

RE: PUBLIC RECORDS REQUEST of December 06, 2020, Reference # P000295-120620

Dear [REDACTED]

The Hayward Police Department received a follow-up request on July 30, 2021 to your public information request of December 06, 2020. Your follow-up request mentioned:

"The table below shows the number of "kits received", "not sent to lab", and "destroyed" in Hayward. I believe there was a glitch in the data around 2007-2011. The number of kits collected are much higher than in other years. It is possible that certain kits were recorded on the chart (Sexual_Assault_Kits.xls) multiple times. For instance, on a single day on May 30, 2008, 70 kits were collected, and on May 29, 2008, 96 kits, compared to 48 kits were collected in all of 2020.

Would it be possible for you to explain the data discrepancy?

In addition, the "Tested_Kits.xls" sheet only contains information about unsubmitted kits from after 2015. We are assuming you do not have records from before 2015, but would you please confirm if that is not the case.

We can't confirm if any duplicates do or don't exist in the list due to the entries being made many years ago. At some points, in order to rid backlog of untested sexual assault kits, the Alameda County DA's office would request a list of kits be sent off for testing. When the lab completed the testing on all of the agencies sexual assault kits, they would return the kits in one large delivery to the police department. The Property Unit would then log all the kits back into the Property system. This would be the reason so many are shown to be logged in one day. The kits would have been collected over several year prior, sent to the lab in large bundles, and then returned to be re-entered into our system.

You are correct that we do not have records for Tested Kits prior to 2015.

If you have any questions, or wish to discuss this further, please contact the Public Records Desk at [REDACTED]

Regards,

HAYWARD POLICE DEPARTMENT

Mattie Smith
Records Supervisor

By: Leah Mendes
Public Records Clerk

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.

To monitor the progress, update this request or respond to this message please log into the [Public Records Center](#)



Evidence/Seized Sexual Assault Kit
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HAYWARD POLICE DEPT	SEX OFFENSES		SAEK
HAYWARD POLICE DEPT	SEX OFFENSES		SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE		SAEK
HAYWARD POLICE DEPT	NONE/NO FBI CLASSIFICATION		SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE		SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE		SAEK
HAYWARD POLICE DEPT	SEX OFFENSES		SAEK
HAYWARD POLICE DEPT	NONE/NO FBI CLASSIFICATION		SAEK
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HAYWARD POLICE DEPT	SEX OFFENSES		SAEK
HAYWARD POLICE DEPT	SEX OFFENSES		SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE		SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE	/2020	SAEK
HAYWARD POLICE DEPT	FORCIBLE RAPE		RADS
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HAYWARD POLICE DEPT	FORCIBLE RAPE	/2021	SAEK

Total Kits in Report: 99

Submitted to Lab: 81

Not Submitted to Lab: 18

Kit Submit to	
LAB	Reason Not Submitted
NO	SUSPECT CLAIMED CONSENSUAL
YES	
YES	
YES	
NO	INSUFFICIENT EVIDENCE
YES	
YES	
NO	VICTIM DECLINED
YES	
YES	
YES	
YES	
NO	SUSPECT CONFESSED
YES	
NO	OTHER
NO	SUSPECT CONFESSED
YES	
NO	INSUFFICIENT EVIDENCE
YES	
YES	
YES	
NO	OTHER
NO	OTHER
YES	
YES	
NO	OTHER
YES	
YES	
YES	
YES	
NO	OTHER
YES	
YES	
YES	
YES	
NO	OTHER
YES	
YES	
YES	
NO	OTHER
YES	

YES	
YES	
NO	VICTIM DECLINED
YES	
NO	OTHER
YES	
NO	OTHER
YES	
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NO	OTHER
YES	
NO	OTHER
NO	OTHER
YES	

Sexual Assault Investigations

602.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

602.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 55.1.3, 55.2.1, 55.2.3

602.1.2 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

602.2 POLICY

It is the policy of the Hayward Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and considerations that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

Sexual Assault Investigations

602.4 INVESTIGATION AND REPORTING

In all reported or suspected cases of sexual assault, a report should be written and follow-up assigned, as appropriate.

602.4.1 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to the Communications Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

Victims are often reluctant or embarrassed to discuss details. Recanting or changing one or more aspects of a prior statement is not necessarily an indication of false reporting or that the case is unfounded. If the responding officer has reason to believe the incident may be without merit, he/she should document the evidence and inconsistencies. Due to physical and emotional trauma, inconsistencies in the victim's report may occur.

Victims shall not be asked or required to take a polygraph examination (42 USC § 3796gg-8; Penal Code § 637.4).

602.4.2 VICTIM RIGHTS

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

Whenever there is an alleged sexual assault the assigned officer shall accomplish the following:

- (a) Immediately provide the victim with the "Victims of Domestic Violence" card containing the names and locations of rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2(a)).
- (b) Advise the victim of the right to have a victim advocate and a support person present at any interview by law enforcement as provided in Penal Code § 679.04.
- (c) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2(b)(1)).
 1. Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of his/her right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).

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2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

602.4.3 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.4.4 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, it is critical to the investigation that a urine sample from the victim be collected by a medical professional.

Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits, other sexual assault victim evidence and other crime scene evidence, any member of this department assigned to investigate a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). Generally, rape kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer should further ensure that the results of any such test have been timely entered into and checked against both the Department of Justice Cal-DNA database and the Combined DNA Index System (CODIS).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18 month period (Penal Code § 680(d)).

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Sexual Assault Investigations

602.4.5 VICTIM NOTIFICATION OF DNA STATUS

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned officer may inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned officer should either make an audio recording of the advisement, or follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):
 - 1. To be informed if a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
 - 2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
 - 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Databank of case evidence.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned officer should either make an audio recording of the advisement, or follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

602.4.6 DESTRUCTION OF EVIDENCE

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

602.4.7 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded upon review and approval of the Criminal Investigations Bureau supervisor.

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Classification of a rape case as unfounded requires the Criminal Investigations Bureau supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence to support the recanted information before the case should be determined as unfounded.

602.5 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Criminal Investigations Bureau supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.6 TRAINING

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
 5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).
- (b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.
 2. SART.
 3. Medical and legal aspects of sexual assault investigations.
 4. Serial crimes investigations.
 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
 6. Techniques for communicating with victims to minimize trauma.

602.7 REVISIONS

Enacted: December 17, 2007

Revised: July 8, 2009

Revised: April 25, 2012

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Sexual Assault Investigations

Revised: May 23, 2016

Revised: June 7, 2020