

Virginia Tech Police Department Directives Manual	
Subject: Sexual Harassment/ Sexual Assault	Number: D-1.8
Approved By: Kevin L. Foust Chief of Police	Effective Date: November 15, 2014
Amends: October 12, 2011, July 22, 2009, October 20, 2008, November 6, 2007, April 29, 2005, June 17, 2002, September 4, 2000, September 24, 1998, February 1, 1995	Rescinds:

I. Purpose

The purpose of this policy is to outline a protocol for coordinated preliminary and follow-up investigations of sexual assault/harassment and other related offenses.

"Sexual assault" means those offenses involving sexual penetration or sexual contact with any person by force or threat of force, fear, intimidation, ruse, or through the use of a person's mental incapacity or physical helplessness, or any other attempts to force sexual penetration/contact on any person.

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

This policy seeks to balance the public safety responsibilities and concerns of the Department and the community with the personal needs of, and impact upon, the victims of sexual assaults/harassment. The Department recognizes these concerns of victims and seeks to minimize such impacts on the victim in order to encourage and support victims to cooperate in the investigation of and prosecution of these cases.

II. Policy

Sexual assaults (rape, forcible sodomy, sexual battery, object penetration, and attempts thereof) are personal violent crimes that have great psychological and physical effects on the victims. It is the policy of the Virginia Tech Police Department to provide a supportive response to the victim, conduct a thorough and diligent investigation through interviews and collection of evidence, generate accurate documentation and reporting of incidents and provide timely and

accurate notifications to the community about on-going threats. The police department will encourage reporting and collaborate with the university and community on prevention and education related to sexual assaults.

University Policy 1025 Anti-Discrimination and Harassment Prevention Policy strictly prohibits discrimination or harassment of any kind and states, “Virginia Tech does not tolerate discrimination or harassment on the basis of age, color, disability, gender, genetic information, national origin, political affiliation, race, religion, sexual orientation, veteran status, or any other basis protected by law. Such behavior is inconsistent with the university’s commitments to excellence and to a community in which mutual respect is a core value as articulated in the Virginia Tech Principles of Community. The prohibition against discrimination and harassment applies to all levels and areas of university operations and programs, to students, administrators, faculty, staff, volunteer, vendors and contactors.”

Regardless of whether a victim chooses to cooperate in an investigation, or even to come forward with a report of a crime, the Virginia Tech Police Department will make reasonable efforts to conduct a thorough and objective investigation and to support compliance efforts to determine the occurrence of sexual assaults/harassment and to gather information of such crimes for the purpose of accurately assessing the frequency and scope of sexual assaults/harassment that occur in this jurisdiction.

III Procedures

A. General Responsibilities

1. Sexual harassment complaints will be responded to and reported as per University Policy 1025 Anti-Discrimination and Harassment Prevention and State Policy 2.30 Workplace Harassment.
2. Sworn personnel shall be trained and knowledgeable about sexual assault investigation and its impact on victims. The Chief shall ensure through standard or special training procedures that all sworn members of the agency receive documented in-service training in Code of Virginia changes, new or modified procedural requirements, and relevant case law, as these factors become effective.
3. All communications and sworn personnel shall be aware of community services available to victims of sexual assault such as the Virginia Tech Women’s Center, the Women’s Resource Center, Victim/Witness Assistance Program, Cook Counseling Center, Schiffert Health Center, and the Title IX Coordinator.

B. Communication Officer Responsibilities

1. If hospital personnel report the sexual assault, the dispatcher shall obtain initial information, including name and location of victim, reporting party’s name and job title, and the victim's condition (if available). An officer will be dispatched to the hospital.

2. If a victim calls to report a sexual assault, the dispatcher should obtain critical information, including the victim's name, victim's present location, and any immediate safety concerns, such as the presence of the offender and when the sexual assault occurred. The dispatcher will ask whether injuries have been sustained and dispatch rescue accordingly. Additional information that will be obtained include: crime scene location (on or off campus), whether weapons were used or threatened, and the suspect's identity and present whereabouts.
 - a. If the victim requests a law-enforcement response, the dispatcher shall:
 1. Immediately dispatch a patrol officer and stay on the phone with the victim until the officer arrives, if the assault just occurred.
 2. If the assault occurred within the last 72 hours, explain that evidence preservation is critical and request that the victim not wash self or clothes, brush teeth, rinse the mouth, eat, drink, smoke, douche, comb hair or put on make-up, changing clothes, go to the toilet, or touch/move anything at the crime scene. If the victim has already done any of these things, reassure her or him, but ask that s/he not do any more "cleanup." There is some possibility that evidence can be recovered even after 72 hours. If the assault occurred more than 72 hours earlier, recommend that the victim seek medical attention anyway and dispatch an officer.
 3. Ask the victim if s/he wishes the presence of a sexual assault crisis center advocate, family member or friend for support (at the hospital or department), and offer to contact that person.
 - b. If the victim wants no agency response to her or his present location or home, the dispatcher shall:
 1. Encourage the victim to go to a medical facility for treatment and evidence collection. Ask victim if they need an ambulance for treatment and transportation. Advise the victim that a law enforcement officer will respond to the hospital to make a report.
 2. If the assault occurred within the last 72 hours, explain that evidence preservation is critical and request that the victim not wash self or clothes, brush teeth, rinse the mouth, eat, drink, smoke, douche, comb hair or put on make-up, changing clothes, go to the toilet, or touch/move anything at the crime scene. If the victim has already done any of these things, reassure her or him, but ask that s/he not do any more "cleanup." There is some possibility that evidence can be recovered even after 72 hours.

3. If the victim *expressly states* that s/he does not wish to make a report or talk to a law enforcement officer, advise her or him that they are not required to do so.
 4. Even if no law enforcement investigation is sought at that time, refer the victim to appropriate resources such as the Virginia Tech Women's Center, the Women's Resource Center, the Title IX Coordinator and the victim/witness program for further assistance.
- c. Give a complete report of information obtained to the patrol officer assigned to the case before he or she initially contacts the victim.

C. Patrol responsibilities

1. The patrol officer has certain immediate responsibilities. They are:
 - a. Ensure the victim's physical well-being. Give attention to the victim's emergency medical needs. Ensure safety.
 - b. Preserve the crime scene. Request an evidence technician and investigator.
 - c. Be alert to any suspect in the vicinity. Give crime broadcast or bolo, if applicable.
 - d. Explain his or her role to the victim and what will be done at the scene and through follow-up.
2. The patrol officer shall obtain sufficient information to determine what offense (or offenses) actually occurred. When this is not possible for any reason, the officer shall concentrate on obtaining information that will establish the basis for misdemeanor or felony offenses and help determine appropriate police response in carrying out the arrest of any suspect, and help address the needs of the victim. The officer shall evaluate the scene for people, objects, evidence or other threats.
3. The patrol officer shall gather information to assess the presence of an on- going threat to the community that would necessitate a Crime Alert. The patrol officer shall obtain preliminary statements from the victim and witnesses. Try to establish rapport and obtain information needed immediately to determine the victim's greatest needs and the identity and/or location of the suspect.
4. The patrol officer shall arrange for transportation or transport the victim to the hospital for a sexual assault (PERK) examination, if appropriate (e.g. if the assault occurred within the last 72 hours) and explain the medical and legal advantages of this exam. Encourage the victim to take along a change of **all** clothing. Seek permission from the victim to have the forensic nurse collect a urine sample and obtain a signed release for access to medical records. The officer may provide

transportation back home following the exam, if needed. If the assault occurred more than 72 hours before, the officer shall still encourage the victim to seek medical assistance.

5. Per Code Section 19.2-11.01, as soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § [40.1-28.7:2](#).

D. Supervisor Responsibility

1. Ensure a thorough investigation is done.
2. If the on duty supervisor determines that a timely warning or emergency alert is required, the supervisor will ensure that it is completed and that the victim is notified prior to the notice/alert, if at all possible.
3. Notify the Chief, Deputy Chief and Operations Commander.

E. Investigator Responsibilities

1. The investigator shall obtain as much information from the responding officer, as possible.
2. If the victim so chooses, an investigator shall make contact at the crime scene, the hospital, or the police department depending on the amount of time it will take the investigator to respond and the needs of the victim.
3. The investigator shall make sure that an advocate is notified and will allow the sexual assault crisis center advocate to be with the victim for support, if the victim desires and the presence of the advocate does not negatively impact the investigative process.
4. Investigators shall make good faith efforts to establish rapport and good working relationships with crisis center advocates as collaborating partners in advance of actually working an incident. This approach is intended to promote more effective interactions with a victim when a crime does occur. A good investigator recognizes when effective communication may be impaired by others present in an interview, and will take reasonable steps to correct the impairment or postpone the interview. The investigator shall prepare the victim for each phase of the investigation. The investigator can encourage the victims' cooperation by explaining what must be

done and the reasons why.

5. The investigator shall explain the importance of having a PERK exam done at the earliest possible time in the interests of victim health and safety, evidence collection and substance/drug identification. All victims should be encouraged to obtain this exam prior to interviews if possible, and regardless of their current willingness to prosecute or cooperate with the police investigation.
6. When a suspect is identified, investigators should determine whether a forensic sexual assault examination should be obtained. A search warrant may be needed to collect any evidence from the body or clothing of the suspect. If evidence collection is granted voluntarily, a consent form shall be completed by the investigating officer. Photographs shall be taken and a PERK kit completed, if appropriate to the investigation.
7. Evidence will be collected as outlined in Directive D-3.0, Evidence Collection. Clothing shall be collected and placed in evidence storage before the end of the investigators shift. Photographs of the scene and victim will be taken as soon as practical.
8. Follow-up interviews by the investigator will be conducted to obtain additional information to support the investigation and the victim's well-being. Interviews should be recorded, if possible. Give the victim contact information. At the conclusion of the interview, the investigator shall ask about any additional assistance needed.
9. The following should be considered during the follow-up investigation:
 - a. Per Virginia State Code 19.2-9.1, a victim of an alleged sex offense will not be asked or required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an offense. The investigator should anticipate some confusion, memory suppression or reluctance to discuss fear-inducing or humiliating details of the incident.
 - b. A false report charge should never be brought against a victim on grounds that the victim is hesitant or fearful to cooperate with the investigation. Similarly, a victim may express anger and a desire for vengeance against a spouse, a boyfriend, or other known assailant. This may also be a natural reaction and should not be taken as an indication that the victim is making false claims to "get the person in trouble" for some other personal reason.
 - c. Make sure the victim has been advised that the University Title IX Coordinator will complete an administrative investigation and provide contact information. The victim must be provided information that they

have the option of pursuing their case through the Student Conduct Office, for assaults involving students, in addition to any other review/investigation and provide the appropriate contact information to them.

F. Evidence Collection--Sexual Assaults

1. Evidence collection shall follow the procedures outlined in Directive D-3.0, Evidence Collection.
2. Physical Evidence Recovery Kits (PERK kits) are supplied to all local hospitals to be used by examining doctors.
3. The investigating officer will obtain the PERK kit from the examining doctor or the forensic nurse and see that the victim's name and other pertinent information is noted on the kit. The investigator will ensure that the doctor and nurse's names are clearly signed and the envelope is sealed with his/her initials, date, and officer code number on the seal. The investigating officer will deliver the PERK kit to the Evidence Custodian or designee. If the Evidence Custodian is not working, the PERK kit may be placed in the temporary evidence refrigerator and secured with the assigned lock.
4. The Evidence Custodian or designee will deliver the PERK kit to the Consolidated Laboratory as soon as possible, and is responsible for maintaining the chain of evidence. The PERK kit does not get submitted to the Consolidated Laboratory if the victim is anonymous or does not want to proceed with the case.

G. Special conditions or situations

1. Per the Code of Virginia 19.2-165.1 victims of sexual assault are not required to participate in the criminal justice system or cooperate with law enforcement authorities in order to be provided with forensic medical exams. When the victim requests to remain anonymous, the following procedures will be followed:
 - a. Any officer may respond to the hospital to retrieve the Physical Evidence Recovery Kit (PERK) of a victim who does NOT want to cooperate with a criminal investigation. The officer should also retrieve the completed Anonymous Sexual Assault Evidence Release Form (VTPD-61) from the Forensic Nurse. The officer will make no attempt to interview the victim.
 - b. An IBR will be completed by the responding officer with the classification for sexual assault. The victim's name will be listed as provided by the Forensic Nurse. The narrative will include the intention of the victim with regard to cooperation.

- c. The reporting officer will complete a property form and submit it with the PERK kit. If the kit is collected while a property clerk is on duty, it will be handed directly to the clerk and placed in the refrigerator in the evidence room. If a property clerk is not on duty, the kit will be placed in the refrigerator in the temporary evidence room and secured by the padlock provided. The kit will then be placed into evidence by a property clerk upon return to duty.
- d. The Investigations Unit will not attempt to pursue the criminal investigation unless the victim contacts them and requests that the case be opened or when information leads them to believe it may be linked to other cases similar in nature.
- e. The PERK kit will be held for 12 months and 1 day from the date of submission from the hospital, and then destroyed unless the victim has notified the department of their intention to pursue criminal charges. The kit will not be submitted to the Consolidated Laboratory unless requested by the victim or as part of an ongoing criminal investigation.

H. Support of Title IX Investigations

The University Title IX Coordinator is required to investigate all allegations of sexual assault/harassment. Collaboration between the Virginia Tech Police Department and the Title IX Coordinator is critical. The Investigative Supervisor (or designee) will coordinate with the Title IX Coordinator (or designee) regarding appropriate and lawful sharing of information and records. Decisions regarding release of law enforcement investigative records shall be made on a case by case basis, and in a manner that does not compromise the criminal investigation. Virginia Tech Police Department staff shall not intentionally interfere with or take actions that would be likely to compromise a Title IX investigation. Any conflicts regarding investigative information or records should be brought to the attention of the Chief of Police or designee for resolution with the Title IX Coordinator..

I. Policy Review

The Virginia Tech Police Department values policy input from the Commonwealth's Attorney, the Virginia Tech Women's Center, the Women's Resource Center, the local Victim/Witness Program, and such appropriate State agencies as may have information, procedures or other requirements under the law pertaining to the investigation and prosecution of sexual assault cases. The Department communicates and collaborates with these resources in establishing, revising, and updating this policy.

Effective Date:

This policy will become effective November 15, 2014

By order of:

Kevin L. Foust
Chief of Police