

Sexual Assault Evidence Collection

A sexual assault forensic exam (SAFE or “rape kit”) includes collection of evidence that may help in a criminal case. Survivors have the right to a SAFE even if they do not want to talk with law enforcement. Survivors cannot be charged for exams conducted within 15 days of an assault, or for follow-up care for 90 days after an exam. Exams are only available at hospitals with specialty programs, known as SAFE Programs. See: <https://mcasa.org/survivors/getting-medical-attention>.

Law enforcement must offer to transport you to the nearest SAFE Program or SAFE Program of your choice without delay. It is important to get a SAFE exam quickly, however you are able to receive an exam up to 15 days after an assault. SAFE kits must be retained for 20 years and are stored by law enforcement. Victims may request information about law enforcement’s decision to test their kit, kit status, and kit results, and law enforcement must respond within 30 days unless it would harm an investigation. The SAFE provider must provide contact information for the investigating agency to the victim. Victims may ask to be notified before a kit is destroyed, and may request that it be stored longer. In 2018, Maryland began a process of testing old untested kits and is developing policies regarding testing. In 2019, a law passed that requires testing of most SAFE kits as of January 1, 2020.

HIV, HepC, & Sex Crimes

Sex crime survivors can request emergency testing to find out if the assailant is HIV+. Medication is available to prevent HIV but it must be taken within 72 hours of exposure. As of October 1, 2019, survivors who seek treatment within 72 hours and are deemed at risk for contracting HIV are eligible to receive this treatment, and related follow-up treatment up to 180 days after the assault, for free. Starting January 1, 2023, health insurance providers are prohibited from requiring pre-authorization for HIV prevention medication. Testing can also be done to learn if the assailant has Hepatitis C.

Sex Offenders Registry

Maryland has a sex offenders registry that provides information about the address, age and offenses committed by sex offenders. To be on the registry, a person must be convicted in a criminal case. To access the registry online, visit www.dpscs.state.md.us/sorSearch.

Survivors of sexual assault have rights in the criminal justice system.

The Sexual Assault Legal Institute (SALI) provides legal advice, representation and referrals for survivors of sexual assault.

SALI is committed to survivor-centered advocacy and respect for client decision-making.

SALI also provides legal education, technical assistance and information for professionals working with survivors.

For more information, contact:



P.O. Box 8782, Silver Spring, Maryland 20907
301-565-2277 | 877-496-SALI
fax: 301-565-3619

SALI is open during the COVID-19 crisis - we are here for you.

For information on civil legal options see:
Identifying Legal Issues for
Victims of Sexual Assault: A Checklist for
Survivors

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Criminal Justice Issues for Victims of Sexual Assault

Rights of Sexual Assault Survivors

Rape and sexual assault are crimes and survivors have rights in the criminal justice system. This brochure is designed to give survivors an overview of the criminal prosecution of sexual assault crimes, sexual assault evidence collection, and crime victims’ rights.

The criminal justice system only addresses some of a survivor’s legal needs. Other common legal issues survivors face include safety, employment, family law, financial issues, housing, immigration, privacy, or educational concerns. These issues are addressed in a separate brochure.

Maryland’s rape crisis centers provide support, counseling, and advocacy. The Sexual Assault Legal Institute (SALI) has attorneys to help victims with these and other legal issues related to sexual assault.

**Call SALI at 301-565-2277 or
877-496-SALI for legal help or
visit mcasa.org to find your
local rape crisis center.**



CRIMINAL JUSTICE ISSUES FOR VICTIMS

Sex Crimes in Maryland

Sex crimes have different names depending on what act occurred and the relationship between the perpetrator and the survivor.

Rape includes sex crimes involving vaginal or anal penetration by any body part or object, and forced oral sex. Rape can involve any gender and any age. There are two degrees of rape:

- First degree rape includes the act of rape plus an aggravating factor, such as using a weapon, using strangulation, involving multiple assailants, or committing the rape during the course of a burglary.
- Second degree rape includes the act of rape, done without consent and using force or threat of force. Second degree rape also includes crimes involving a person's capacity to consent.

Sexual offense is a legal term for other sex crimes based on fondling or on age.

Resistance by Victim: Maryland law is clear: victims never have to physically resist a sexual assault.

Age: It is a crime to sexually penetrate someone under 16 or to fondle someone under 14, however, criminal law also requires a four-year age difference in most cases.

Relationship: Sexual relationships between certain people are prohibited. This includes between certain family members, teachers of children, people taking care of children (such as babysitters), corrections personnel and inmates, and law enforcement and persons in their custody, under investigation, or seeking assistance.

Capacity: It is a crime to sexually touch or penetrate someone who is physically helpless, or so intoxicated or cognitively impaired that they are "substantially incapable" of resisting or knowing what is happening.

Starting a Criminal Case

Reporting a Sex Crime

Victims or others can report a crime by calling 911, talking with police, or going to the commissioner's office to file an "application for statement of charges." Victims are not required to report a sex crime. In some cases involving children or vulnerable people, however, other adults must report the crime or suspected crime or abuse.

Deadlines and Statutes of Limitations

Most sex crimes are felonies, so there is no statute of limitation (in other words, no deadline) for criminal prosecution. A few sex crimes must be prosecuted within 1-3 years. Civil cases have shorter deadlines, 12 months to a few years.

Investigations

Sex crimes investigations happen where the assault occurred and are typically handled by specially trained detectives. Child victims are often interviewed at "child advocacy centers" where social workers and officers work together to minimize trauma to children.

Attorneys in Criminal Cases

Criminal cases are brought by a prosecutor, called an "assistant state's attorney" against someone accused of a sex crime. Prosecutors represent the state, not the victim, and must consider a victim's wishes, but do not have to follow them. Crime victims can have their own lawyers to advocate for what they want. SALI and some rape crisis centers can provide lawyers for sex crimes survivors.

Criminal Cases & Safety

Stay-Away Orders

Defendants in criminal cases are often released on bail until their trial. The court should order perpetrators of sexual assault to stay away from the crime victim as a condition of release, and can order other protections for the victim. Contact the State's Attorney Office or SALI for help finding out if there is a stay-away order. It is a crime to violate these orders.

Sex crimes survivors may also want to seek a peace or protective order, but should talk with a lawyer first.

Safety Planning

Rape crisis centers or crime victim rights attorneys will help survivors create a safety plan.

Release Information

Victims may get notified by phone or email when a defendant is released or transferred by signing up at Victim Information and Notification Everyday (VINE) online at www.vinelink.com or by calling 1-866-634-8463.

Privacy & Criminal Cases

Criminal cases involving adult assailants are public proceedings, but victims can protect their names, addresses, and phone numbers. Victims should specifically request this protection. This may require a motion depending on the stage of the case. Victim names should never be published on the Court's website.

Victim Rights

Maryland's laws and constitution guarantee crime victims rights. Many of these rights are not automatic – the crime victim must actively request them, often in writing.

Crime victim rights include the:

- Right to be treated with dignity, respect, and sensitivity by all agents of the criminal justice system and during all phases of the criminal justice process.
- Right to notice about what is happening in your case, the ability to be present at court proceedings, and the right to be heard.
- Right to file a victim impact statement.
- Right to request restitution.
- Right to be informed by the prosecutor of the terms and conditions of any plea agreement, and right to be heard on the plea agreement.
- Right to take time off from work to testify.
- Right to have property returned.
- Right to notice of appeals and other post-trial proceedings.
- Right to notice about offender status change or release.
- Right to bring your own lawyer to enforce crime victim rights.

**File a
Crime Victim
Notification
Request and
Demand for
Rights Form to
protect your rights
as a victim.**

