy Medical Center unless the victim is already receiving treatment at another hospital and the transport would jeopardize the health of the victim.

3. Allow the FNE to interview/examine the victim. The FNE will inform the victim of the particulars of delayed reporting, including the completion of any forms.

4. If the FNE notifies you that the victim has chosen delayed reporting (Jane/John/Doe) notify the Sex Offense Unit and they will handle the call.

Sex Offense Unit

1. When notified of a Jane or John Doe Incident, immediately respond and handle in accordance with established procedures. Notify an FNE at Mercy Medical Center, when necessary.

2. Obtain a Central Complaint Number (CCN) and provide it to the FNE.

3. Obtain a Jane or John Doe tracking number from the FNE.

4. Complete a Miscellaneous Incident Report, entitled “Jane Doe Incident” or “John Doe Incident”, and enter all pertinent information in Lotus Notes.

5. In the event that a sexual assault victim decides to initiate a criminal investigation:

   5.1. Ensure the victim signs the Jane or John Doe Privacy Waiver form, authorizing the release of evidence and supporting documents.

   5.2. Collect all evidence and supporting documentation from the FNE and submit the items to ECU.

Commanding Officer, Sex Offense Unit

1. Establish and maintain a Unit Standard Operating Procedure for handling Jane or John Doe incidents.

REVISION

Remove and destroy/recycle General Order G-8, “Rape and Sexual Assault,” dated 22 October 1999.

NOTE: This Order will supersede all current Departmental procedures or any portion thereof, addressing similar rape or sexual assault-related matters.

COMMUNICATION OF POLICY

Supervisors shall be responsible for communication of this General Order to their subordinates, and to ensure compliance. This Order is effective on the date of publication, is to be read at all roll calls for five consecutive days, and is to be posted on Departmental Bulletin Boards.
Maryland Laws & Regulations

CODE OF MARYLAND CRIMINAL LAW

TITLE 3. OTHER CRIMES AGAINST THE PERSON

SUBLITTE 3 – Sexual Crimes

§ 3-301. Definitions.

(a) In this subtitle the following words have the meanings indicated.

(b) “Mentally defective individual” means an individual who suffers from mental retardation or a mental disorder, either of which temporarily or permanently renders the individual substantially incapable of:

(i) appraising the nature of the individual’s conduct; or
(ii) communicating unwillingness to submit to vaginal intercourse, a sexual act, or sexual contact; or
(iii) appraising the nature of the individual’s conduct; or
(iv) resisting vaginal intercourse, a sexual act, or sexual contact.

(c) “Mentally incapacitated individual” means an individual who, because of the influence of a drug, narcotic, or intoxicating substance, or because of an act committed on the individual without the individual’s consent or awareness, is rendered substantially incapable of:

(i) appraising the nature of the individual’s conduct; or
(ii) resisting vaginal intercourse, a sexual act, or sexual contact.

(d) “Physically helpless individual” means an individual who:

(i) is unconscious; or
(ii) does not consent to vaginal intercourse, a sexual act, or sexual contact; and
(iii) is physically unable to resist, or communicate unwillingness to submit to, vaginal intercourse, a sexual act, or sexual contact.

(e) (1) “Sexual act” means any of the following acts, regardless of whether semen is emitted:

(i) anal intercourse;
(ii) cunnilingus;
(iii) fellatio;
(iv) anal intercourse, including penetration, however slight, of the anus; or
(v) an act:

1. in which an object penetrates, however slightly, into another individual’s genital opening or anus; and
2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(2) “Sexual act” does not include:

(i) vaginal intercourse;
(ii) an act in which an object penetrates an individual’s genital opening or anus for an accepted medical purpose.

(f) (1) “Sexual contact”, as used in §§ 3–301, 3–308, and 3–314 of this subtitle, means an intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

(2) “Sexual contact” includes an act:

(i) in which a part of an individual’s body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual’s genital opening or anus; and
(ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.

(3) “Sexual contact” does not include:

(i) a common expression of familial or friendly affection; or
(ii) an act for an accepted medical purpose.

(g) (1) “Vaginal intercourse” means genital copulation, whether or not semen is emitted.

(2) “Vaginal intercourse” includes penetration, however slight, of the vagina.

§ 3-302. Construction of subtitle.

In this subtitle an undefined word or phrase that describes an element of common-law rape retains its judicially determined meaning, except to the extent it is expressly or impliedly changed in this subtitle.

§ 3-303. Rape in the first degree.

(a) A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and
(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon; (ii) cause the victim serious physical injury; or (iii) commit the crime while aided and abetted by another.

(b) A person may not violate subsection (a) of this section or subsection (c)(1) or (2) of this section if the victim is a mentally defective individual, a mentally incapacitated individual, a physically helpless individual, or a mentally incapacitated individual, or a physically helpless individual; or

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(e) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding life without the possibility of parole.

(ii) The person is not eligible for parole during the mandatory minimum sentence.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(v) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this subsection, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State’s intention at least 30 days before trial.

§ 3-304. Rape in the second degree.

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other; or
(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or
(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding life.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(v) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State’s intention at least 30 days before trial.

§ 3-305. Sexual offense in the first degree.

(a) A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and
(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon; (ii) cause the victim serious physical injury; or (iii) commit the crime while aided and abetted by another.

(b) A person may not violate subsection (a) of this section while also violating § 3–503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(v) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.
commit the crime in connection with a burglary in the first, second, or third degree.

(b) A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 18 years.

(c) A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(a) A person may not:

(1) Sexual contact with another without the consent of the other;

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school; and

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not for less than 25 years and not exceeding life without the possibility of parole.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(2) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(a) In this section, "person in a position of authority":

(1) by force, or the threat of force, without the consent of the other;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(1) except as provided in § 3-307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

(b) A person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(2) Subject to subparagraph (iv) of this paragraph, a person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(1) means a person who:

(2) Includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(b) A person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 10 years.

§ 3-308. Sexual offense in the fourth degree.

(a) In this section, "person in a position of authority":

(1) by force, or the threat of force, without the consent of the other;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(b) A person who may not engage in:

(2) Includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(i) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(c) (1) except as provided in § 3-307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim; or

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(1) by force, or the threat of force, without the consent of the other;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(2) Subject to subparagraph (iv) of this paragraph, a person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(2) Subject to subparagraph (iv) of this paragraph, a person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(c) (1) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(b) A person who may not violate subsection (a) of this section involving a victim who is a child under the age of 18 years;

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(a) A person may not engage in:

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(i) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(b) A person who violates subsection (a) or (b) of this section involving a victim who is a child under the age of 18 years;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(2) Subject to subparagraph (iv) of this paragraph, a person who violates this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(1) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(c) (1) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(1) means a person who:

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school.

(iii) because of the person’s position or occupation, exercises supervision over a minor who attends the school; and

(ii) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.
§ 3-314. Sexual conduct between correctional or juvenile justice employee and inmate or confined child.

(a) (1) In this section the following words have the meanings indicated.

(i) "Correctional employee" means:

1. A correctional officer, as defined in § 8-201 of the Correctional Services Article; or
2. A managing official or deputy managing official of a correctional facility.

(ii) "Correctional facility" includes a detention center for juveniles, a juvenile detention center, or a facility for juveniles listed in § 9–226(b) of the Human Services Article.

(b) (1) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years.

(c) In determining whether the required number of acts occurred in violation of this section, the trier of fact:

(1) must determine only that the required number of acts occurred; and

(2) need not determine which acts constitute the required number of acts.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000.

§ 3-315. Continuing course of conduct with child.

(a) A person may not engage in a continuing course of conduct which includes three or more acts that would constitute violations of § 3-303, § 3-304, § 3-307, or § 3-308 of this subtitle over a period of 90 days or more, with a victim who is under the age of 14 years at any time during the course of conduct.

(b) (1) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $3,000 or both.

(2) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for another crime under §§ 3–303 through 3–312 of this subtitle.

§ 3-316. Rape and sexual offense – Venue.

If a person is transported with the intent to violate a provision of §§ 3-303 through 3-312, § 3-314, or § 3-315 of this subtitle, and the intent is followed by actual violation of a provision of §§ 3-303 through 3-312, § 3-314, or § 3-315 of this subtitle, the defendant may be tried in the appropriate court in a county where the transportation was offered, solicited, begun, continued, or ended.

§ 3-317. Same – Charging document.

(a) An indictment, information, or warrant for a crime under §§ 3-303 through 3-312 or § 3-314 of this subtitle is sufficient if it substantially states:

(1) the time of the alleged rape or sexual offense;

(2) the sexual organ of another or of an animal in the person's mouth;

(3) to follow another similar instruction, solely because of the nature of the charge.

(b) In a case in which the general form of indictment, information, or warrant described in subsection (a) of this section is used, the defendant is entitled to a bill of particulars specifically setting forth the allegations against the defendant.

§ 3-318. Same – Spousal defense.

(a) Except as provided in subsections (b) and (c) of this section, a person may not be prosecuted under § 3-303, § 3-304, § 3-307, or § 3-308 of this subtitle for a crime against a victim who was the person's legal spouse at the time of the alleged rape or sexual offense.

(b) A person may be prosecuted under § 3-303(a), § 3-304(a), or § 3-307(a) of this subtitle for a crime against the person's legal spouse if:

(1) at the time of the alleged crime the person and the person's legal spouse have lived apart, without cohabitation and without interruption;

(ii) any other employee of the Public Safety and Correctional Services or a correctional facility; or

(ii) "Inmate" includes an individual confined in a community adult rehabilitation center.

(b) (1) This subsection applies to:

(i) a correctional employee;

(ii) any employee of the Department of Public Safety and Correctional Services or a correctional facility;

(iii) an employee of a contractor providing goods or services to the Department of Public Safety and Correctional Services or a correctional facility; and

(iv) any other individual working in a correctional facility, whether on a paid or volunteer basis.

(c) A person may not engage in sexual contact, vaginal intercourse, or a sexual act with an inmate.

(d) A person who violates the provisions of paragraphs (a) and (b) of this section or those described in paragraph (a) of this subsection may not engage in sexual contact, vaginal intercourse, or a sexual act with an inmate.

§ 3-319. Same – Admissibility of evidence.

(a) Evidence relating to a victim’s reputation for chastity or abstinence and opinion evidence relating to a victim’s chastity or abstinence may be admitted in a prosecution for:

(1) a crime specified under this subtitle or a lesser included crime;

(b) Evidence of a specific instance of a victim’s prior sexual conduct may be admitted in a prosecution described in subsection (a) of this section only if the judge finds that:

(1) the evidence is relevant; and

(b) (1) If the State intends to proceed against a person under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

§ 3-320. Same – Jury instructions.

In a criminal prosecution under §§ 3-303 through 3-312, § 3-314, or § 3-315 of this subtitle, a judge may not instruct:

(1) to examine the testimony of the prosecuting witness with caution, solely because of the nature of the charge;

(2) that the charge is easily made or difficult to dispute, solely because of the nature of the charge; or

(3) to follow another similar instruction, solely because of the nature of the charge.

§ 3-321. Sodomy.

A person who is convicted of sodomy is guilty of a felony and is subject to imprisonment not exceeding 10 years.

§ 3-322. Unnatural or perverted sexual practice.

(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $1,000.

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

(d) A person who violates this section is subject to § 3-602 of the Human Services Article.
or animal as applicable; but
(ii) need not state the particular:
(i) unnatural or perverted sexual practice with which the defendant is charged; or
(ii) manner in which the defendant committed the unnatural or perverted sexual practice.

§ 3-323. Incest.
(a) A person may not knowingly engage in vaginal intercourse with anyone whom the person may not marry under § 2-202 of the Family Law Article.
(b) A person who violates this section is guilty of the felony of child abuse in the first degree and on conviction is subject to: (i) imprisonment not exceeding 25 years; or
(ii) if the violation results in the death of the victim, imprisonment not exceeding 30 years.

§ 3-324. Sexual solicitation of minors.
(a) In this section, “solicit” means to command, authorize, urge, entice, request, or advise a person by any means, including:
(1) in person;
(2) through an agent or agency;
(3) over the telephone;
(4) through any print medium;
(5) by mail;
(6) by computer or Internet; or
(7) by any other electronic means.
(b) A person may not, with the intent to commit a violation of § 3–304, § 3–306, or § 3–307 of this subtitle or § 11–304, § 11–305, or § 11–306 of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3–304, § 3–306, or § 3–307 of this subtitle or § 11–304, § 11–305, or § 11–306 of this article.
(c) A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:
(1) originated in the State; or
(2) is received in the State.
(d) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both.

SUBTITLE 6 – Child Abuse

§ 3-601. Definitions.
(a) (1) In this section the following words have the meanings indicated.
(2) “Abuse” means physical injury sustained by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the minor’s health or welfare is harmed or threatened by the treatment or act.
(3) “Family member” means a relative of a minor by blood, marriage, adoption, or the marriage of a family member acting as a legal guardian.
(4) “Household member” means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.
(5) “Severe physical injury” means:
(i) brain injury or bleeding within the skull; or
(ii) internal bleeding;
(iii) physical injury that:
A. disfigurement;
B. loss of the function of any bodily member or organ; or
C. impairment of the function of any bodily member or organ.
(b) (1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor:
(i) results in the death of the minor; or
(ii) causes severe physical injury to the minor.
(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the first degree and on conviction is subject to:
(i) imprisonment not exceeding 25 years; or
(ii) if the violation results in the death of the victim, imprisonment not exceeding 30 years.

(c) A person who violates this section after being convicted of a previous violation of this section is guilty of a felony and on conviction is subject to:
(1) imprisonment not exceeding 25 years; or
(2) if the violation results in the death of the victim, imprisonment not exceeding 30 years.
(d) (1) (i) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor:
(ii) A household member or family member may not cause abuse to a minor.
(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the second degree and on conviction is subject to imprisonment not exceeding 15 years.
(e) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.

§ 3-602. Sexual abuse of a minor.
(a) (1) In this section the following words have the meanings indicated.
(2) “Family member” has the meaning stated in § 3-601 of this subtitle.
(3) “Household member” has the meaning stated in § 3-601 of this subtitle.
(4) (i) “Sexual abuse” means an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not.
(ii) “Sexual abuse” includes:
1. incest;
2. rape;
3. sexual offense in any degree;
4. sodomy; and
5. unnatural or perverted sexual practices.
(b) (1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.
(2) A household member or family member may not cause sexual abuse to a minor.
(c) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years.
(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for:
(1) any crime based on the act establishing the violation of this section; or
(2) a violation of § 3-601 of this subtitle involving an act of abuse separate from abuse under this section.

§ 3-603. Salle of minor.
(a) A person may not sell, barter, or trade, or offer to sell, barter, or trade, a minor for money, property, or anything else of value.
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both for each violation.
(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

§ 3-604. Abuse or neglect of a vulnerable adult in the first degree.
(a) (1) In this section and §§ 3-605 and 3-606 of this subtitle the following words have the meanings indicated.
(2) (i) “Abuse” means the sustaining of physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult’s health or welfare is harmed or threatened.
(ii) “Abuse” includes the sexual abuse of a vulnerable adult.
(iii) “Abuse” does not include an accepted medical or behavioral procedure ordered by a health care provider authorized to practice under the Health Occupations Article or § 13-516 of the Education Article acting within the scope of the health care provider’s practice.
(3) “Caregiver” means a person under a duty to care for a vulnerable adult because of a contractual undertaking to provide care.
(4) “Family member” means a relative of a vulnerable adult by blood, marriage, adoption, or the marriage of a child.
(5) “Household” means the location:
(i) in which the vulnerable adult resides;
(ii) where the abuse or neglect of a vulnerable adult is alleged to have taken place; or
(iii) where the person suspected of abusing or neglecting a vulnerable adult resides.
(6) “Household member” means an individual who lives with or is a regular presence in a home of a vulnerable adult at the time of the alleged abuse or neglect.
(7) (i) “Neglect” means the intentional failure to provide necessary assistance and resources for the physical
needs of a vulnerable adult, including:
1. food;
2. clothing;
3. toileting;
4. essential medical treatment;
5. shelter; and
6. supervision.
(ii) "Neglect" does not include the provision of nonmedical remedial care and treatment for the healing of injury or disease that is:
1. given with the consent of the vulnerable adult; and
2. recognized by State law in place of medical treatment.
(8) "Serious physical injury" means physical injury that:
(i) creates a substantial risk of death; or
(ii) causes permanent or protracted serious:
1. disfigurement;
2. loss of the function of any bodily member or organ; or
3. impairment of the function of any bodily member or organ.
(9) (i) "Sexual abuse" means an act that involves sexual molestation or exploitation of a vulnerable adult.
(ii) "Sexual abuse" includes:
1. incest;
2. rape;
3. sexual offense in any degree;
4. sodomy; and
5. unnatural or perverted sexual practices.
(10) "Vulnerable adult" means an adult who lacks the physical or mental capacity to provide for the adult’s daily needs.

(b) (1) A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that:
(i) results in the death of the vulnerable adult;
(ii) causes serious physical injury to the vulnerable adult; or
(iii) involves sexual abuse of the vulnerable adult.
(2) A household member or family member may not cause abuse or neglect of a vulnerable adult that:
(i) results in the death of the vulnerable adult;
(ii) causes serious physical injury to the vulnerable adult;
(iii) involves sexual abuse of the vulnerable adult;
(c) A person who violates this section is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.
(d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

§ 3-605. Abuse or neglect of a vulnerable adult in the second degree.
(a) This section does not apply to abuse that involves sexual abuse of a vulnerable adult.
(b) (1) A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult.
(c) A person who violates this section is guilty of the misdemeanor of abuse or neglect of a vulnerable adult in the second degree and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.
(d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

§ 3-606. Abuse or neglect of a vulnerable adult—Investigation
If a State or local unit receives a report of present or past abuse or neglect of a vulnerable adult, an investigation shall be conducted in accordance with:
(1) § 7-1005 of the Health - General Article if the adult has a developmental disability as defined in § 7-101 of the Health - General Article;
(2) § 10-705 of the Health - General Article if the adult is in a facility as defined in § 10-101 of the Health - General Article;
(3) § 19-346 or § 19-347 of the Health - General Article if the adult is a resident of a related institution as defined in § 19-301 of the Health - General Article; and
(4) §§ 14-301 through 14-309 of the Family Law Article if the adult does not meet the criteria of item (1), (2), or (3) of this section.

§ 3-607. Hazing
(a) A person may not recklessly or intentionally do an act or create a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university;
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.
(c) The implied or express consent of a student to hazing is not a defense under this section.

SUBTITLE 8 – Stalking and Harassment

§ 3-801. “Course of Conduct” defined.
In this subtitle, “course of conduct” means a persistent pattern of conduct, composed of a series of acts over time, that shows a continuity of purpose.

§ 3-802. Stalking.
(a) In this section, “stalking” means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:
(1) (i) of serious bodily injury; (ii) of an assault in any degree; (iii) of rape or sexual offense as defined by §§ 3-303 through 3-308 of this article or attempted rape or sexual offense in any degree; (iv) of false imprisonment; or (v) of death; or (2) that a third person likely will suffer any of the acts listed in item (1) of this subsection.
(b) The provisions of this section do not apply to conduct that is:
(1) performed to ensure compliance with a court order; (2) performed to carry out a specific lawful commercial purpose; or (3) authorized, required, or protected by local, State, or federal law.
(c) A person may not engage in stalking.
(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $5,000 or both.
(e) A sentence imposed under this section may be separate from and consecutive to or concurrent with any other crime based on the acts establishing a violation of this section.

§ 3-803. Harassment.
(a) A person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other:
(1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and (3) without a legal purpose.
(b) This section does not apply to a peaceable activity intended to express a political view or provide information to others.
(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $500 or both.

§ 3-804. Misuse of telephone facilities and equipment.
(a) A person may not use telephone facilities or equipment to make:
(1) an anonymous call that is reasonably expected to annoy, abuse, torment, harass, or embarrass another; (2) repeated calls with the intent to annoy, abuse, torment, harass, or embarrass another; or (3) a comment, request, suggestion, or proposal that is obscene, lewd, lascivious, filthy, or indecent.
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $500 or both.

§ 3-805. Misuse of electronic mail.
(a) In this section, “electronic mail” means the transmission of information or a communication by the use of a computer or other electronic means that is sent to a person identified by a unique address and that is received by the person.
(b) A person may not use electronic mail with the intent to harass:
   (1) one or more persons; or
   (2) by sending lewd, lascivious, or obscene material.

(c) It is not a violation of this section for any of the following persons to provide information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic mail or to conduct surveillance of electronic mail, if a court order directs the person to provide the information, facilities, or technical assistance:
   (1) a provider of electronic mail;
   (2) an officer, employee, agent, landlord, or custodian of a provider of electronic mail;
   (3) a person specified in a court order directing the provision of information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic mail or to conduct surveillance of electronic mail.

(d) This section does not apply to a peaceable activity intended to express a political view or provide information to others.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $500 or both.

§ 3-901. Visual Surveillance.

(a) In this section, "camera" includes any electronic device that can be used surreptitiously to observe an individual.

(b) This section does not apply to:
   (1) an adult resident of the private residence where a camera is placed;
   (2) a person who places or procures another to place a camera on real property without the intent to conduct deliberate surreptitious observation of an individual inside the private residence;
   (3) a person who has obtained the consent of an adult resident, or the adult resident's legal guardian, to place a camera on real property to conduct deliberate surreptitious observation of an individual inside the private residence;
   (4) any otherwise lawful observation with a camera conducted by a law enforcement officer while performing official duties;
   (5) filming conducted by a person by or for the print or broadcast media conducted by a person by or for the print or broadcast media.

(c) A person may not place or procure another to place a camera on real property to conduct deliberate surreptitious observation of an individual inside the private residence; or
   (1) an individual in a private place without the consent of that individual; or
   (2) the private area of an individual by use of a camera without the consent of the individual under circumstances in which a reasonable person would believe that the private area of the individual would not be visible to the public, regardless of whether the individual is in a public or private place.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(e) (1) An individual who was under visual surveillance in violation of this section has a civil cause of action against any person who conducted or procured another to conduct the visual surveillance.
   (2) In an action under this subsection, the court may award actual damages and reasonable attorney’s fees.

(f) This section does not affect any legal or equitable right or remedy otherwise provided by law.

(g) This section does not affect the application of § 3-901 of this subtitle.

§ 3-903. Camera Surveillance.

(a) In this section, "camera" includes any electronic device that can be used surreptitiously to observe an individual.

(b) This section does not apply to:
   (1) a person who places or procures another to place a camera on real property without the intent to conduct deliberate surreptitious observation of an individual inside the private residence;
   (2) a person who has obtained the consent of an adult resident, or the adult resident’s legal guardian, to place a camera on real property to conduct deliberate surreptitious observation of an individual inside the private residence;
   (3) a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(e) Subject to subsection (b)(1) of this section, it is not a defense to a prosecution under this section that the defendant owns the private residence.

(f) A good faith reliance on a court order is a complete defense to a civil or criminal action brought under this section.

(g) (1) An individual who was observed through the use of a camera in violation of this section has a civil cause of action against any person who placed or procured another to place the camera on the real property; or
   (2) in an action under this subsection, the court may award damages and reasonable attorney’s fees.

(h) This section does not affect any legal or equitable right or remedy otherwise provided by law.

§ 3-904. Unlawful picketing and assembly.

(a) The General Assembly declares that:
   (1) the protection and preservation of the home is the keystone of democratic government;
   (2) the public health and welfare and the good order of the community require that members of the community enjoy in their homes a feeling of well-being, tranquility, and privacy and, when absent from their homes, carry
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with the sense of security inherent in the assurance that they may return to the enjoyment of their homes;

(3) the practice of picketing before or about residences and dwelling places causes emotional disturbance and distress to the occupants;

(4) the purpose of this practice is to harass the occupants of the residences and dwelling places;

(5) without resort to this practice, full opportunity exists, and under the provisions of this article will continue to exist, for the exercise of freedom of speech and other constitutional rights; and

(6) the provisions of this section are necessary in the public interest to avoid the detrimental results described in this subsection.

(b) This section does not prohibit:

(1) picketing or assembly in connection with a labor dispute, as defined in § 4-301 of the Labor and Employment Article;

(2) picketing in a lawful manner of a person’s home when it is also the person’s sole place of business; or

(3) holding a meeting or assembly on any premises commonly used for the discussion of subjects of general public interest.

(c) A person may not intentionally assemble with another in a manner that disrupts a person’s right to tranquility in the person’s home.

(d) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $100 or both.

(2) Each day on which a violation of this section occurs is a separate violation.

(e) In addition to the penalty provided in subsection (d) of this section, a court may:

(1) enjoin conduct proscribed by this section; and

(2) in the proceeding for injunctive relief, may award damages, including punitive damages, against any person found guilty of violating this section.

§ 3-905. Opening letter without permission.

(a) A person may not take and break open a letter that is not addressed to the person without permission from the person to whom the letter is addressed or the personal representative of the addressee’s estate.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment for 6 days and a fine of $15.

§ 3-906. Divulging or failing to deliver private communications.

(a) (1) In this section the following words have the meanings indicated.

(2) “Telegraph company” has the meaning stated in § 1-101 of the Public Utilities Article.

(3) “Telegraph lines” has the meaning stated in § 1-101 of the Public Utilities Article.

(4) “Telephone company” has the meaning stated in § 1-101 of the Public Utilities Article.

(5) “Telephone lines” has the meaning stated in § 1-101 of the Public Utilities Article.

(b) An employee or agent of a telegraph company or telephone company, or of a person operating telegraph lines or telephone lines for profit in the State, may not:

(1) willfully divulge the contents or nature of the contents of a private communication that is entrusted to the person for transmission or delivery; or

(2) willfully refuse or neglect to transmit or deliver a private communication.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 months or a fine not exceeding $500 or both.

§ 3-907. Publication of information by video tape distributor.

(a) (1) In this section the following words have the meanings indicated.

(2) “Protected individual” means an individual who buys, rents, or borrows a video tape, video disk, or film from a video tape distributor.

(3) “Publish” means to distribute to a person other than the protected individual or an agent of the protected individual.

(4) “Video tape distributor” means a retail establishment operating for profit that sells, rents, or loans video tapes, video disks, or films.

(b) Except as provided in subsection (d) of this section, a video tape distributor, or an agent or employee of a video tape distributor, may not publish the following information relating to sales, rentals, or loans of video tapes, video disks, or films to a protected individual:

(1) any numerical designation used by the video tape distributor to identify the protected individual; or

(2) any listing of video tapes, video disks, or films bought, rented, or borrowed by the protected individual from the video tape distributor.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months for all violations or a fine not exceeding $500 for each violation or both.

(d) This section does not prohibit the distribution of information protected under subsection (b) of this section to:

(1) a person designated by the video tape distributor and authorized by the protected individual before distribution to receive the information;

(2) any appropriately authorized law enforcement personnel; or

(3) a collection agency used or person designated by the video tape distributor to collect unreturned rental video tapes, video disks, or films, or an amount equal to their value.

**TITLE 5. CONTROLLED DANGEROUS SUBSTANCES, PRESCRIPTIONS AND OTHER SUBSTANCES**

**SUBTITLE 6 – Crimes Involving Controlled Dangerous Substances and Paraphernalia**

§ 5-624. Drug-induced conduct.

(a) In this section, “drug” does not include alcohol.

(b) A person may not administer a controlled dangerous substance or other drug to another without that person’s knowledge and commit against that other:

(1) a crime of violence as defined in § 14-101 of this article; or

(2) a sexual offense in the third degree under § 3-307 of this article.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $2,500 or both.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

**TITLE 11 – INDECENCY AND OBSCENITY**

**SUBTITLE 1 – Adult Sexual Displays and Related Crimes**


(a) In this subtitle the following words have the meanings indicated.

(1) “Advertising purposes” means the purpose of propagandizing in connection with the commercial:

(1) sale of a product; or

(2) offering of a service; or

(3) exhibition of entertainment.

(c) “Sadomasochistic abuse” means:

(1) flagellation or torture committed by or inflicted on an individual who is:

(i) nude;

(ii) wearing only underwear;

(iii) wearing a revealing or bizarre costume; or

(2) binding, fettering, or otherwise physically restraining an individual who is:

(i) nude;

(ii) wearing only underwear;

(iii) wearing a revealing or bizarre costume.

(d) “Sexual conduct” means:

(1) human masturbation;

(2) sexual intercourse; or

(3) whether alone or with another individual or animal, any touching of or contact with:

(i) the genitals, buttocks, or pubic areas of an individual; or

(ii) breasts of a female individual.

(e) “Sexual excitement” means:

(1) the condition of the human genitals when in a state of sexual stimulation;

(2) the condition of the human female breasts when in a state of sexual stimulation; or

(3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity. 11–102.

§ 11-102. Adult sexual displays- Selling or offering to sell to minor.

(a) A person may not knowingly sell or offer to sell to a minor:

(1) a picture, photograph, drawing, sculpture, motion picture, film, or other visual representation or image of an individual or portion of the human body that depicts sadomasochistic abuse, sexual conduct, or sexual excitement;

(2) a book, magazine, paperback, pamphlet, or other written or printed matter however reproduced, that contains:
(i) any matter enumerated in item (1) of this section;  
(ii) obscene material; or  
(iii) explicit verbal descriptions or narrative accounts of sadomasochistic abuse, sexual conduct, or sexual excitement; or  

(3) a sound recording that contains:  
(i) obscene material; or  
(ii) explicit verbal descriptions or narrative accounts of sadomasochistic abuse, sexual conduct, or sexual excitement.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.  

§ 11-103. Adult sexual displays-Exhibition to minors.  
(a) This section applies to a motion picture show or other presentation, whether animated or live, that wholly or partly:  
(1) depicts or reveals:  
(i) sadomasochistic abuse;  
(ii) sexual conduct; or  
(iii) sexual excitement; or  
(2) includes obscene material or explicit verbal descriptions or narrative accounts of sexual conduct.  
(b) For monetary consideration or other valuable commodity or service, a person may not knowingly:  
(1) exhibit to a minor without the presence of the minor’s parent or guardian a motion picture show or other presentation described in subsection (a) of this section;  
(2) sell to a minor an admission ticket or other means to gain entrance to a motion picture show or other presentation described in subsection (a) of this section; or  
(3) admit a minor without the presence of the minor’s parent or guardian to premises where a motion picture show or other presentation described in subsection (a) of this section is exhibited.  
(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.  

§ 11-104. Adult sexual displays-Allowing minors to enter or remain on the premises.  
(a) A person who operates or is employed in a sales, cashier, or managerial capacity in a retail establishment may not knowingly allow a minor without the presence of the minor’s parent or guardian to enter or remain on any premises where an item or activity detailed in § 11-102(a) of this subtitle is shown, displayed, or depicted.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.  

§ 11-104.1. Adult sexual displays-allowing minors to enter or remain on the premises-bookstores and entertainment venues.  
(a) In Harford County and Cecil County, a person who operates a bookstore or entertainment venue in which an item or activity described in § 11-102 or § 11-103 of this subtitle is shown, displayed, or depicted constitutes a majority of the items or activities offered for sale or rental by the bookstore or entertainment venue:  
(1) shall require each individual upon entering the premises to display a driver’s license or an identification card that substantiates the individual’s age; and  
(2) may not knowingly allow a minor to remain on the premises.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.  

§ 11-105. Adult sexual displays-Displaying or allowing display for advertising purposes.  
(a) A person may not knowingly display for advertising purposes a picture, photograph, drawing, sculpture, or other visual representation or image of an individual or portion of a human body that:  
(1) depicts sadomasochistic abuse;  
(2) depicts sexual conduct;  
(3) depicts sexual excitement; or  
(4) contains a verbal description or narrative account of sadomasochistic abuse, sexual conduct, or sexual excitement.  
(b) A person who may not knowingly allow a display described in subsection (a) of this section on premises that the person owns, rents, or manages.  
(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $1,000 or both.  

§ 11-106. Adult sexual displays-Presumptions.  
For purposes of §§ 11-101 through 11-105 of this subtitle, an employee of a person who operates premises where a public display violates this subtitle is presumed to have been the operator of the premises when the violation occurred if the employee was on the premises at the time of the violation.  

§ 11-107. Indecent exposure.  
A person convicted of indecent exposure is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both.  

SUBTITLE 2- Obscene Matter  
§ 11-201. Definitions.  
(a) In this subtitle the following words have the meanings indicated.  
(b) “Distribute” means to transfer possession.  
(c) “Knowingly” means having knowledge of the character and content of the matter.  
(d) “Matter” means:  
(1) a book, magazine, newspaper, or other printed or written material;  
(2) a picture, drawing, photograph, motion picture, or other pictorial representation;  
(3) a statue or other figure;  
(4) a recording, transcription, or mechanical, chemical, or electrical reproduction; or  
(5) any other article, equipment, machine, or material.  
(e) “Sadomasochistic abuse” has the meaning stated in § 11-101 of this title.  
(f) “Sexual conduct” has the meaning stated in § 11-101 of this title.  
(g) “Sexual excitement” has the meaning stated in § 11-101 of this title.  

§ 11-202. Obscene matter- Distribution, exhibition, importation, and publication.  
(a) A person may not:  
(1) knowingly send or cause to be sent any obscene matter into the State for sale or distribution;  
(2) knowingly bring or cause to be brought any obscene matter into the State for sale or distribution;  
(3) in the State prepare, publish, print, exhibit, distribute, or offer to distribute any obscene matter; or  
(4) possess any obscene matter in the State with the intent to distribute, offer to distribute, or exhibit.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:  
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and  
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.  
(c) (1) The State’s Attorney may maintain an action for an injunction in the circuit court against a person to prevent the sale, further sale, distribution, further distribution, acquisition, publication, or possession within the State of any book, magazine, pamphlet, newspaper, story paper, writing paper, picture, card, drawing, photograph, motion picture film or showing, or any article, item, or instrument the use of which is obscene.  
(2) The circuit court may enjoin the sale or distribution of a book, magazine, motion picture film or showing, or other publication or item that is prohibited under this section from sale or distribution.  
(3) After being served a summons and complaint in an action by the State’s Attorney under this section, a person who sells, distributes, or acquires the enjoined material is chargeable with knowledge of the contents of the materials described in this section.  
(4) The defendant is entitled to a trial of the issues within 1 day after joinder of issue.  
(5) The court shall render a decision within 2 days after the conclusion of the trial.  
(6) If an order or judgment is entered in favor of the State’s Attorney, the final order or judgment shall contain provisions:  
(i) directing the person to surrender the obscene matter to the peace officer designated by the court or the county sheriff; and  
(ii) directing the peace officer or county sheriff to seize and destroy the obscene matter.  
(7) In an action brought under this section, the State’s Attorney is not:  
(i) required to file a bond before an injunction order is issued;  
(ii) liable for costs; or  
(iii) liable for damages sustained because of the injunction order if judgment is rendered in favor of the defendant.  

§ 11-203. Sale or display of obscene item to minor.  
(a) (1) In this section the following words have the meanings indicated.  
(2) “Distribute” includes to rent.  
(3) “Illicit sex” means:  
(i) human genitals in a state of sexual stimulation or arousal;
(ii) acts of human masturbation, sexual intercourse, or sodomy; or
(iii) fondling or other erotic touching of human genitals.

(4) “Item” means a:
(a) still picture or photograph;
(b) book, pocket book, pamphlet, or magazine;
(c) videotape, videotape, video game, film, or computer disc; or
(d) recorded telephone message.

(5) “Obscene” means:
(a) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
(b) that the work depicts sexual conduct specified in subsection (b) of this section in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and
(c) that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value.

“Partially nude figure” means a figure with:
(a) less than completely and opaqueally covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or
(b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(1) A person may not willfully or knowingly display or exhibit to a minor an item:
(i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or
(ii) which consists of an obscene picture of a nude or partially nude figure.

(2) A person may not willfully or knowingly engage in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an item:
(i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or
(ii) that consists of an obscene picture of a nude or partially nude figure.

(3) A person may not willfully or knowingly:
(a) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or an item:
(i) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
(ii) that the work depicts sexual conduct specified in subsection (b) of this section in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and
(iii) that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value.

(2) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(a) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(b) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§ 11-206. Obscene performance in certain counties.
(a) This section applies only in Allegany, Anne Arundel, Charles, Howard, Somerset, Wicomico, and Worcester counties.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§ 11-205. Obscene matter—Advertising.
(a) A person may not knowingly:
(1) write or create advertising or otherwise promote the sale or distribution of matter the person represents or holds out to be obscene;
(2) solicit the publication of advertising that promotes the sale or distribution of matter the person represents or holds out to be obscene.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§ 11-206. Obscene matter—Requiring acceptance.
(a) A person may not knowingly require a purchaser or consignee to receive obscene matter as a condition to a sale, allocation, consignment, or delivery for resale of a paper, magazine, book, periodical, publication, or other merchandise.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent’s own child in the nude unless the visual representations show the child engaged:
(i) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:
(1) took reasonable steps to destroy each visual representation;
(2) reported the matter to a law enforcement agency.

§ 11-207. Child pornography.
(a) A person may not:
(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;
(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;
(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor’s name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $50,000 or both.

(c) (i) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:
(1) took reasonable steps to destroy each visual representation;
(2) reported the matter to a law enforcement agency.

§ 11-208. Possession of visual representation of child under 16 engaged in certain sexual acts.
(a) A person who may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation of or with a minor.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§ 11-209. Commission is not a violation of subsection (b) of this section relating to recorded telephone messages.
(a) This section applies only in Allegany, Anne Arundel, Charles, Howard, Somerset, Wicomico, and Worcester counties.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and
(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(c) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent’s own child in the nude unless the visual representations show the child engaged:
(i) in sexual conduct and in a state of sexual excitement.

(d) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:
(1) took reasonable steps to destroy each visual representation;
(2) reported the matter to a law enforcement agency.
§ 11-208.1. Removal of child pornography from the Internet.

(a) (1) In this section the following words have the meanings indicated.

(2) "Child pornography" means any electronic image or visual depiction that is unlawful under § 11-207 or § 11-208 of this subtitle.

(3) "Controlled or owned", with respect to a server or other storage device, means to be entirely owned by an interactive computer service provider or to be subject to exclusive management by an interactive computer service provider by agreement or otherwise.

(4) "Interactive computer service provider" means an entity that provides a service that provides or enables computer access via the Internet by multiple users to a computer server or similar device used for the storage of graphics, video, or images.

(b) An investigative or law enforcement officer who receives information that an item of alleged child pornography resides on the server or other storage device controlled or owned by an interactive computer service provider shall:

(1) contact the interactive computer service provider that controls or owns the server or other storage device where the item of alleged child pornography is located.

(2) request that the interactive computer service provider voluntarily comply with this section and remove the item of alleged child pornography from its server or other storage device.

(c) If the interactive computer service provider does not voluntarily remove the item of alleged child pornography within the time period established in subsection (b) of this section, the investigative or law enforcement officer shall apply for a court order of authorization to remove the item of alleged child pornography in accordance with Title 10, Subtitle 4 of the Courts Article.

(2) The application for a court order shall:

(i) identify the item of alleged child pornography discovered on the server or other storage device controlled or owned by an interactive computer service provider;

(ii) provide its location on the server or other storage device in the form of an Internet protocol (IP) address or a unique resource locator (URL);

(iii) state the grounds for the issuance of the order;

(iv) verify that the item of alleged child pornography resides on the server or other storage device controlled or owned by the interactive computer service provider;

(v) describe the steps taken to obtain voluntary compliance of the interactive computer service provider with this section;

(vi) inform the interactive computer service provider of its right to request a hearing on the application; and

(vii) state the name and title of theinteractive computer service provider who willfully violates subsection (f) or (h) of this section.

(3) The investigative or law enforcement officer shall serve the application on the interactive computer service provider.

(4) The interactive computer service provider has the right to request a hearing before the court imposes any penalty under this section.

(d) The court shall review the application and testimony, if offered, and, upon a finding of probable cause, issue an order, if practicable:

(1) An item of child pornography resides on a server or other storage device controlled or owned by an interactive computer service provider or is accessible to persons located in the State.

(2) It is probable cause to believe that the item violates § 11-207 or § 11-208 of this subtitle.

(3) The interactive computer service provider shall remove the item residing on a server or other storage device controlled or owned by the interactive computer service provider within 5 business days after receiving the order, if practicable;

(4) Failure of the interactive computer service provider to comply with the court's order is a violation of this section;

(5) The removal of the item on the server or other storage device controlled or owned by the interactive computer service provider may not unreasonably interfere with a request by a law enforcement agency to preserve records or other evidence;

(6) The process of removal shall be conducted in a manner that prevents the removal of images, information, or data not otherwise subject to removal under this section; and

(7) Provides the interactive computer service provider notice and opportunity for a hearing before the court imposes any penalty under this section.

(e) (1) The Office of the State's Attorney shall serve the court's order on the interactive computer service provider.

(2) The order shall be accompanied by:

(i) the application made under subsection (c) of this section;

(ii) notification requiring the interactive computer service provider to remove the item residing on a server or other storage device controlled or owned by the interactive computer service provider, if practicable, within 5 business days after receiving the order;

(iii) a statement of the criminal penalties for failure to remove the item of child pornography;

(iv) notification of the right to appeal the court's order; and

(v) contact information for the Office of the State's Attorney.

(f) An interactive computer service provider who is served with a court order under subsection (e) of this section shall remove the item of child pornography that is the subject of the order within 5 business days after receiving the court order, if practicable.

(g) (1) An interactive computer service provider may petition the court for relief from an order issued under subsection (e).

(2) The petition may be based on considerations of:

(i) the cost or technical feasibility of compliance with the order; or

(ii) the inability of the interactive computer service provider to comply with the order without also removing data, images, or information that are not subject to this section.

(h) (1) Subject to subparagraph (ii) of this paragraph, an interactive computer service provider shall report the location and removal of an item of child pornography if the item of child pornography:

A. resides on a server or other storage device that is:

(i) controlled or owned by the interactive computer service provider; and

(ii) located in the State; or

B. based on information apparent to the provider at the time of the report or discovery of an item of child pornography, pertains to a subscriber or user of the interactive computer service who resides in the State.

(2) An interactive computer service provider who knowingly and willfully fails to report the information required under paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for a first violation, a fine not exceeding $5,000;

(ii) for a second violation, a fine not exceeding $20,000; and

(iii) for each subsequent violation, a fine not exceeding $30,000.

(i) An interactive computer service provider who willfully violates subsection (f) of this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, a fine not exceeding $5,000; and

(2) for a second violation, a fine not exceeding $20,000;

and

(3) for each subsequent violation, a fine not exceeding $30,000.

(j) An interactive computer service provider who willfully violates subsection (f) or (h) of this section may be prosecuted, indicted, tried, and convicted in any county in or through which:

(1) the interactive computer service provider provides access to the Internet;

(2) any communication from the interactive computer service provider traveled; or

(3) the communication from the interactive computer service provider originated or terminated.

(k) This section does not impose a duty on an interactive computer service provider actively to monitor its service or affirmatively to seek evidence of an item of child pornography on its service.

(2) This section does not apply to the interactive computer service provider's transmission or routing of, or intermediate temporary storage or caching of, an image, information, or data that otherwise is subject to copyright.

(l) An interactive computer service provider may not be held liable for any action taken in good faith to comply with this section.

§ 11-209. Hiring a minor for prohibited purpose.

(a) A person may not hire, employ, or use an individual, if the person knows, or possesses facts under which the person should reasonably know, that the individual is a minor, to do or assist in doing an act described in § 11-203 of this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

§ 11-210. Exemption from subtitle.

(a) (1) A person having a bona fide scientific, educational, governmental, artistic, news, or other similar justification for possessing or distributing prohibited matter is not subject to the prohibitions and penalties imposed by this subtitle.

(2) A distribution made in accordance with a bona fide scientific, educational, governmental, artistic, news, or other similar justification is not subject to the prohibitions and penalties imposed by this subtitle.

(b) An interactive computer service provider who reasonably believes that a reasonable person would find that a dominant purpose of the depiction of an individual under the age of 16 years engaging in sexual conduct is to arouse or gratify sexual desire
§ 11-304. Receiving earnings of prostitute.

(a) A person may not receive or acquire money or proceeds from the earnings of a person engaged in prostitution with the intent to:
(1) promote a crime under this subtitle; or
(2) profit from a crime under this subtitle; or
(3) conceal or disguise the nature, location, source, ownership, or control of money or proceeds of a crime under this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $10,000 or both.

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

§ 11-305. Abduction of child under 16.

(a) For purposes of prostitution or committing a crime under Title 3, Subtitle 3 of this article, a person may not:
(1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual’s home or from the custody of the individual’s parent or guardian; or
(2) knowingly secret or harbor or aid in the secreting or harboring of an individual under the age of 16 years who has been persuaded or enticed in the manner described in item (1) of this subsection.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $5,000 or both.

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.


(a) A person may not knowingly:
(1) engage in prostitution or assignation by any means;
(2) keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation;
(3) allow a building, structure, or conveyance owned or under the person’s control to be used for prostitution or assignation;
(4) allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or
(5) procure or solicit or offer to procure or solicit for prostitution or assignation.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $500 or both.


(a) A person may not knowingly:
(1) engage in prostitution or assignation by any means;
(2) keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation;
(3) allow a building, structure, or conveyance owned or under the person’s control to be used for prostitution or assignation;
(4) allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or
(5) procure or solicit or offer to procure or solicit for prostitution or assignation.

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(3) allow a building, structure, or conveyance owned or under the person’s control to be used for prostitution or assignation;
(4) allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or
(5) procure or solicit or offer to procure or solicit for prostitution or assignation.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $500 or both.

§ 11-308. Solicitation of a minor.

(a) A person may not:
(1) engage in prostitution or assignation by any means;
(2) keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation;
(3) allow a building, structure, or conveyance owned or under the person’s control to be used for prostitution or assignation;
(4) allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or
(5) procure or solicit or offer to procure or solicit for prostitution or assignation.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $500 or both.
enforcement agencies, or a partnership among any of these entities;
(ii) shall be developed and located to facilitate their use by alleged victims residing in the surrounding areas;
(iii) shall investigate allegations of sexual crimes against children and sexual abuse of minors;
(iv) shall provide or facilitate referrals to appropriate counseling, legal, medical, and advocacy services for victims; and
(v) shall be included in all joint investigation procedures developed in accordance with § 5-706 of the Family Law Article.
(3) The Governor's Office of Crime Control and Prevention may contract with public or private nonprofit organizations to operate child advocacy centers.
(4) Money for child advocacy centers shall be as provided in the annual State budget and shall be used to supplement, but not supplant, money that the programs receive from other sources.
(5) On or before January 1 each year, the Governor's Office of Crime Control and Prevention shall submit an annual report, in accordance with § 2-1246 of the State Government Article, on child advocacy centers to the General Assembly.

§11–924. Transporting alleged sexual assault victims.
(a) The nearest facility to which a victim of sexual assault may be taken shall be designated by the Department of Health and Mental Hygiene in cooperation with:
(1) the Medical and Chirurgical Faculty of the State of Maryland; and
(2) the State's Attorney in the subdivision where the sexual assault occurred.
(b) A police officer, sheriff, or deputy sheriff who receives a report of an alleged sexual assault shall offer the
alleged victim the opportunity to be taken immediately to the nearest facility.
(2) The offer shall be made without regard for the place of the alleged sexual assault or where it is reported.

§11–925. Health care services.
Applicable health care services shall be given without charge to a victim of sexual abuse, as provided under § 15-127 of the Health - General Article.

TITLE 14 – GENERAL SENTENCING PROVISIONS
SUBTITLE 1 – Sentencing

(a) "Crime of violence" defined. – In this section, "crime of violence" means:
(1) abduction;
(2) arson in the first degree;
(3) kidnapping;
(4) manslaughter, except involuntary manslaughter;
(5) mayhem;
(6) maiming, as previously prescribed under former Article 27, §§ 385 and 386 of the Code;
(7) murder;
(8) rape;
(9) robbery under § 3-402 or § 3-403 of this article;
(10) carjacking;
(11) armed carjacking;
(12) sexual offense in the first degree;
(13) sexual offense in the second degree;
(14) use of a handgun in the commission of a felony or other crime of violence;
(15) child abuse in the first degree under § 3-601 of this article;
(16) sexual abuse of a minor under § 3-602 of this article if:
(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and
(ii) the offense involved:
1. vaginal intercourse, as defined in § 3-301 of this article;
2. a sexual act, as defined in § 3-301 of this article;
3. an act in which a part of the offender’s body penetrates, however slightly, into the victim’s genital opening or anus; or
4. the intentional touching, not through the clothing, of the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;
(18) continuing course of conduct with a child under § 3-315 of this article;
(19) assault in the first degree;
(20) assault with intent to murder;
(21) assault with intent to rape;
(22) assault with intent to rob;
(23) assault with intent to commit a sexual offense in the second degree; and
(24) assault with intent to commit a sexual offense in the second degree.
(b) Scope of section. – This section does not apply if a person is sentenced to death.
(c) Fourth conviction of crime of violence. –
(1) Except as provided in subsection (g) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three
separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.
(2) Notwithstanding any other law, the provisions of this subsection are mandatory.
(d) Third conviction of crime of violence. –
(1) Except as provided in subsection (g) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:
(i) has been convicted of a crime of violence on two prior separate occasions:
1. in which the second or succeeding crime is committed after there has been a charging document filed
for the preceding occasion; and
2. for which the convictions do not arise from a single incident; and
(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.
(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.
(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions
of § 4-305 of the Correctional Services Article.
(e) Second conviction of crime of violence. –
(1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall
be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:
(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and
(ii) served a term of confinement as a result of a conviction of a crime for which the convictions do not arise from a single incident;
and
(2) The court may not suspend all or part of the mandatory 10-year sentence required under this subsection.
(f) Compliance with Maryland Rules. – If the State intends to proceed against a person as a subsequent offender
under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial
of a subsequent offender.
(g) Eligibility for parole after age 65. –
(1) A person sentenced under this section may petition for and be granted parole if the person:
(i) is at least 65 years old; and
(ii) has served at least 15 years of the sentence imposed under this section.
(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.
**Sexual Offense Elements Charts**

**Table One – Definitions**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition (according to Criminal Law § 3-301)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mentally Defective Individual**</td>
<td>One who suffers from mental retardation or a mental disorder, which temporarily or permanently makes him or her substantially incapable of understanding the nature of his or her conduct, or resisting or communicating unwillingness to engage in vaginal intercourse, a sexual act, or sexual contact.</td>
</tr>
<tr>
<td>Mentally Incapacitated Individual</td>
<td>One who is incapable of understanding the nature of his or her conduct or resisting vaginal intercourse, a sexual act, or sexual contact due to:</td>
</tr>
<tr>
<td></td>
<td>(1) the influence of a drug, narcotic, or intoxicating substance; OR</td>
</tr>
<tr>
<td></td>
<td>(2) an act committed on him or her that occurred without his or her consent or awareness.</td>
</tr>
<tr>
<td>Physically Helpless Individual</td>
<td>(1) One who is unconscious OR</td>
</tr>
<tr>
<td></td>
<td>(2) One who does not consent and is physically unable to resist or to communicate unwillingness to submit to vaginal intercourse, a sexual act or sexual contact.</td>
</tr>
<tr>
<td>Sexual Act</td>
<td>Any of the following, regardless of whether semen is emitted:</td>
</tr>
<tr>
<td></td>
<td>(1) oral contact with the anus;</td>
</tr>
<tr>
<td></td>
<td>(2) oral sex;</td>
</tr>
<tr>
<td></td>
<td>(3) anal sex, including penetration of the anus;</td>
</tr>
<tr>
<td></td>
<td>(4) an act in which an object penetrates one’s genital opening or anus; and</td>
</tr>
<tr>
<td></td>
<td>(5) an act that can reasonably be construed to be for sexual arousal or gratification or the abuse of either person.</td>
</tr>
<tr>
<td>Sexual Act</td>
<td>Sexual Act does NOT include vaginal intercourse or an act in which an object penetrates one’s genital opening or anus for an accepted medical purpose.</td>
</tr>
<tr>
<td>Sexual Contact</td>
<td>An intentional touching of any part of one’s anogenital area or other intimate parts for the purpose of sexual arousal or gratification or for the abuse of either party and includes the penetration, however slight, by any part of the person’s body, other than penis, mouth or tongue into the genital or anal opening of another person’s body if that penetration can be reasonably construed as being for the purpose of sexual arousal or gratification or for the abuse of either party.</td>
</tr>
<tr>
<td>Vaginal Intercourse</td>
<td>Genital copulation, regardless of whether semen is emitted, including penetration of the vagina.</td>
</tr>
</tbody>
</table>

**Table Two – Rape and Sexual Offenses Involving Force or Threat of Force**

<table>
<thead>
<tr>
<th>CRIME</th>
<th>ACT</th>
<th>FORCE</th>
<th>CONSENT</th>
<th>FACTORS</th>
<th>MAXIMUM PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAPE</td>
<td>VAGINAL INTER-COURSE</td>
<td>Force or Threat of Force</td>
<td>Without the consent</td>
<td>One or more aggravating factors*</td>
<td>Felony</td>
</tr>
<tr>
<td>FIRST DEGREE</td>
<td>§ 3-303</td>
<td></td>
<td></td>
<td></td>
<td>(1) Life Imprisonment (2) Life Imprisonment with parole IF the victim is younger than 16 OR if defendant was previously convicted of first degree rape or first degree sexual offense.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum 25 Years Applies only if defendant was over age of 18 and victim under 13.</td>
</tr>
<tr>
<td>RAPE</td>
<td>VAGINAL INTER-COURSE</td>
<td>Force or Threat of Force</td>
<td>Without the consent</td>
<td>Aggravating factors not necessary</td>
<td>Felony</td>
</tr>
<tr>
<td>SECOND DEGREE</td>
<td>§ 3-304(a)(1)</td>
<td></td>
<td></td>
<td></td>
<td>Twenty Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum: 5 Years</td>
</tr>
<tr>
<td>SEXUAL CONTACT</td>
<td>SEXUAL ACT</td>
<td>Force or Threat of Force</td>
<td>Without the consent</td>
<td>One or more aggravating factors</td>
<td>Felony</td>
</tr>
<tr>
<td>FIRST DEGREE</td>
<td>§ 3-305</td>
<td></td>
<td></td>
<td></td>
<td>(1) Life Imprisonment (2) Life Imprisonment with parole IF the victim is younger than 16 OR if defendant was previously convicted of first degree sexual offense or first degree rape.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum: 25 years Applies only if defendant was over age of 18 and victim under 13.</td>
</tr>
<tr>
<td>SEXUAL CONTACT</td>
<td>SEXUAL ACT</td>
<td>Force or Threat of Force</td>
<td>Without the consent</td>
<td>No factors required</td>
<td>Felony</td>
</tr>
<tr>
<td>SECOND DEGREE</td>
<td>§ 3-306(a)(1)</td>
<td></td>
<td></td>
<td></td>
<td>Twenty Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum: 5 Years</td>
</tr>
<tr>
<td>SEXUAL CONTACT</td>
<td>NOT AN ELEMENT</td>
<td>Without the consent</td>
<td>One or more aggravating factors</td>
<td>Felony</td>
<td></td>
</tr>
<tr>
<td>THIRD DEGREE</td>
<td>§ 3-307(a)(1)</td>
<td></td>
<td></td>
<td></td>
<td>Ten Years</td>
</tr>
<tr>
<td>SEXUAL CONTACT</td>
<td>See note regarding marriage below</td>
<td></td>
<td>NOT NEEDED</td>
<td>Misdemeanor</td>
<td></td>
</tr>
<tr>
<td>FOURTH DEGREE</td>
<td>§ 3-308(a)(1)</td>
<td></td>
<td></td>
<td></td>
<td>1 Year and/or $1,000 fine</td>
</tr>
</tbody>
</table>

* Aggravating Factors include:
  (1) Use of a weapon;
  (2) Infliction of suffocation, strangulation, disfigurement, or serious harm;
  (3) Threat of death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;
  (4) Commission of the offense by two or more persons; or
  (5) Commission of the offense in connection with burglary in the first, second, or third degree.
Jessica’s Law: In 2006, Maryland enacted its version of “Jessica’s Law,” when it created mandatory minimums for certain sex crimes against young children (see chart). This bill also created a monitoring system for sex offenders which can include GPS and other restrictions.

Marriage and 4th degree sexual offense: Marriage is a complete defense to a 4th degree sexual offense UNLESS the husband and wife have a Limited or Absolute Divorce. The parties must have an actual Limited or Absolute Divorce - a written separation agreement or living apart is not enough.

Marriage and sex crimes involving force: traditionally, marriage was a defense to sex crimes. While vestiges of this remain, in 2004 the Maryland Legislature eliminated much of the remaining “marital rape defense” by allowing prosecution of sex crimes based on “threat of force” as well as force.

*Does not include sex crimes where age or capacity of the victim is at issue.

### Table Three – Capacity Issues (e.g., drugs, alcohol, disability, physical helplessness)

<table>
<thead>
<tr>
<th>Crime</th>
<th>Act</th>
<th>Force</th>
<th>Consent</th>
<th>Factors</th>
<th>Maximum Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAPE</td>
<td>§ 3-304(a)(2)</td>
<td>Vaginal Intercourse</td>
<td>Not an Element</td>
<td>(1) With a person who is mentally defective 1 or incapacitated, or physically helpless AND</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(2) where the person committing the act knew or reasonably should have known of the disability</td>
<td>Felony Ten Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum: 5 Years Applies only if defendant was over age of 18 and victim under 13.</td>
<td></td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>§ 3-306(a)(2)</td>
<td>Sexual Act</td>
<td>Not an Element</td>
<td>(1) With a person who is mentally defective or incapacitated, or physically helpless AND</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(2) where the person committing the act knew or reasonably should have known of the disability</td>
<td>Felony Ten Years</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mandatory Minimum: 5 Years Applies only if defendant was over age of 18 and victim under 13.</td>
<td></td>
</tr>
</tbody>
</table>

### Table Four – Age-Based Sex Crimes (Elements of Law)

<table>
<thead>
<tr>
<th>Crime</th>
<th>Act</th>
<th>Force</th>
<th>Consent</th>
<th>Factors</th>
<th>Maximum Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAPE</td>
<td>Vaginal Intercourse</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>SECOND DEGREE</td>
<td>§ 3-304(a)(3)</td>
<td></td>
<td></td>
<td>(2) where the suspect is 4 or more years older</td>
<td>Felony Twenty Years</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>Sexual Act</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>SECOND DEGREE</td>
<td>§ 3-306(a)(3)</td>
<td></td>
<td></td>
<td>(2) where the suspect is 4 or more years older</td>
<td>Felony Ten Years</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>Sexual Contact</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>THIRD DEGREE</td>
<td>§ 3-307(a)(3)</td>
<td></td>
<td></td>
<td>(2) where the suspect is at least 21 years old</td>
<td>Felony Ten Years</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>Vaginal Intercourse</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>THIRD DEGREE</td>
<td>§ 3-307(a)(4)</td>
<td></td>
<td></td>
<td>(2) where the suspect is at least 21 years old</td>
<td>Felony Ten Years</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>Sexual Act</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>FOURTH DEGREE</td>
<td>§ 3-308(a)(2)</td>
<td></td>
<td></td>
<td>(2) where the suspect is 4 or more years older</td>
<td>Misdemeanor 1 Year and/or $1,000 fine</td>
</tr>
<tr>
<td>SEX OFFENSE</td>
<td>Vaginal Intercourse</td>
<td>Not an Element</td>
<td>Not an Element</td>
<td>(1) With a person under 14 years AND</td>
<td></td>
</tr>
<tr>
<td>FOURTH DEGREE</td>
<td>§ 3-308(a)(3)</td>
<td></td>
<td></td>
<td>(2) where the suspect is 4 or more years older</td>
<td>Misdemeanor 1 Year and/or $1,000 fine</td>
</tr>
</tbody>
</table>

### Marriage - Still a Defense to Sex Crimes Based on Capacity Issues

Traditionally, marriage was a defense to sex crimes. Vestiges of this remain: a perpetrator may not be charged under §3-304(a)(2) (vaginal intercourse with a person with serious disability, incapacitation or physical helplessness) or §3-307(a)(2) (sexual contact with a person with serious disability, incapacitation or physical helplessness) UNLESS the parties have a limited divorce or a written separation agreement or have lived separate and apart without interruption or cohabitation for 3 months prior to the offense. Note that marriage has never been a defense to §3-306(a)(2) because sexual acts were not legal.

Jessica’s Law: In 2006, Maryland enacted its version of “Jessica’s Law,” when it created mandatory minimums for certain sex crimes against young children (see chart). This bill also created a monitoring system for sex offenders which can include GPS and other restrictions.

1Salu regrets the insensitive use of the term “mentally defective,” but this accurately reproduces the language of the Annotated Code of MD, Criminal Law § 3-301(b).
### Table Five – Age-based Sex Crimes (Ages – Statutory Rape)

<table>
<thead>
<tr>
<th>Defendant’s Age</th>
<th>15</th>
<th>16</th>
<th>17</th>
<th>18</th>
<th>19</th>
<th>20</th>
<th>21 and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>No Crime</td>
<td>Rape 2</td>
<td>No Crime</td>
<td>Rape 2</td>
<td>Rape 2</td>
<td>Rape 2</td>
<td>Rape 2</td>
</tr>
<tr>
<td></td>
<td>SO 2</td>
<td>SO 2</td>
<td>SO 2</td>
<td>SO 2</td>
<td>SO 2</td>
<td>SO 2</td>
<td>SO 2</td>
</tr>
<tr>
<td></td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
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<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
<td>SO 4</td>
</tr>
<tr>
<td></td>
<td>SO 3</td>
<td>SO 3</td>
<td>SO 3</td>
<td>SO 3</td>
<td>SO 3</td>
<td>SO 3</td>
<td>SO 3</td>
</tr>
<tr>
<td>16 and older</td>
<td>No Crime</td>
<td>No Crime</td>
<td>No Crime</td>
<td>No Crime</td>
<td>No Crime</td>
<td>No Crime</td>
<td>No Crime</td>
</tr>
</tbody>
</table>

*SO = Sexual Offense

Marriage is a defense to all age-based sex crimes.

### THE BALTIMORE SUN


#### A year later, progress in Baltimore sex offense investigations

Overhauls in policy and staff, but some question whether police fully recognize past problems

By Justin Fenton, The Baltimore Sun
July 08, 2011

A major category of crime is up substantially in Baltimore, and police and city officials are pleased.

A year after The Baltimore Sun revealed that the city led the country in the number of rape reports discarded by detectives — part of what women’s advocates and victims said was a broader pattern of ignoring sexual assaults — the number of rapes being reported is up more than 50 percent.

City officials attribute the increase to an overhaul of the unit that investigates those crimes, along with a new attitude toward sex crimes and increased accountability.

“More people are coming forward and reporting, and those reports are being taken and handled appropriately,” said Sheryl Goldstein, director of the Mayor’s Office on Criminal Justice. “There have been positive steps taken and progress made, but there’s still a lot of work to do. This is the beginning.”

Advocates for victims and a nationally recognized sex offense investigator brought in to train officers agree that the city has further to go. Rosalyn Branson of TurnAround Inc. said city leaders have shown a genuine commitment to fixing the situation, but she said complaints continue to come in about “victim blaming” and poor treatment of victims by some detectives.

Joanne Archambault, a veteran sex crimes investigator flown to Baltimore to assist in the training, left unsure whether the city had truly acknowledged problems of the past. “They have all these new people and all these new policy changes, and I’m not sure they understand why those took place,” Archambault said.

Last year, The Sun reported on data that showed the city’s reported rapes had tumbled nearly 80 percent since 1995, while nationally such cases had fallen just 7 percent during the same time. Amid the city’s reported decline, the number of “unfounded” cases rose to more than 35 percent in 2006. No other city in the country consistently reported 30 percent of its cases as unfounded; few reported more than 15 percent.

Confronted with those numbers, the then-head of the Baltimore Police Department’s sex offense unit said the city’s high number of unfounded rape claims was indicative of an overabundance of services offered to troubled women. He called the department’s sex crimes unit the best in the country.

Mayor Stephanie Rawlings-Blake, however, responded to the newspaper’s report by ordering an audit covering 18 months. That review found that half the “unfounded” reports should have been classified as rapes or other sex offenses, and should have been investigated.

Police Commissioner Frederick H. Bealefeld III, who prior to becoming commissioner had overseen detective squads, said in a television interview that he had been too focused on gun crime and said the city had “failed” women.

Changes came quickly. All but three of the unit’s 11 detectives and supervisors were given new assignments, and the unit was expanded to 25 detectives brought in from across the department and sent to training. A new commander was selected to oversee reforms, but he quit before his first day.

Maj. Clifton McWhite, then a patrol commander in the Western District, was ultimately given the task of changing the culture of the unit.
“These investigations are a lot tougher than any other investigation,” said McWhite, who previously investigated homicides and shootings, but not sex crimes. “With a homicide, you know a crime is committed because you have a body. A shooting, you have a victim with a bullet hole. These [sex crimes] are a lot more arduous, because there’s a lot more pieces, and you really have to sit down and put them together.”

The city also bolstered an existing Sexual Assault Response Team, composed of police and city officials, prosecutors, nurses and women’s advocates. It convenes monthly to review the progress of the reforms and has created subcommittees to work on projects.

A full-time city position was created. Heather Brantner was hired to coordinate the team and works on initiatives related to its work. Currently on her agenda: a far-reaching public outreach campaign encouraging women to report sex crimes. Brantner has spent evenings embedded with the unit, learning more about the work.

The detectives have told her “that it’s different work than they’ve come from … that these are more complicated and harder cases to investigate,” she said.

Victim advocates say the city’s attitude toward the investigation of sexual assaults has improved. They note that there is a regular audit process in which the SART members are able to review active cases and assess how they are being handled, and for the first time detectives are consulting with advocates.

“Detectives are calling [TurnAround], asking for help, and that’s a huge change. That’s never happened before,” Branson said.

“We see attitudes changing a lot with domestic violence,” Gail Reid, TurnAround’s hospital coordinator, said in an interview with WYPR radio, alluding to another of Rawlings-Blake’s initiatives, “but haven’t seen the same response with sexual assault yet.”

Archambault, a former San Diego sex crimes investigator who has also worked with investigators in cities such as Cleveland and New Orleans — two jurisdictions with well-publicized flaws in sex assault investigations — said that during her training sessions, spanning four days in May, she sensed that officials believed that new policies had solved the problem.

Indeed, officials told The Sun that supervisors now scrutinize detectives’ reports more closely, and said morning supervisors check records of 911 calls to ensure that reports of sexual assaults were correctly handled.

But the former commander, Lt. Thomas Uzarowski, and Lt. Jon Foster, who survived the turnover in the unit, made similar assertions in June 2010, noting regular audits and reviews by supervisors of 911 calls.

“We have the best fail-safe situation when it comes to that, because not just one person makes a determination,” Uzarowski said at the time.

Officials contend that there’s a new vigor to such efforts, however. McWhite gave a recent example that he said shows the unit’s dedication to digging in to cases. In April, he said, detectives learned a victim had phoned police to report that an unlicensed taxi driver had raped her but left the scene because she didn’t think police would believe her. They took a report and eventually made an arrest. Charges are pending.

Archambault said she was encouraged by conversations with top officials, but said she did not believe that the new detectives necessarily realize what their predecessors were doing wrong or recognize the nuances of a sexual assault investigation. Experts say victims may lie or change details because of the trauma or fear of being judged, which detectives may see as a red flag that the entire story is fabricated or unreliable.
Special Thanks To:

- Baltimore Child Abuse Center
- Office of the State’s Attorney for Baltimore City
- Baltimore Police Department
- City of Baltimore
- Mcasa
- Mercy Medical Center
- SALI
- Turn Around

Sexual Assault Legal Institute

the first place to turn