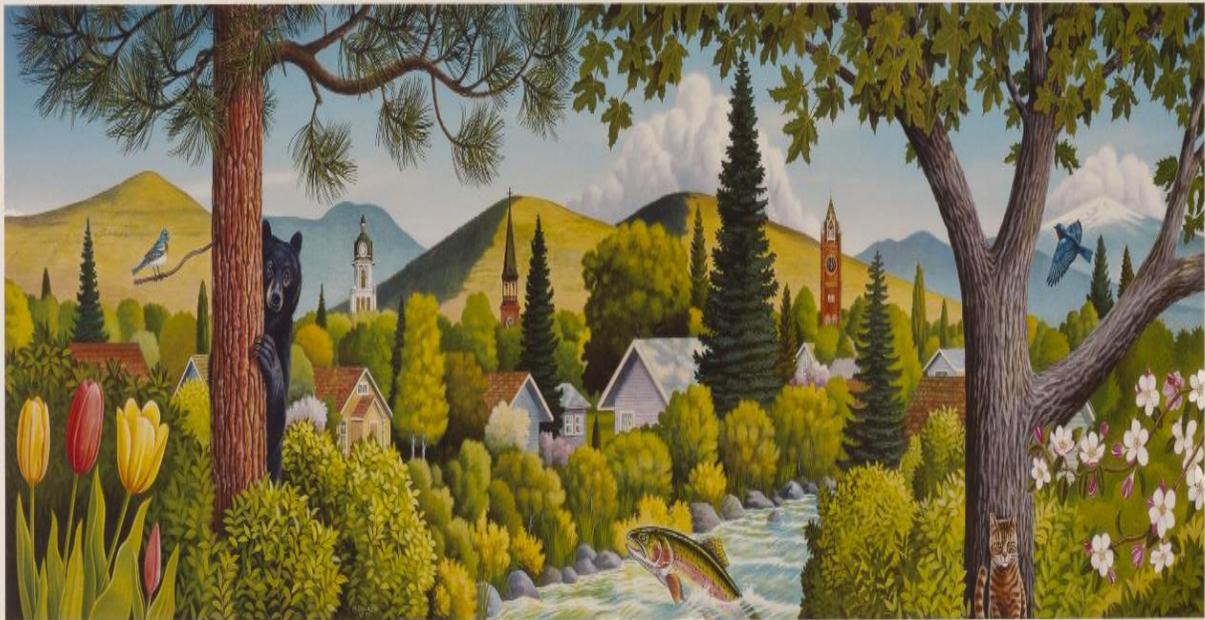


“How Does Our Community’s Response to Sexual Assault Engage and Support Victims and Enhance Victim Safety and Offender Accountability?”



*Report from the
Missoula County Sexual Assault Safety and Accountability Audit*

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Acknowledgements

By: Janet Stevens Donahue and Michael Colyer

As this Safety and Accountability Audit (safety audit) process began, soliciting agency participation was our first priority. After receiving training at the Praxis International Audit Institute, we were well prepared for agency leaders to inquire about the process, the time commitment, and outcomes.

We discussed the scope of our safety audit and agreed to invite organizations within our system that interact with victims of sexual assault from the initial report, through the charging decision on criminal cases. This scope defined the organizations most relevant to our goal of identifying the “strengths” and “gaps” in our community’s response to sexual assault.

We faced one question from virtually every administrator (paraphrased):

‘How much time will this take from my employee’s primary duties?’

It was impressive to know each administrator was concerned enough about their own mission, that they wanted assurance their agency could continue services while participating in this safety audit.

It is courageous to participate in an audit, as agencies open their doors for a transparent evaluation of their work. We were thrilled at the enthusiastic response from agency heads with no hesitation from those top administrators to participate and accept the potential feedback. The following community leaders contributed to this project via their time and commentary, as well as access to records, personnel, and facilities. This undertaking would not have been possible without their support.

Mike Brady, Chief - Missoula Police Department (MPD)

Marty Ludemann, Chief - University of Montana Police Department (UMPD)

Carl Ibsen, Former Missoula County Sheriff (MCSO)

T.J. McDermott, Missoula County Sheriff (MCSO)

Fred VanValkenburg, Former Missoula County Attorney (MCAO)

Kirsten Pabst, Missoula County Attorney (MCAO)

Jim Nugent, Missoula City Attorney (CAO)

Shantelle Gaynor, Grants Administrator Missoula City-County Relationship Violence Services

Drew Colling, Director - Student Advocacy Resource Center UM

Cindy Weese, Executive Director - YWCA Missoula

Mary Pat Hansen, Clinical Supervisor - First Step Center St. Patrick’s Hospital

Chris Lounsbury, Director - Office of Emergency Management (OEM)

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

To establish the team, we wrote to the above agency leaders and asked them to provide one individual who “understands sexual assault response and prosecution, who is collaborative and inquisitive and able to openly accept constructive criticism.” On every selection, these leaders made an excellent choice. We were proud to assemble the following members for our audit team:

Detective Connie Brueckner, Missoula Police Department
Detective Christopher Croft, University of Montana Police Department
Detective David Merifield, Missoula County Sheriff’s Office
Chief Deputy County Attorney Jason Marks, Missoula County Attorney’s Office
Deputy City Attorney Angie Robertson Bakken, Missoula City Attorney’s Office
Senior Advocate Tanya Campbell, Missoula Crime Victim’s Advocate Office
Director/Advocate Drew Colling, Student Advocacy Resource Center UM
Pathways Program Manager Katharina Werner, YWCA Missoula
SANE Nurse Cat Otway, First STEP Resource Center
Dispatcher, Ashley Potter, Missoula 911

The above team members dedicated approximately 1500 hours of their valuable work time, and often extra hours outside of work, to contribute to the team. There was critical thinking, collaboration, and some disagreements on certain topics, but the team was respectful and professional throughout the process. The team remained focused specifically on the audit purpose while looking for meaningful outcome that meets the needs of the victim and community.

Praxis International has supported us every step of the way. From our introduction to the safety audit process to our final report, we received invaluable training and technical support from these experienced professionals:

Maren Woods, Praxis International
Rhonda Martinson, Consultant
John Beyer, Consultant

Our audit would not be complete without the victims’ voice. The audit team asked the National Coalition Building Institute (NCBI) for their assistance in interviewing victims about their experience in reporting sexual assault. NCBI’s care in soliciting victim input and their reports back to the audit team were critical to this project.

Most importantly, we appreciate and respect the seven victims who participated in the interviews. Their strength in being able to tell their story, for the betterment of the community’s response to sexual assault cannot be overstated.

Finally, we thank Monte Dolack for allowing us to use his artwork. Mr. Dolack, a Montana native, is a well-known artist who operates his gallery in downtown Missoula (www.dolack.com). The piece on the front of our report, “Zootown”, is a reproduction of a Dolack acrylic painting which highlights the urban animal population and several landmarks in Missoula. “Zootown” is a colorful depiction of the wonderful “happenings” in Missoula during springtime and the audit team believes the release of this report is a similarly wonderful gift to the Missoula community this spring.

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

Abbreviations and Definitions

Agencies

Missoula Police Department **MPD**
 The MPD is the primary law enforcement agency for the City of Missoula. The MPD has primary jurisdiction for criminal investigations within the City of Missoula.

Missoula County Sheriff's Office **MCSO**
 The MCSO is the county-wide law enforcement agency for Missoula County. The MCSO has jurisdiction anywhere within Missoula County, but has primary jurisdiction for criminal investigations within Missoula County, outside of the City of Missoula.

University of Montana Police Department **UMPD**
 The UMPD has jurisdiction for all properties owned by the University of Montana. That jurisdiction is granted by the City of Missoula and Missoula County as it relates to the above mentioned primary jurisdictions.

Missoula County Attorney's Office **MCAO**
 The MCAO (Criminal Division) is responsible for the prosecution of all felony crimes that occur within Missoula County, as well as all misdemeanor crimes that occur outside of the city limits of Missoula.

Missoula City Attorney's Office **CAO**
 The CAO is responsible for the prosecution of misdemeanor offenses that occur within the city limits of Missoula (including misdemeanor offenses which occur on portions of the city limits of Missoula on UM campus).

YWCA Missoula **YWCA**
 The YWCA Pathways Program offers services including but not limited to crisis line counseling and in-person counseling to victims of sexual assault, domestic violence and stalking.

Student Advocacy Resource Center **SARC**
 SARC provides free and confidential peer counseling and crisis intervention to survivors of sexual and relationship violence as well as support and information for their family and friends.

First Step Resource Center **FS**
 First Step coordinates Missoula's collaborative response to adult sexual assault and child abuse. First Step also provides services for children, families and adults in Missoula and surrounding counties who may have experienced sexual assault or child abuse.

Missoula County Crime Victim Advocate Office **CVA**

The CVA help victims of crime understand their options, provide information, obtain temporary orders of protection and file police reports. They also offer free and confidential assistance to victims of violent crime.

Missoula 911 Dispatch Center **Missoula 911**

The Missoula 9-1-1 Center acts as the first point of contact for all emergency responders in Missoula County. Missoula 9-1-1 dispatches emergent and non-emergent calls to local public safety agencies.

United States Department of Justice **USDOJ**

USDOJ is a federal executive department of the U.S. government, responsible for the enforcement of the law and administration of justice in the United States.

Montana State University Police Department **MSUPD**

The MSUPD has jurisdiction for all properties owned by Montana State University.

Gallatin County Sheriff's Office **GCSO**

The GCSO is the county-wide law enforcement agency for Gallatin County. The GCSO has jurisdiction anywhere within Gallatin County, but has primary jurisdiction for criminal investigations within Gallatin County, outside of the City of Bozeman.

Terms

Standard Operating Procedure **SOP**

Specified guideline for actions and/or behavior outlining how a policy will be carried out.

Memorandum of Understanding **MOU**

An MOU describes a bilateral or multilateral agreement between two or more parties which expresses a convergence of will between the parties.

Calls for Service **CFS**

Any request by a citizen to provide a service, or an observation by an employee which results in a response by that person or agency.

External Review Panel **ERP**

The ERP is a panel of four community members, established pursuant to the USDOJ Agreement with the City of Missoula to review MPD felony sexual assault cases.

Law Enforcement Records Management System **LERMS**

LERMS is an agency-wide or inter-agency system that provides for the storage, retrieval, retention, archiving, and viewing of information, records, documents, or files pertaining to law enforcement operations.

Introduction and Overview

Increased discussion around sexual violence¹ in Missoula surfaced in 2011. Subsequently, several high profile criminal cases related to students at the University of Montana (UM) circulated in the community via local media.

By the spring of 2012, the United States Department of Justice (USDOJ) had made a request for information from the City of Missoula (via the MPD). After approximately one year of investigation, the USDOJ issued a findings letter to the City of Missoula. A short time later, the City of Missoula and the University of Montana entered into separate Memorandums of Understanding (MOU) with the USDOJ to improve response to sexual assault². One of the many requirements of the MOU between the City of Missoula and the USDOJ was to complete this audit. The participants have worked hard to create a document that provides opportunities to acknowledge the important work and improvements already afforded our community along with suggestions for continued accountability to our citizens. By all accounts, Missoula and UM are not unlike many campus towns and university communities across the country in which sexual assaults are under reported. These cases are complex and difficult cases to prosecute for several reasons that will be discussed in this report.

The MPD and UMPD have made great progress in improving their response to sexual assault over these last few years. Thus far, the progress has been as a result of somewhat specific change, such as:

- Public awareness campaign related to victim services and sexual assault reporting
- Law enforcement training on responding to sexual assault
- Precise policy and procedures for law enforcement
- New and strengthened MOUs between agencies

The positive result has been an increase in reporting of sexual assault offenses in Missoula. Improved reporting is the first step to protecting our community and is not necessarily a reflection of increased criminal activity. Rather, community leaders in this field believe increased reporting is a reflection of improved public trust in the criminal justice system and awareness of issues surrounding sexual assault.

Once victims have reported, keeping the victims engaged and supported throughout the investigative process is vital. Victim engagement in the process can assist getting services to the victim and aid in the pursuit of offender accountability. Changes in training, policies and procedures, and MOUs have been designed to that end and the MPD has also enjoyed success in that area since 2012³.

¹ For purposes of the safety audit and this report, the terms “sexual assault,” “sexual intercourse without consent violence,” and “rape” are intended to include offenses of Sexual Assault, as defined in Montana Code Annotated (MCA) 45-5-502 and “Sexual Intercourse without Consent” as defined in MCA 45-5-503, exclusive of offenses against children.

² The MOU between the City of Missoula and the USDOJ is attached in the Appendices of this report.

³ MPD Statistical Analysis Report is located in the appendices.

Law enforcement's response to sexual assault in Missoula has been, and continues to be, heavily scrutinized. Since March 2013, the MPD and UMPD have been utilizing an External Review Panel⁴ (ERP) to evaluate felony sexual assault cases. The feedback from the ERP shows a consistent improvement in case comprehensiveness and victim treatment and service from the MPD and UMPD⁵. In addition to external review, the MPD, UMPD, and MCSO are currently engaged in victim and advocate surveys. Early data in those surveys also indicate strong victim service⁶.

Thus far, as you can see, the focus has been on *law enforcement's* response to sexual assault. Therefore, a safety audit was the next logical step to improving the *community's* response to sexual assault. The safety audit takes a more holistic look at the involvement of all agencies that victims may connect with upon reporting a sexual assault.

The Audit Question

"How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?"

We coupled the scope of the audit with our desired outcome for better service and safety to create our audit question (above). The scope of the audit included the agencies and organizations that sexual assault victims would likely interact with from the time the crime is reported through a charging decision by the appropriate prosecuting attorney⁷. Each agency identified within this scope was invited to have one representative on the Audit Team.

At all times the audit team kept its efforts focused on the audit question in order to ensure that the victim's safety, engagement, and support was at the forefront. Large poster boards with the audit question were present for the initial training and several subsequent meetings as well as printed at the top of note taking sheets for audit team members. We've also placed it at the bottom of each page of this report to remind the readers of our purpose.

Our Audit Process

The Safety and Accountability Audit is a self-assessment tool developed by Praxis International⁸ for communities to critically examine their collective institutional response to violence against women. In Missoula, we are committed to appropriately and effectively responding to all acts of

⁴ External Review Panel is comprised of four community members with legal and advocacy backgrounds. They meet approximately quarterly to evaluate sexual assault cases for comprehensiveness and possible indicators of bias.

⁵ The ERP codes cases as "orange", "yellow", "green", with "green" being the best. 67% of the cases in 2013 received "green" ratings, while 79% of cases in 2014 received "green" ratings and 93% of the cases in 2015 (YTD) have received a "green" rating. .

⁶ In the first analysis of Victim and Advocate surveys, initial law enforcement responders received 100% approval ratings in areas such as: 1) making the victim feel safe; 2) taking time to explain the process; 2) answering questions for the victim; 4) listening without judgment or blame.

⁷ These are the ten agencies identified in the "Acknowledgements" section of this report.

⁸ Praxis International, Inc. is a nonprofit research and training organization that works toward the elimination of violence in the lives of women and children. Since 2003, Praxis has been providing training and technical assistance. (TA) to communities funded by the U.S. Department of Justice, Office on Violence Against Women, to analyze institutional responses to violence against women through the use of institutional analysis, community assessment, best practice assessment and Safety and Accountability Audits.

"How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?"

sexual violence. Although the Safety Audit was created by Praxis as a tool to respond to violence against *women*, men too, can be victims of sexual assault. Therefore the scope of our safety audit includes reviewing the community's response to adult male and female victims of sexual assault. Certainly, child sex offenses are among the most heinous offenses in our society. Excluding child sex offenses from this safety audit in no way indicates a lack of interest in those cases or a lack of care and concern for those victims.

We limited our audit to adult sex offenses for two reasons:

- A safety audit that is too broad, can risk taking on too much to have meaningful findings;
- The USDOJ investigation was specific to adult victims of sexual assault. All of Missoula's subsequent efforts to improve a response to sexual assaults were focused on *adult* victimization and this safety audit should parallel those efforts.

Praxis developed the Safety Audit as an interagency process and set of tools to help figure out how gaps between what people need and what institutions provide are structured into the everyday work of practitioners. Practitioners and community-based advocates work side by side to discover how the work of individual practitioners has been organized to either centralize or marginalize attention to victim safety and well-being and offender accountability. By asking *how* something comes about, rather than looking at the individual in the job, the process reveals systemic problems and produces recommendations for longer-lasting change.

Since the Safety Audit focuses on institutional processes rather than individual workers, there are no systematic sampling procedures. Instead, interviews, observations, and text analysis sample the work process at different points to ensure a sufficient range of experiences. Interviews and observations are conducted with practitioners who are skilled and well-versed in their jobs. They are co-investigators with the audit team. Their knowledge of the institutional response in everyday practice and their first-hand experience with the people whose cases are being processed supply many of the critical observations and insights of the audit.

At the center of the interviews, observations, and case file analysis is the effort to see the gap from a survivor's point of view and to see how it is produced by case management practices. In locating how a problem is produced by institutional practices, we simultaneously discover how to solve it.

Data collection and analysis pay attention to eight primary methods that institutions use in standardizing actions across disciplines, agencies, levels of government, and job function. These "audit trails" help point the way and link directly to the creation of new standardizing practices, such as new rules, policies, procedures, and forms to close the gap between what people need and what institutions provide.

- **Mission, Purpose, and Function:** mission of the *overall process*, such as criminal law; purpose of a *specific process*, such as setting bail; and, function of a worker in a *specific context*, such as the prosecutor in a bail hearing.

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- **Concepts and Theories:** language, categories, theories, assumptions, philosophical frameworks.
- **Rules and Regulations:** any directive that practitioners are required to follow, such as policies, laws, memorandum of understanding, and insurance regulations.
- **Administrative Practices:** any case management procedure, protocols, forms, documentary practices, intake processes, screening tools.
- **Resources:** practitioner case load, technology, staffing levels, availability of support services, and resources available to those whose cases are being processed.
- **Education and Training:** professional, academic, in-service, informal, and formal.
- **Linkages:** links to previous, subsequent, and parallel interveners.
- **Accountability:** each of the ways that processes and practitioners are organized to a) hold abusers accountable for their abuse; b) be accountable to victims; and, c) be accountable to other intervening practitioners.

Safety Audit Team Training

The audit team participated in an initial three-day training session conducted by Praxis International⁹ on July 14th, 15th, 16th, 2014. Rhonda Martinson and John Beyer, Praxis Safety Audit consultants, traveled to Missoula to facilitate the training. The training followed the layout of the Community Assessment Institute hosted by Praxis International in St. Paul, MN. Training materials included the Praxis Safety and Accountability Audit Toolkit, reproduced by the MPD with Praxis' permission. This training modeled how the different audit activities are conducted by members of the audit team.

The training touched on every activity within a Safety Audit (specific activities are listed later in this report). The training included written instructions and guidelines, examples from previous audits, in-person live demonstrations, and hands-on practice. Some of the most valuable instruction came from anecdotal information from Ms. Martinson and Mr. Beyer. Both are experienced in conducting audits in different jurisdictions and they provided rewarding success stories and valuable warnings of potential pitfalls.

Praxis later provided much appreciated support throughout the audit process, including a second visit to demonstrate and facilitate data analysis and gap statement development with the audit team as well as detailed review and development of this report.

⁹ Through technical assistance and training grant # 2011-TA-AX-K050 awarded to Praxis International by the Office on Violence Against Women, U.S. Department of Justice.

Confidentiality

The audit process requires access to documents, information, and facilities that may be protected by Montana's Confidential Criminal Justice Information (CCJI) statute¹⁰. Since several members of the audit team are not employees of a criminal justice agency, they would not necessarily be allowed access to CCJI. The Missoula City Attorney's Office submitted a Declaratory Action request to the Montana Fourth Judicial District Court. The Declaratory Action requested that members of the audit team be allowed to access CCJI for purposes of this audit process.

A Fourth Judicial District Court Judge issued an order authorizing the receipt and review of CCJI for the purposes described. All members of the audit team, as well as the consultants and co-coordinator signed confidentiality agreements. All documentation that contained CCJI was collected and destroyed after it was reviewed by the team member or consultant.

Activities

The activities in our audit included the following:

- Mapping
- Text Analysis
- Big Picture Interview
- Practitioner Interview
- Observation
- Focus Groups
- Victim Interviews

Activities were done in pairs of two audit team members. Those two audit team members largely remained focused on the same agency throughout the various activities. Working in pairs of two was to make for more comfortable interviews, while still allowing accurate note taking. There was no audio or video recording during any activities.

Keeping the pairs consistently working with the same agency also helped identify themes. Since the two team members reviewed mapping, participated in interviews and observations, and conducted text analysis for the same organization it contributed to a deeper understanding of the organization's operation.

We specifically assigned audit team members to complete activities outside of their own profession. For example, law enforcement representatives were assigned to complete activities for agencies other than law enforcement, and prosecutors were assigned activities for agencies other than another prosecutor's office. We believed assigning a person from outside his or her own field of work would promote a more "eyes wide open approach."

¹⁰ MCA 44-5-303 prohibits dissemination of confidential criminal justice information outside of criminal justice agencies. This code is detailed later in Gap #4.

Mapping

Mapping was the first activity the team completed. Mapping visually represents how a case proceeds through any given organization. A map can provide clues about how a victim interacts with the system, where intersecting processes occur, and where gaps exist. A map can also identify processes that could be observed, practitioners that could be interviewed, and text that could be analyzed.

The audit team created the following maps:¹¹

- MPD’s reporting, investigation and referral of sexual assaults.
- UMPD’s reporting, investigation and referral of sexual assaults.
- MCSO’s reporting, investigation and referral of sexual assaults.
- MCAO’s receipt, review and prosecution of sexual assaults
- CAO’s receipt, review and prosecution of sexual assaults.
- CVA’s report/referral of sexual assault
- SARC’s report/referral of sexual assault
- YWCA’s report/referral of sexual assault
- First Step’s report/referral of sexual assault
- Missoula 911’s report and dispatch of sexual assault.

Big Picture Interviews

Big Picture Interviews were completed with agency heads and/or supervisors within each agency. The purpose of these interviews is to understand the agency’s mission and goals, the processes, size and structure, department training specific to sexual assaults and to assist in accessing data collection.

The audit team completed 12 Big Picture Interviews:

- One MPD Detective Captain Interview
- One MPD Detective Sergeant Interview
- One UMPD Command Staff Focus Group Interview
- One MCSO Command Staff Focus Group Interview
- One MCSO Detective Supervisor Interview
- Two MCAO Supervisor Focus Group Interviews
- One CAO Chief Deputy Interview
- One CVA Supervisor Focus Group Interview
- One SARC / UM Administrator Focus Group Interview
- One YWCA Executive Director and Management Staff Interview
- One St. Patrick Hospital (First Step) Clinical Supervisor Interview
- One Missoula 911 Director of Emergency Management Interview

¹¹ See appendices.

Practitioner Interviews

Practitioner Interviews are conducted with agency employees who provide the agency's service to community members. The purpose of this interview is, in part, to compare the mission and goals of the organization (learned in the Big Picture Interview) to how the practitioner actually carries out the work. Typically the person(s) being interviewed are asked to describe how a (sexual assault) case is handled. The interviewee is also asked about day to day operations, resources, policies, training, etc. Practitioner interviews can be done with individual practitioners or as part of a focus group with other similarly assigned employees. Practitioner interviews are also carried out during the observation activity (see below).

The audit team completed 16 Practitioner Interviews:

- One MPD Patrol Officer Interview and Observation
- One MPD Detective Focus Group Interview
- One MPD Patrol Officers Focus Group Interview
- Two UMPD Patrol Officer Interviews and Observations
- One UMPD Patrol Officers Focus Group Interview
- One MCSO Detective Supervisor Interview
- One MCSO Patrol Deputies Focus Group Interview
- Two MCAO Prosecutor Interviews
- One CAO Prosecutor Interview
- One CVA Advocate Focus Group Interview
- One SARC Advocate Focus Group Interview
- One YWCA Advocate Focus Group Interview
- One First Step SANE Nurse Interview
- One Missoula 911 Dispatcher Interview

Observation

Observations allow audit team members to actually observe practitioners carrying out their duties. Having heard the “big picture” from the top, the hearing practitioners describe their work, an observation is then conducted to see the work in progress.

The audit team completed 10 Observation sessions:

- Two MPD Patrol Officer Observations
- One MPD Detective Observation
- Two UMPD Patrol Officer Observations
- One MCSO Patrol Deputy Observation
- One MCAO Prosecutor Observation
- One CAO Prosecutor Observation
- Two Missoula 911 Dispatcher Observations

Text Analysis

Text analysis is an opportunity for audit team members to view written documents that help organize a worker’s duties. Text analysis can include “all things written.” For example, state statutes, policy, forms, and reports are all good sources of text material that can provide insight on how the work is guided to completion.

The audit team reviewed over 50 sources of text from the participating agencies and recorded 911 calls. Below is a small example of the documents reviewed:

- Thirteen 911 calls and related law enforcement case reports, including forensic medical reports, photographs, supplemental forms, and referral forms.
- Law enforcement agencies’ policies and standard operating procedures.
- Advocacy Protocol Manuals
- MOUs between law enforcement and prosecution
- Intake and referral forms from all agencies
- Forensic examiners, dispatcher and law enforcement checklists
- Several Montana Code Annotated (MCA) statutes related to sexual assault.

Victim Panel

Incorporating victims’ experience with the criminal justice system into the Safety Audit was a priority from the beginning. In early conversations, we considered using results from a previous victim panel administered by the National Coalition Building Institute (NCBI). This panel was conducted in March 2013 and included adult sexual assault victims and the mothers of child sexual assault victims. The purpose of this project was to help multi-disciplinary practitioners better serve their clients. The panel answered several questions to a group of criminal justice and advocacy professionals and SANE nurses.

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Many people close to that project agreed it was well done and provided powerful insight into victims' experiences. We ultimately dismissed the idea to use only the previous panel results. We believed the panel could be "stale" because of the sweeping changes in Missoula over the past couple of years. We did however, revisit the questions used on the previous panel, and used/modified those questions around our audit question to develop the new questions.

Once we committed to administering a current victim panel, our advocate partners on the audit team stressed the importance of administering the panel with care and respect for the victim. Because the previous panel was so well received, we contacted NCBI and requested their assistance.

NCBI agreed to participate and asked the local advocates to do the outreach to victims. We soon realized it was proving difficult to contact victims and even more challenging to identify victims who were emotionally prepared to participate in a panel setting. Our advocate partners reported back to the audit team that victims were not prepared to discuss their experiences to a panel. We reconvened to discuss our options of opting out of the victim input or using an alternative method.

To opt out, we considered the analogy of a company trying to improve customer service without talking to the customer. If a company went through exhaustive internal review to improve its customer service, but did not include customer feedback, it would likely fall short. We agreed that if we truly wanted to understand how victims viewed their treatment throughout the process, we needed to hear from them.

Advocates advised the audit team that victims would likely be more willing to participate in anonymous one-on-one telephone conversations. We agreed to conduct one-on-one anonymous phone interviews as an alternative to a victim panel. We believed it would work well for the team to hear from victims, while being more comfortable for the victim. We developed questions which paralleled the audit question. NCBI conducted an anonymous telephone interview with each of seven victims. NCBI later documented their conversations with a summary report of all their phone discussions and breakdown of each interview¹².

Findings and Recommendations

As mentioned before, when we solicited audit team members from their respective agency, we specifically asked for those employees with knowledge and experience in responding to sexual assaults. We set aside what we thought we knew about the process and allowed ourselves to analyze the process from a fresh perspective.

We sorted our findings into "*strengths*" and "*gaps*."

The strengths and gaps identified in this report surfaced as a theme in several activities throughout the process. It is important to understand strengths and gaps included in this report

¹² The questions NCBI asked the victims are included in the appendices.

are limited to the scope of the audit. Once we agreed on issues that qualified as gaps, we focused on making recommendations to fix the gaps.¹³

The audit team focused solely on system performance, not employee performance. Therefore, no names are included in this report. The names of the audit team members who collected the information, the names of the person(s)¹⁴ who provided the information and the names of the person(s) who may have been responsible for the gap are omitted. Most importantly, the names of the victims and offenders are not included.

Lastly, the audit team discovered issues that were outside of our initial scope, which included the three primary law enforcement agencies, two prosecutors' offices, three advocacy organizations, the medical forensic examiners, and the 911 dispatch center. Those two issues related to *media coverage* and *societal beliefs*. When compared to our audit question, which states, "How does our *community's* response to sexual assault engage and support victims and enhance victim safety and offender accountability?" we agreed it was appropriate to include these issues as gaps, because the media and the community members themselves are certainly part of the "community's response to sexual assault."

¹³ Audit team members did, however, occasionally unveil information from interviews, observations, and text review that didn't necessarily corroborate or dispute a gap or strength, or was outside of the scope of the audit. For example, several interviews involved descriptions of specific practitioners as problematic in the system's response. Because the audit focuses on the way work is structured, not specific workers, the audit team brought complaints about specific practitioners to the attention of supervisors within those agencies.

¹⁴ Russell Strand is the exception to this rule. Mr. Strand is an internationally recognized expert in victim interviewing. Mr. Strand recently instructed in Missoula and was well received by the multi-disciplinary audience. Mr. Strand specifically consented to his name being included in this report.

Overview

<i>What we learned</i>	<i>Recommended changes</i>
<i>Strengths</i>	
Depth and breadth of advocacy services are available for survivors	Continue to seek ways to strengthen and enhance collaborative efforts
Strong collaboration and communication within criminal justice agencies	
Commitment and cooperation to improve response	
<i>Gaps</i>	
#1 Societal myths and misperceptions about sexual assault are deterrents to victims' reporting and to offenders being held accountable	<ul style="list-style-type: none"> ▪ Continue and strengthen dialog with community about sexual assault (availability of advocacy and reporting options, dispel rape myths, etc.) ▪ Implement discussion for local media outlets regarding sexual assault, reporting cases, impact on victim and community, etc. ▪ Ongoing training for front line practitioners about victim engagement strategies, trauma-informed responses, and interviewing techniques that are not victim-blaming.
#2 Victims, or those working on victims' behalf (supportive family members, advocates, prosecutors), can experience inconsistencies in response to sexual assault among Missoula County's three primary law enforcement agencies.	<p>All law enforcement agencies will develop, maintain, and update consistent policies and protocols for response to sexual assault by patrol officers and investigators. Implement training on new or enhanced policies for all law enforcement agencies.</p> <p><u>MCSO</u> Seek funds to increase staffing at MCSO to adequately respond to and investigate sexual assault. Increase recruitment of female deputies to improve reporting options for victims.</p> <p><u>UMPD</u> Seek funds to support UMPD to respond to and investigate all crimes reported in their jurisdiction.</p>

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

<i>What we learned</i>	<i>Recommended changes</i>
	<p>Pursue MOU with city/county agencies to enhance professional development of new employees.</p> <p>Enhance facility security for safe and comfortable locations for victims to report crimes.</p> <p>Develop clear protocols for linkages with other agencies, including community-based and systems advocates, First Step, etc. to streamline services for victims.</p>
<p>#3 Offender accountability can be negatively impacted by having suspect exams performed by other than qualified medical professionals</p>	<p>Seek funding for additional resources to conduct suspect exams.</p> <p>Secure separate facilities for victim and suspect exams.</p> <p>Develop written protocol between First Step and MDT regarding suspect exams.</p> <p>Engage in cross training between First Step, law enforcement, and prosecution.</p>
<p>#4 Information sharing across agencies is oftentimes interrupted or prohibited which complicates reporting the investigative process.</p>	<p>Every agency follows their established protocols for providing clear and consistent information to victims:</p> <ul style="list-style-type: none"> ▪ about their rights to privacy and confidentiality, ▪ about which agencies have privileged communication with victims and which do not ▪ regarding implications of consenting to information being shared. <p>Research promising practices related to information-sharing in sexual assault cases.</p> <p>Commit to continued discussions with agency partners to develop solutions and strategies to overcome information-sharing obstacles.</p>

STRENGTHS

1. Sexual Assault Advocacy Services.

Missoula has advocacy services that are helpful to victims of sexual assault. By having SARC on campus, it is located in a position that is accessible to the campus community. Conversely, the YWCA has a physical location away from campus and it also provides services for sexual assault victims.

SARC and the YWCA staff two crisis lines that are available 24/7 to support people in crisis (i.e. sexual assault victims, among other victims of crime). These organizations also provide 24/7 default response to First Step for advocacy during sexual assault examinations.

The Missoula CVA has provided excellent advocacy support for sexual assault victims with the MPD through a grant that funds an in-house advocate to the MPD Detective Division. In-house advocacy is not available at the MCSO at this time.

The rest of the CVA also works well with local law enforcement by allowing access to their soft interview room, participating in meetings with victims, prosecutors and law enforcement as well as court proceedings.

2. Strong Criminal Justice Agency Collaboration and Communication:

In sharp contrast to Gap #4 which illustrates the inability to share information outside of the criminal justice agencies, the collaboration *within* criminal justice agencies is strong. The MPD and the MCAO both have dedicated employees to investigate and prosecute sex offenses. These professionals meet weekly to discuss current investigations, referred cases, and upcoming trials.

The MPD has established referral processes with the MCAO and CAO. Both prosecutors' offices provide written information back on referred cases to assist in investigations and prepare cases for trial. The UMPD and the MPD share information daily through briefing reports. Also, the respective Chiefs of Police for these agencies meet weekly to discuss cases and coordinate their agencies.

3. Cooperative Community Partners

The many organizations in Missoula that are engaged in responding to sexual violence share a very cooperative and solution oriented mind set. In fact, collaborative work has been going on prior to 2000. JUST Response¹⁵ is Missoula's Multidisciplinary Team (MDT) that responds to Sexual Violence by connecting those who work on sexual violence in the justice system and community to solve problems, build relationships, share information, and seek training. This allows for a more coordinated response to increase victim well-being and hold offenders accountable. Because the issues overlap, the team also looks at relationship violence, and child abuse.

¹⁵ A Just Response venn diagram is included in the appendices.

There are many other examples of community cooperation such as the ERP, collaborative policy development, MOUs between agencies and multi-agency trainings. In fact this audit process itself is perfect example of these strong relationships. The ten members of the team, representing five professions, worked together with a purpose to bring real improvement. In addition to the team members, the co-administrator, Janet Stevens Donahue came from the private sector to donate her time to be a part of this project.

Gap #1: Societal myths and misperceptions about sexual assault are deterrents to victims reporting and offenders being held accountable.

“Rape culture’ is a culture in which sexual violence is considered the norm — in which people aren’t taught not to rape, but are taught not to be raped.”¹⁶

“When Golda Meir was asked to place a curfew on women to help end a series of rapes, Meir replied by stating, ‘But it is the men who are attacking the women. If there is to be a curfew, let the men stay at home.’ ”¹⁷

People sometimes react with skepticism or shift blame to the victim upon hearing about a sexual assault. Long-held beliefs on gender roles and other societal stereotypes contribute to myths and misperceptions about sexual assault. This is exacerbated by the public’s prurient and voyeuristic interest in sex crime stories. This audit team believes it is the community’s responsibility to work to change misperceptions and myths in the Missoula community through education and community dialog.

Rape myths that exist in our society include:

- The victim and suspect are strangers
- The suspect uses a weapon and/or causes serious injury
- The suspect is a convicted criminal and often times a minority
- The victim screams and fights to try to get away
- The victim immediately cries out for help, hysterically, and reports to police.

Although society often thinks the above situations are “real rape,” the above situations are not always the case. In fact, sexual assault commonly involves circumstances such as:

- The victim and suspects are acquaintances
- There is seldom a weapon and little to no physical injury
- The victim “freezes” and is unable to verbally or physically resist
- The victim does not tell anyone right away
- Alcohol and/or drug intoxication is often a part of the victim’s inability to consent.

In fact, a local prosecutor recalled that in fifteen years of practice, she only had one case in which the victim fought back.

¹⁶ <http://www.buzzfeed.com/ryanhatesthis/what-is-rape-culture#.ejaVZRWYRk>

¹⁷ <http://motleynews.net/2012/07/11/the-best-statement-made-about-rape-gold-meirs-curfew-for-men/Golda-Meir-was-Israel's-first-and-the-world's-fourth-woman-prime-minister.>

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

How do societal misperceptions about rape act as deterrents to victims' reporting and to offenders being held accountable?

Societal misperceptions about rape can negatively impact victim safety and offender accountability. Victims who think their community will not believe them, or will blame them, may not report a sexual assault to law enforcement or seek victim services. In cases where victims do report, if community dialog has a victim-blaming tone, the victim often discontinues the investigation. In those cases where a criminal charge is filed, offenders may not be held accountable if jurors subscribe to rape myths.

Societal misperceptions about rape also impact the scarce resource of time for the criminal justice system. For example, a prosecutor interviewed during this audit indicated it takes an extraordinarily high amount of time to select a jury in a sexual assault case and then educate the jury about misperceptions of rape. The prosecutor further pointed out that changing these sorts of public attitudes takes years of effort on the part of community leaders and criminal justice professionals.

A recent sexual assault trial is a good example of these impacts. The trial ended in a hung jury,¹⁸ and a member of that jury wrote a letter to the editor¹⁹ to express his frustrations. He indicated that jurors who voted to acquit viewed the case as one person's word against another's, and did not want to "ruin a young man's life" on only the word of the victim.

These insights are valuable reminders to law enforcement professionals of the importance of evidence-based investigations in taking some of the burden off the victim as the sole source of evidence. They also are valuable reminders to advocates and others who communicate with victims about the realities of juror beliefs, the potential impact of these beliefs on the presentation of the reporting and investigative process in court, and how we communicate with victims about these processes.

What contributes to this gap?

The audit team interviewed criminal justice practitioners and members of the media, and gained valuable insight into what contributes to societal misperceptions about rape and how they act as deterrents to victims' reporting and to offenders being held accountable. Also, the audit team found on-line blogs attached to recent sexual assaults articles and other social media to be an unfiltered view into the beliefs of some community members. The audit team concluded some of the Missoula community, like much of the rest of our society, subscribes to common myth rapes.

The audit team collected online comments made by members of the public in response to local news stories about local sexual assaults. Some are vulgar and would re-victimize victims to repeat

¹⁸ A hung jury is a jury in which jury members cannot agree on a verdict. When there is a hung jury, the court declares a mistrial. The prosecutor's office can file charges again, and commence another prosecution.

¹⁹ <http://missoulanews.bigskypress.com/missoula/what-we-need-now/Content?oid=2101768>

"How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?"

them here, but even paraphrasing and summarizing them provide painful examples of local society's myths and misperceptions about sexual assault and how they deter victim reporting and offender accountability.²⁰

- Dealing with unwanted sexual contact is part of being single and dating.
- Women won't respect a man if he isn't aggressive about sex.
- A man's friends will think he is gay if he isn't sexually aggressive with women.
- Women don't know what they want from men.
- Women are devious.
- A man's penis has a mind of its own.
- Women think they are special and treat men like dirt.
- Women should take self-defense lessons.
- Women shouldn't get drunk.
- Women shouldn't invite men to their apartments.
- Women shouldn't walk after dark by themselves.
- Young attractive women need to take responsibility.
- It isn't smart to get drunk with men.
- If you put yourself in a precarious situation, bad things will happen to you.
- Where is her accountability?
- Why wouldn't she cry out for help?
- She didn't say no.
- She gave mixed signals.

Local media outlets do not currently receive training on the reporting of sexual assault crimes. Missoula is a small city where "everybody knows everybody." Even though victims are not named in local news reports, sometimes the reported details themselves have, in effect, identified victims. Once identified, some victims received unwanted contact and commentary evincing more of the same myths and misperceptions. Victims and practitioners interviewed for this audit gave these examples:

- A victim who was sexually assaulted in public while unconscious reported increased anxiety and problems in her personal life each time a news report about the status of the case

²⁰ See, e.g.:

http://missoulian.com/news/opinion/mailbag/jordan-johnson-trial-attitudes-need-to-change/article_817580ec-8802-11e2-9a20-0019bb2963f4.html?comment_form=true#comments

http://missoulian.com/news/opinion/mailbag/jordan-johnson-trial-attitudes-need-to-change/article_817580ec-8802-11e2-9a20-0019bb2963f4.html?comment_form=true#comments

http://missoulian.com/news/local/um-rewrites-policies-in-aftermath-of-student-s-alleged-rape/article_7eac6b85-b342-564f-a06e-7a3d3ab31b19.html?comment_form=true#comments

http://missoulian.com/news/local/minutes-sports-looks-at-allegations-of-rape-cover-up-at/article_b62b6f14-4a6f-5353-8de4-a5bcbce47f43.html?comment_form=true#comments

<http://www.eqriz.com/grizboard/viewtopic.php?f=1&t=61013&p=851076&hilit=Jordan+Johnson+rape#p851076>

<http://www.eqriz.com/grizboard/viewtopic.php?f=1&t=61013&hilit=Jordan+Johnson+rape&start=100>

<http://www.eqriz.com/grizboard/viewtopic.php?f=1&t=61013&hilit=Jordan+Johnson+rape&start=150>

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

appeared (reports included the date and street upon which the assault happened and other extraneous and unnecessary information).

- A woman who was the victim of an intimate partner sexual assault met with a police officer about the media coverage, and began to cry. While the media did not print the victim's name, she dated the defendant for several years - everyone who knows him also knows her. The victim said she was now being contacted by:
 - People she doesn't consider friends who want to talk about what happened.
 - People who know or have dated the defendant and are now trying to attach themselves to her, to circumstances or discussion of the case, etc.
 - People who want to "see her face" because of the injuries she received.
- A woman who reported being sexually assaulted was shocked to find that even though the media did not identify her by name, at least one outlet used their knowledge of her identity to find her phone number and harass her for a statement, apparently because of the suspect's status in the community. The woman's family called police, obviously upset and disturbed, to report this harassment, saying the unanticipated and unwanted attention is causing the woman to change her mind about participating in a prosecution: "This is not what we thought it would be – we thought it would be private."
- A man who reported being sexually assaulted came to the police department soon after to say he did not wish to go forward with a criminal case because of the case being talked about in the community after the media had reported it. One of his concerns was that language in the media made it sound like a consensual act instead of the sexual assault that he had reported.
- Several victims and victim advocates expressed concern about the use of the term "alleged victim" in media reports that could imply to readers that victims were not to be believed, therefore contributing to rape myths. They suggested the term "reported victim" would be more objective.

Overall, this audit revealed the adverse impact media's reporting of sexual assault can have on victims and is summarized by the following:

- The initial reporting and use of the offender's name, particularly if he or she is not in custody, can trigger an adverse response by the offender toward the victim.
- Sometimes information is reported about the victim that identifies the victim, and makes the victim subject to public criticism.
- Sensitive information being reported can make a victim feel violated and unwilling to put himself or herself in the public's eye for further community harassment and untoward comments on blogs.

"How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?"

What will help address this gap?

- Recommend the continuing dialog with the community about sexual assault. This can include community education about sexual assault reporting, victim services and victim-sensitive explanations of rape myths and offender accountability.
- In collaboration with law enforcement, victim advocates, and prosecutors, provide opportunities for news reporters to gain knowledge about sexual assault, victim support, offender accountability, and the impact that public reporting on these things has on victims.
- Ongoing training for front line practitioners about victim engagement strategies, trauma-informed responses, interviewing techniques that are not victim-blaming, etc.

Responsible Parties

- CVA
- YWCA
- SARC
- MCAO
- CAO
- UMPD
- MCSO
- MPD
- Missoula area media
- Just Response

Gap #2: Victims or those working on victims' behalf (supportive family members, advocates, prosecutors), can experience inconsistencies in response to sexual assault among Missoula County's three primary law enforcement agencies.

The audit team reviewed law enforcement reports and 911 calls of sexual assault from the primary law enforcement agencies in Missoula County that investigate sexual assault: MPD, MCSO, and UMPD²¹. The team also gathered information about policy, training, and resources at all three departments. Representatives from all three departments were on the audit team. The audit team sought input from sexual assault victims and conducted interviews and observations of staff at all three departments. Lastly, the audit team reviewed statutes and other written text governing the work of all three departments.

Policy and training are cornerstones to consistent law enforcement performance. Public expectation of a consistent law enforcement response to sexual assault is established in the local *It's Your Call - 911*²² brochure which states duties, responsibilities, and action to reports of sexual assault are the same regardless of the agency responding to the reported sexual assault. However, the audit finds that due to differences in policy, lack of policy, training, and resources, the three agencies are not delivering a consistent response to sexual assault.

Of the seven victims sought out for commentary on recent experience with the criminal justice system,²³ five felt well-served by law enforcement but two were generally frustrated and discouraged about the local law enforcement response to sexual assault.

Additionally, the team observed that while every criminal justice practitioner observed or interviewed during this audit wanted to improve their response to sexual assault, they were sometimes frustrated by differences in:

- Resources available to respond to sexual assault
- Lack of sexual assault response policy
- Interpretation/application of sexual assault policy
- Access to training on responding to sexual assault

²¹ Other law enforcement agencies in Missoula County include the Missoula International Airport Police, the Montana Highway Patrol District 1 Detachment and various other state and federal agencies. However, the MPD, MCSO and UMPD have the primary jurisdiction for sexual assault investigations within Missoula County.

²² *It's Your Call – 911* is a local public education campaign to encourage sexual assault victims to call 911 for immediate assistance and for access to information about victim resources. The campaign distributes printed brochures and has a website (<http://www.missoula911.com/>) for the public to access.

²³ Several detectives and prosecutors were specifically named in several different interviews as having gone above and beyond – in communication, engagement, compassion, sensitivity to victims' needs, diligence, advocacy, and prioritizing victims' safety.

“How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

The MPD has a written policy on responding to sexual assault²⁴ The MCSO does not have a written policy but it does address sexual assault investigations in the FTO program²⁵. The UMPD has a written policy²⁶ and written pocket card²⁷ to use as a checklist for officers responding to sexual assault.

MCSO and UMPD have resource deficits not experienced by MPD, while the MPD could benefit from a policy clarification.

How does an inconsistent law enforcement response impact the community response to sexual assault?

Without a consistent law enforcement response to sexual assault, citizens and community partners (advocates, medical/forensic examiners, and prosecuting attorneys) have uncertainty as to what to expect in a sexual assault investigation. This impacts expectations and planning (for all citizens), and when/how respective duties are performed (by community partners).

MPD, MCSO, UMPD, and the MCAO have an MOU²⁸ guiding the response to, and investigation/prosecution of felony persons crimes and felony drug crimes. Sexual assault investigations often involve the jurisdiction of more than one law enforcement agency. Law enforcement agencies need to know what to expect from one another in order to complete an investigation.

What contributes to this gap?

Missoula County Sheriff's Office

- The audit team observed that the MCSO does not have a policy/procedure for sexual assault response and without sexual assault policies that are consistent with other law enforcement, it is more difficult to create accountability – not only offender accountability, but also law enforcement's accountability to the public, law enforcement's accountability to community partners, and internal accountability within individual law enforcement agencies.
 - A supervisor interviewed by the audit team stated often times cases are sent back to the first responder to gather additional information. This is likely a lack of clearly defined responsibilities that a policy could mitigate.

²⁴ MPD Policy #: 10.15 "Response to Sexual Assault" can be located with the entire MPD Policy Manual at <http://www.ci.missoula.mt.us/879/Police-Policy-Manual>.

²⁵ Field Training Officer Program Training Brief appears within the appendices of this report.

²⁶ University of Montana Office of Public Safety/Police Sexual Assault Investigation Policy can be located <http://www.umt.edu/policies/documents/Sexual%20AssaultPolicyProcedure.pdf>

²⁷ Sexual assault Response Reference Card appears within the appendices of this report.

²⁸ This MOU describes the roles and responsibilities of the UMPD, MPD, MCSO and MCAO as it relates to criminal investigations on UM properties. This MOU appears within the appendices of this report.

"How does our community's response to sexual assault engage and support victims and enhance victim safety and offender accountability?"

- A lack of protocol for sexual assault victims to submit a Blind Report or Third Party Report²⁹ limits reporting options for victims who are unsure about reporting to law enforcement at that time, or at any time. Blind and Third Party reports can also be helpful in establishing more accurate information about the prevalence of sexual offenses and identifying serial offenders and problem locations.
- The audit team discovered the MCSO receives inadequate opportunities for training regarding services available for victims and best practice response to sexual assault.
 - Some of those interviewed who did not have written guidance were unaware of the potential role of advocates in responding to sexual assault victims.
 - Some of those interviewed who had not attended sexual assault training were unfamiliar with the term “trauma-informed,” and were uncertain of how to interview a sexual assault victim, and were uncertain of the role of First Step in responding to sexual assault victims.
 - MCSO’s FTO checklist contained some outdated references practices, such as an immediate formal interview of a victim being conducted by the deputy after the medical exam (inconsistent with other local practice that the victim be given one or more sleep cycles after the assault prior to providing a formal interview); and doesn’t reference victim rights (required by state law) or victim services.
- One MCSO employee interviewed stated their lack of female deputies causes delays in reporting because some victims want to speak to a female law enforcement officer. If their female deputy isn’t available, they may have to request the MPD assist in the reporting³⁰.
- MCSO deputies reported being unable to attend training because it negatively impacts patrol and detective coverage. This leaves them unaware of new issues, trends and best practices and that lack of knowledge can negatively impact victim safety and offender accountability.
- One MCSO employee interviewed stated a lack of staffing makes it difficult to simply maintain a perimeter on a crime scene, much less allow time off to attend a training.
- A MCSO administrator stated staffing was the number one issue he faces in operations:
 - There are 42 active staff members in MCSO (excluding civilians and jail personnel). This staffing is down five positions and at same level as in 1985. Meanwhile, the Missoula County population is up approximately 30% (77,700 in 1985, to 111,800 in 2014³¹), and the City of Missoula population is up approximately 44% (38,150³² to 69,100 in 2014).

²⁹ A blind report is one in which a sexual assault victim provides information about the sexual assault and the suspect but does not have to give information about him or herself, including not having to give a name – as much or as little information as the victim wishes can be provided. Information will be kept on file in case another person experiences an act of violence by the same person. Third party reports – reports from others – are similar.

³⁰ The MCSO only has one female patrol deputy and no female detectives.

³¹ U.S. Census Bureau, December 2014

³² This estimate was necessary as the US Census Bureau only had city populations conducted on the decade during the 1980s. This estimate is an average between the 1980 and 1990 population.

- Missoula 911 calls for service (CFS) have increased substantially in the last 20 years.
MCSO CFS in 1994: 19,321 CFS.
MCSO CFS in 2014: 26,029 CFS.
- MCSO appears understaffed in comparison with other Montana sheriff's offices. For example, Gallatin County, (home to another university town of Bozeman, Montana) is larger than the MCSO.
MCSO: 47 Deputies for a population of 111,800 & 2618 sq. mile jurisdiction
GCSO: 52 Deputies for a population of 94,700 & 2634 square mile jurisdiction³³.

In addition to the increased population and call load, the expectations of law enforcement sexual assault investigations have risen significantly in Missoula County, which requires more time and effort in each case.

The combination of a lack of sexual assault policy guidance, staff resource issues, and training opportunities impacts MCSO's ability to engage and support sexual assault victims, and enhance victim safety and offender accountability in investigations of sexual assault.

Missoula Police Department

The audit team noted the MPD has a Response Sexual Assault policy. The current policy contains the phrase (in part) *"every sex crime investigation is to be initiated with the belief it is true."* Some MPD staff and some criminal justice partners have experienced difficulty interpreting and applying this to their work.

- Many examples listed below were gleaned from reviewing law enforcement reports:
 - In one sexual assault case, the victim was not truthful about her use of methamphetamine. The detective was reluctant to inquire about it out of concern he could appear to be "investigating the victim" and be subject to criticism for doing so. In fact the use of illegal drug use is important to the investigation and it is understandable why a victim may not initially disclose such illegal activity.
 - Another police report described a victim who told the police investigator that although she did not want to engage in sexual intercourse, she did not communicate that to the suspect. This statement begs the question of "what prevented you from verbally or physically resisting the assault?" However this question is never asked, likely because of the same concern mentioned above about "investigating the victim" or "victim blaming."
 - In yet another sexual assault case, a victim was not truthful about what she did after the assault; the victim's untruthfulness was corroborated by the physical evidence. The detective felt it necessary to get permission from the prosecutor and advocates to discuss this inconsistency with the victim. Once the investigator consulted with

³³ Montana Geographic Information Clearinghouse, www.mt.gov

prosecutors and advocates, and they all agreed it must be addressed, the investigator then had to call the victim back in for another interview.

When the audit team discussed this issue with police detectives, some MPD staff expressed concern that due to the policy language they are not being perceived as objective fact finders. Detectives and officers indicated they feel they should not explore areas relevant to witness credibility for fear of being outside of policy or of being criticized for victim blaming. The MPD Policy is not consistent with UMPD policy on this matter, nor is it consistent with the International Association of Chiefs of Police model Policy.³⁴

- Local attorneys have indicated their belief that the phrase *“every sex crime investigation is to be initiated with the belief it is true”* provides an avenue to attack the credibility of the investigator or first responder, or the integrity of a sexual assault investigation overall. This puts a sexual assault prosecutor in the undesirable position of having to rehabilitate an investigator’s credibility or repair the integrity of an investigation in front of a jury.
- An advocate discussing the MPD policy stated advocates subscribe to the philosophy of *Start by Believing*³⁵. The advocate stated while the philosophy is a good one for advocacy, it comes with hurdles for law enforcement and prosecutors and described it as a “loaded statement” for law enforcement that could have unintended consequences on the victim’s case.
- A local Missoula prosecuting attorney stated a policy that appears to overly align law enforcement with victims can negatively impact the criminal prosecution of offenders because it opens an avenue for cross examination by defense attorneys.

University of Montana Police Department

- UMPD has the jurisdiction to investigate crimes on the UM main campus and other UM properties. However, they do not have the resources to investigate felony crimes against persons. The Montana State University Police Department (MSUPD) investigates all reported crimes on their campus in and around Bozeman, Montana. MSUPD appears to have significantly more staffing the UMPD:
 - **MSU: 21 sworn officers to police 15,421 students.**
 - **UMPD:14 sworn officers to police 13,952 students.**
- A UMPD administrator advised he could not investigate felony persons crimes without the addition of one more full-time officer.

³⁴ The IACP Model Policy Investigating Sexual Assaults is located on the IACPnet.com website. However, that website is password protected for law enforcement professionals and is not open to the general public.

³⁵ Start by Believing is a public awareness campaign designed to change the response to sexual assault. The campaign was initiated by End Violence Against Women International. For more information, see <http://www.startbybelieving.org>.

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- UMPD’s current inability to investigate felony crimes against persons (including felony sexual assault) impacts professional development opportunities for UMPD officers who are unable to gain experience in conducting these investigations. In turn, they can’t then bring that experience to subsequent cases, fellow officers, or campus partners, thereby limiting their ability to improve service to victims and offender accountability.
- UMPD had an agreement with other local law enforcement and the MCAO to investigate and prosecute these types of crimes. This became a formal MOU in December 2003. Unfortunately, this procedure interrupts the process of reporting for the victim when UMPD is the first responder and causes the victim to repeat the circumstances more than necessary.
 - While the MOU provides investigative coverage and support on campus, MPD does not have a relationship with UM’s Title IX Office and is unfamiliar with how that office works.
 - MPD detectives are not well acquainted with campus resources, which could result in a reduction in services to victims.
- Campus sexual assault victims making an initial report to UMPD are in the position of doing so in a non-secure area. Other staff in the building can access many of the public safety offices and report rooms if they are not locked. The UM Facilities Division is housed in the same building as UMPD. A UMPD employee stated community and student members have walked directly into the officers’ areas without notice, which could be embarrassing for victims reporting a crime.
- The UMPD does not use in-car or body worn video equipment and they do not have an interview room to conduct audibly/visually recorded interview. This is a lost opportunity to collect powerful digital evidence that modern day jurors expect during a criminal prosecution. If a victim needs to participate in a recorded follow-up interview, the victim would need to travel to the MPD, which can be difficult for university students who have limited time and access to transportation.
- MPD’s investigation of felony persons crimes on campus has increased MPD’s caseload and may eventually affect MPD’s own ability to engage and support victims, and enhance victim safety and offender accountability if cases increase in the future.
- The impact on victims can be seen in reviewing police reports. One example was identified while reviewing a report of a rape which occurred in UM student housing. The initial responding UMPD officer interviewed the victim and appropriately referred the case to the MPD, at which time an MPD officer responded. This caused a delay in the reporting process, as the victim had to wait for another agency to arrive and restart the investigation. This can be confusing to victims who do not understand why the process is starting over with a new agency.

What will help address this gap?

Policy and Standard Operating Procedures

- Recommend an amendment to the MPD policy which provides clear direction to the officers and does not overly align law enforcement with victims and create avenues to damage the integrity of the investigation.
 - *An option which was well received in Missoula was offered by Russell Strand, who promotes the philosophy “every reported sex crime should be taken seriously, requiring a thorough investigation to determine the facts...”³⁶*
- Collaborate among area law enforcement and community partners to develop, maintain, and make consistent among all local law enforcement agencies policies and procedures on sexual assault response.
- Recommend training on any new or amended policy for each agency to make it clear the law enforcement agencies all thoroughly and consistently investigate every report of sexual assault.
- The MCSO is without policy in this area. To have a consistent community response, any change to MPD’s policy should also be made at the MCSO and UMPD.

Resources

- Recommend the MCSO explore funding options to increase staffing, including qualified females, to adequately respond to and investigate sexual assaults and participate in on-going training.
- Recommend the UMPD explore funding options to be able respond to and investigate all crimes reported in their jurisdiction. This funding should support hiring appropriate personnel and obtaining needed technology to capture evidence during sexual assault response and investigation.
- Recommend UMPD pursue an MOU with MPD and/or MCSO to enhance professional development of any new employee who will be responsible for investigating felony persons crimes, especially sexual assault.
- Recommend UMPD improve and secure their facilities to provide for safe and comfortable locations for victims to report crimes.

³⁶ *Local prevention, advocacy, prosecutors and law enforcement professionals recently attended sexual assault investigation class instructed by Russell Strand. Mr. Strand endorses a philosophy for law enforcement to “start by taking it seriously.” These local professionals recommend doing likewise with local law enforcement policy. They felt this would address law enforcement concerns noted elsewhere in this report, as well as prosecution’s concerns with potential attacks on witness credibility or integrity of investigations.*

Training

- Recommend collaboration among MPD, MCSO, and UMPD, as well as other community partners, to develop trainings that will accommodate staff limitations.

For example, local experts from First Step, the Montana Crime Lab or the prosecutor's office may be available to conduct trainings to area partners. These trainings could then be part of on-going annual training to keep current on services available, emerging trends, and identifying and responding to problems as they arise.

Responsible Parties

- MPD
- MCSO
- UMPD
- First Step
- Community Advocacy Organizations
- County Commissioners
- UM Administration
- Just Response

Gap #3: Offender accountability can be negatively impacted by having suspect exams performed by other than qualified medical professionals.

The audit team interviewed practitioners and supervisors from local law enforcement agencies and the First Step Resource Center and reviewed best practices and local policies. It is evident victim sexual assault exams have successfully been provided by Sexual Assault Nurse Examiners (SANE) in the Missoula community for many years.

And although suspect exams have also been available, they have been underutilized. Several years ago, the First Step Resource Center Advisory Board discussed the development of suspect examination protocols by First Step examiners. First Step and the Board concluded, in part because of limited resources, that First Step examiners would not provide suspect exams on a regular basis. Therefore often times a suspect exam may have been appropriate but it was either completed by law enforcement or not completed at all as law enforcement does not view it as a routine practice by First Step. Many improvements have been made through the advancement of technology and training, which could strengthen a criminal case if a suspect exam was appropriately completed.

How does the lack of suspect exams by qualified medical professionals impact offender accountability?

In many criminal cases, victims may be reluctant to be the driving force for the investigation and prosecution. If the case relies solely on victim testimony, the system is compromised in its ability to hold offenders accountable if the victim is not able to engage in the process.

One way to support the victim and enhance safety and offender accountability is to employ a more evidence based investigation. Consider, for example the sweeping changes in the 1990s in the way domestic violence investigations were conducted. As law enforcement shifted to a more evidence based investigation to capture size/strength relations, outcry witnesses, property damage documentation and pattern behavior, the concept of “predominant aggressor” was established. Although a victim’s participation is certainly important, that victim’s statement is not the *only* piece of evidence of an assault.

Many acquaintance sexual assaults have these similar dynamics. Therefore employing an evidence based sexual assault investigation can be valuable to keeping victims engaged and holding offenders accountable. A suspect exam is an important part of an evidence based sexual assault investigation.

For a non-acquaintance sexual assault, or a sexual assault in which the consent defense is not asserted, DNA is an invaluable piece of physical evidence. For other cases that may result in a consent defense, a suspect exam is still valuable as it may provide corroboration of the suspect or victim statements. A suspect exam may result in evidence to establish the location of the assault, or may provide evidence of physical resistance from the victim or force by the suspect.

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

Having established the need for suspect exams, who administers the exam is at the heart of this gap statement. Without assistance from a trained forensic medical providers, local law enforcement has proceeded on occasion with gathering evidence of that nature themselves. Generally, those exams include a cursory collection of evidence, such as pubic hair combing or genital swabbing. This cursory exam lacks the depth of a forensic exam completed by a properly trained medical professional.

The negative impact of suspect exams being conducted by someone other than qualified medical professionals is two-fold:

- Evidence may be inadmissible by court.
- A limited amount of evidence being identified and collected by detectives.

What contributes to this gap?

The audit team heard from detectives, forensic medical examiners and supervisors and crime lab personnel, as well as reviewed text that all pointed to a need for such exams.

- The detectives who were interviewed were concerned about the quality and quantity of evidence they collected. The detectives unanimously felt inadequately trained to administer suspect exams, therefore the detectives were concerned that if it was not collected in best practice, it would be suppressed. They also were concerned that they were not collecting all of the potential evidence which was available for collection due to their lack of training.
- In one police report of a reported rape, the offender did not state he had sexual intercourse with the victim, making a penile swab an important investigative step. The police detective applied for, and was granted a search warrant to do so. That was the only evidence collected. Other physical evidence could have been identified and collected, had a trained medical professional conducted this suspect examination.
- In another police report, a suspect was arrested for rape and the suspect invoked his right to remain silent. The investigator did not pursue a search to collect forensic evidence.
- A SANE nurse described her profession as the “natural choice” for the people who should complete suspect exams. The SANE nurse and supervisor described two barriers to such exams:
 - Limited personnel resources. If there is only one SANE available, and that SANE completes a victim exam, the SANE would have to wash, change clothes and location before beginning the suspect exam. This is very time consuming for all parties involved. It is better to have another SANE do the exam, but that is not always an option. Either way, extended work hours or additional nurses to do the work, this may require additional funding.
 - Limited resources in the form of facilities. Suspect exams should never be done in the same location as victim exams.

- Safety: If the suspect and the victim should be present at the same time it could be a safety issue for the victim and create opportunities for the suspect to intimidate the victim-witness.
 - Cross-contamination: If a suspect and a victim access the same areas the possibility exists of cross-contamination.
 - Other victims' comfort: Even if a particular suspect's victim is not present, other victim(s) may be present. Having been through an emotional assault, knowing a sexual assault suspect is present, even if not that victim's offender, may be very traumatic to the victim.
- A victim stated in a victim survey, *"One thing that kind of made the experience unnecessarily awful was that the assailant was brought in through the front of the hospital as I was being led to the exam room, so I had to face him RIGHT after he attacked me. This needs to be avoided AT ALL COSTS. It was horrible."*
- Text analysis of the previously referenced IACP Model Policy also provides best practice on the topic of suspect exams. That IACP Policy entitled "Sexual assault Investigations Policy" states (in-part), "The forensic examiner shall document the suspect's medical history, document all injuries that are observed, and collect biological and trace evidence from the suspect's body... It is essential that the victim and suspect examinations must take place in different locations."
- Other text³⁷ provided by First Step describes compelling reasons for completing suspect exams, as mentioned earlier in this section. However, this text also makes it clear who should complete the exam. On at least four occasions, it states law enforcement, or even an evidence technician, is not the best person to collect forensic evidence from a sexual assault suspect. Those comments included the following:

"While it is clearly less expensive to use law enforcement personnel to conduct suspect exams, the evidence that can be collected is extremely limited when compared to the documentation and evidence that can be collected by a trained forensic examiner with specialized expertise in this area."

"To obtain the best forensic evidence possible, I believe the suspect exams must be conducted by examiners with specialized training and clinical experience. In most cases, this will be a health care provider, not a law enforcement officer or employee of the crime lab."

Joanne Archambault, author of "Forensic Exams for the Sexual Assault Suspect" article in Sexual Assault Report Volume 11, Number 3.

- A representative from the MT State Crime Lab advised the audit team that, in his opinion, law enforcement should not be conducting these exams. He stated SANE nurses have the training and experience in this field to collect the evidence appropriately.

³⁷ *Forensic Exams for the Sexual Assault Suspect*, SEXUAL ASSAULT REPORT Vol. 11, No. 3

What will help address this gap?

First Step employees agree suspect sexual assault exams contribute to evidence-based prosecutions and reduce reliance on the victim as the primary source of information and evidence. They also agree that trained forensic medical providers are the more appropriate professionals to collect such evidence so as to receive the greatest benefit and hold offenders accountable. First Step employees have provided suspect exams in the past at the request of law enforcement, however they have not been done consistently.

- Recommend that funding be available for SANE nurses to be able to provide suspect exams. This can be through different SANE nurses conduct the victim and suspect exams. Or, if only one SANE is used, having the funding to support the increased time this will take. This time increase is not only due to a second exam (with the suspect) but also for transition time, changing clothing, and changing location.
- Recommend access to additional *facilities*. Regardless of who completes the sexual assault exams, victims and suspects must be examined in different locations.
- Recommend a First Step and Multidisciplinary Team³⁸ written protocol. A written protocol is necessary to guide Missoula's Multidisciplinary Team practices for suspect examinations and to outline First Step's practice guidelines and include case specific parameters in which an exam is recommended, cost responsibility and other logistical needs.
- Recommend providing law enforcement, prosecutor, and other hospital staff training. First Step must train relevant personnel on the above protocol and other related areas to make this service effective.

Responsible Parties:

- First Step
- MDT Advisory Board
- UMPD
- MPD
- MCSO
- MCAO
- Just Response

³⁸ *The Multi-Disciplinary Team (MDT) represents the professions working in the field of sexual and intimate partner violence. Those professions include law enforcement, prosecution, advocacy, medical professionals, etc.*

Gap #4: Information sharing across agencies is often times interrupted or prohibited which complicates reporting and the investigative process.

As the audit team began to interview supervisors and practitioners within the criminal justice system, the advocacy profession and the UM campus community, the inability to share information became immediately apparent.

Without exception, practitioners and supervisors regretted the inability to share information, but each quickly pointed to regulations which prohibited it.

This interruption, or prohibition of information flow causes victims to experience delay in reporting or requires victims to re-experience their assault to different organizations.

This gap category spans several professions. This section will divide it into the following relationships to make this issue more manageable and to illustrate the complexity of this issue.

- 1) Sharing Confidential Criminal Justice Information (CCJI) between criminal justice agencies and government victim advocates.
- 2) Sharing CCJI between criminal justice agencies and the UM administration.
- 3) Sharing Title IX information with criminal justice agencies.
- 4) Sharing student record information with criminal justice agencies.
- 5) Sharing virtually any information between advocates and any other organization.

1) Sharing CCJI from criminal justice agencies to crime victim advocates.

Advocates are present in two different ways throughout communities across America: “systems based advocates” and “community based advocates.”

A systems based advocate is placed within a criminal justice agency, (i.e. a law enforcement agency or a prosecutor’s office). Those advocates are generally employees of the agency, or are responsible to that agency.

Conversely, a community based advocate is independent of the criminal justice system, funded by outside resources, and provides crucial confidential support and services to victims. Community based advocates are not accountable to law enforcement or prosecutors.

Missoula has the good fortune to have three well established advocacy programs: YWCA, SARC and Missoula County Crime Victim Advocate Office (CVA). SARC and YWCA are community based advocacy programs and clearly not affiliated with the criminal justice system. The CVA however, is unique. The CVA is a government funded and independent city/county agency.

When the CVA was established in the 1980s, a conscious decision was made to have the CVA independent of city and county law enforcement and prosecutorial agencies. This was done for good reason, which was to make a distinction between advocacy and law enforcement and/or prosecution. By having a clear delineation, the CVA has no obligation or expectation to share confidential information learned from victims and can remain victim oriented.

“How does our community’s response to sexual assault engage and support victims and enhance victim safety and offender accountability?”

In spring of 2014, the City of Missoula and Missoula County collaborated on a new law enforcement records management system (LERMS). When access was being authorized for LERMS, the City of Missoula denied LERMS access to the CVA Office. Montana law³⁹ requires that only criminal justice agencies⁴⁰ were to be granted access to CCJI information via LERMS and their interpretation of CVA as an independent agency excluded their access.

The Missoula County Sheriff's Office, due to a difference of legal opinion, has continued to provide the CVA access to LERMS, and in turn, access to their cases. However, the new Missoula County Attorney shares many of the concerns raised by the Missoula City Attorney regarding access to the LERMS. The new Missoula County Attorney expressed a desire to search for a solution following the audit process. Regardless of the MCAO's long term opinion, the gap still exists between the MPD and the CVA, and the MPD investigates the vast majority of the sexual assault cases in Missoula County.

How does the inability to share information complicate the reporting and investigation of sexual assault?

There is a clear negative impact if the CVA is unable to get the necessary information to provide services to sexual assault victims.

- Victims do not receive all of the services that might be available to them if victim services cannot access information to identify victims and offenders and understand case dynamics.
- Offenders are not held fully accountable if the full picture cannot be painted to different agencies about offenders.

What contributes to this gap?

- During practitioner interviews, advocates stated their inability to access information complicates the victim's access to services (encouragement, support, participation, and safety planning, etc.). Without these services, the likelihood of a victim continuing to participate in the investigation may be impacted which makes offender accountability improbable.
- Text analysis showed the MPD "Notice to Victim" form had previously introduced a stop-gap measure to help provide advocacy services by gaining the victim's consent. This allowed the MPD to provide victim information to advocates. However, it occasionally fell short due to human error or victims not fully understanding the purpose for releasing the information or the role of the CVA.

³⁹ **44-5-303. Dissemination of confidential criminal justice information -- procedure for dissemination through court.** (1) Except as provided in subsections (2) through (4), dissemination of confidential criminal justice information is restricted to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure.

⁴⁰ **44-5-103. Definitions.** As used in this chapter, the following definitions apply: (7) "Criminal justice agency" means: (a) any court with criminal jurisdiction; (b) any federal, state, or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice

- Advocacy best practices recommend the advocate know the incident well enough to not require the victim to describe repeatedly. An advocate told the audit team the most important limitation with the MPDs interim solution (Notice to Victim form) was that it does not provide incident specific detail. This requires the victim to again describe the details of the assault committed against him or her so the advocate knows what type of services to provide.
- A recently awarded grant has allowed the CVA to place an advocate in the MPD Detective Division. With this assignment, that particular advocate is able to know more details about the case, due to her affiliation with a criminal justice agency. However, the assigned advocate is not full-time, and her right-to-know does not extend to other advocates who work in her absence or who may assist her with a case.
- A supervisor within the CVA pointed out that being the only government funded, independent agency in the state has great advantage to remain focused on victim service, and the drawback is not being considered a criminal justice agency, which prevents them from having access to CCJI to fulfill their duties.

What will help address this gap?

Unlike other gaps, there are many options to address this gap. The audit team recommends a collaborative discussion amongst community leaders to find the best long-term solution to this gap so as to have a more coordinated community response to sexual assault.

Option #1: Legislative change. A change in MCA 44-3-505 to add the crime victim advocate office as an agency which may access CCJI.

Option #2: Governor's executive order. As authorized below, The Governor has authority to identify that a local CVA performs a principal function in the administration of criminal justice and has access to LERMS⁴¹

Option #3: Law Enforcement/Prosecutor Victim Advocates. Local criminal justice agencies could employ or otherwise affiliate advocates within their agencies to provide victim services. Upon employment or affiliation into a criminal justice agency, those advocates would then be entitled to access CCJI.

Responsible Parties

Regardless of the chosen remedy, the following agencies would have a role in closing this gap:

⁴¹ 44-5-103. Definitions. As used in this chapter, the following definitions apply: (7) "Criminal justice agency" means:

(a) any court with criminal jurisdiction;

(b) any federal, state, or local government agency designated by statute or by a governor's executive order to perform as its principal function the administration of criminal justice

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- MPD
- UMPD
- MCSO
- CVA
- CAO
- MCAO
- Just Response

Depending on the option chosen by community leaders, the following agencies may have a role in closing the gap:

- Montana Governor's Office
- Montana State Attorney General's Office
- City or County government political leaders and lobbyists.
- Legislators

2-5) Sharing CCJI, school records and Title IX and advocacy information between allied agencies.

As we documented above, MCA 44-5-103 appears to prohibit advocates from receiving CCJI unless they are within a criminal justice agency. This statute also prohibits the release of CCJI to outside organizations such as school administrations. Sexual assaults that occur on university campuses or between university students will likely have co-occurring investigations: a criminal investigation and a Title IX investigation.

To further complicate exchange of information, university administrations also have strict laws that govern the confidentiality of student records and victim service records including the Family Educational Rights and Privacy Act (FERPA)⁴², which prevent university administrators from disseminating information to law enforcement.

Also, victims oftentimes utilize a community-based advocacy service, such as SARC, which is also prohibited from releasing any information without consent.

The advocate cannot tell law enforcement what the victim disclosed to the advocate (without consent), law enforcement cannot disclose to the university administration what was learned in a criminal investigation, and campus administration cannot disclose what they've learned in their Title IX investigation.

How do other inability to share information impact the community's response to sexual assault?

⁴² Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record with some exceptions such as safety emergencies, judicial order or subpoena, etc.

A complex process which does not work well together can be overwhelming to victims and it causes many victims to discontinue the reporting process. Since none of these organizations can share information, consider this very likely scenario of a university sexual assault victim:

- The victim will tell the advocate about the assault, so the advocate can understand how the victim might best benefit from its services, and to whom the victim should be referred.
- If the victim then decides to report to law enforcement, the victim will need to provide a statement to first responders.
- A detailed follow up interview will be requested by law enforcement.
- If the victim wants to pursue sanctions from the university system, the victim once again has to repeat the details of this event to a school administrator and at a student hearing.
- If the criminal case is prosecuted, the victim may again be requested to give the statement as testimony.

There are some ways for law enforcement to obtain certain information. For example, if it is not a health or safety emergency, law enforcement may access student information through a subpoena. However, occasions arise in which a criminal investigation has sensitive timelines for effectiveness, but it is not an emergency. In those instances, law enforcement has delays in obtaining the appropriate legal authority to demand student record information, such as a class schedule. If law enforcement would like to contact a named offender, the law enforcement officer would have to get a subpoena for the class schedule in order to locate that offender. This time delay could impact the officer's ability to locate the offender quickly.

- Criminal prosecutors communication frustrations have occurred between the UM Administration and prosecutors' offices because of the aforementioned competing statutes. Without careful planning and communication Title IX proceedings can interfere with the criminal process.
- Several officers from UMPD stated their number one frustration is the inability to share CCJI with different parties. One member specifically stated that "makes it hard to make a difference and work together."
- A SARC employee said neither advocacy nor law enforcement can share information with UM administration for student conduct proceedings. Additionally, she cannot share important information with law enforcement (without informed consent) and law enforcement cannot share information with advocacy which could assist in victim service.
- Text analysis identified many different sources that govern a therapist's obligations to maintain privacy and confidentiality⁴³. The general theme throughout these written rules is

⁴³ <http://www.counseling.org/resources/aca-code-of-ethics.pdf>;
<http://mtrules.org/gateway/RuleNo.asp?RN=24.219.804>;
<http://www.nbcc.org/Assets/Ethics/NBCCCodeofEthics.pdf>; <http://www.apa.org/ethics/code/>;
<http://www.socialworkers.org/pubs/code/default.asp>;

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that such privacy and confidentiality are a cornerstone for trust in the profession, and information shall only be disclosed under strict guidelines⁴⁴.

- A UMPD supervisor stated if a sexual assault (or any other criminal act) occurred on campus, the Dean of Students would not be made aware of the details by UMPD. He stated the student would actually have to advise the Dean of Students directly to provide information about the incident, due to MCA 44-5-103. As mentioned above, this is another instance in which the victim would have to relive the event in order to bring in the UM Administration.

In reviewing police reports, a good example can be seen in a case involving a UM student who reported a rape. The UM Title IX office could not be provided the victim's name, due to it being confidential criminal justice information. Therefore the Title IX office had to request the UMPD officer re-contact the victim, deliver the Title IX contact information to the victim and explain the role of Title IX. This can cause confusion to a victim who may not understand the co-occurring investigations.

What is causing the gap?

- Conflict of statutes is a significant cause. These include FERPA, MT code related to confidential criminal justice information and advocate privilege⁴⁵ and many different sources governing a counselor's obligations to maintain privacy and confidentiality⁴⁶ including the ACA Code of Ethics Manual⁴⁷ routinely conflict.

http://www.crc certification.com/pages/crc_ccrc_code_of_ethics/10.php;

http://www.naadac.org/assets/1959/naadac_code_of_ethics_brochure.pdf

⁴⁴ 2014 American Counselors Association Code of Ethics Manual SECTION B.1.c "Respect for Confidentiality: Counselors protect the confidential information of prospective and current client. Counselors disclose information only with appropriate consent or with sound legal or ethical justification."

⁴⁵ 26-1-812. Advocate privilege. (1) Unless a report is otherwise required by law, an advocate may not, without consent of the victim, be examined as to any communication made to the advocate by a victim and may not divulge records kept during the course of providing shelter, counseling, or crisis intervention services.

(2) This privilege belongs to the victim and may not be waived, except by express consent. The privilege continues even if the victim is unreachable. Consent may not be implied because the victim is a party to a divorce or custody proceeding. The privilege terminates upon the death of the victim.

(3) For purposes of this section, the following definitions apply:

(a) "Advocate" means an employee or volunteer of a domestic violence shelter, crisis line, or victim's services provider that provides services for victims of sexual assault, stalking, or any assault on a partner or family member.

(b) "Victim" means a person seeking assistance because of partner or family member assault, any sexual assault, or stalking, whether or not the victim seeks or receives services within the criminal justice system.

⁴⁶ <http://www.counseling.org/resources/aca-code-of-ethics.pdf>;

<http://mtrules.org/gateway/RuleNo.asp?RN=24.219.804>;

<http://www.nbcc.org/Assets/Ethics/NBCCCodeofEthics.pdf>; <http://www.apa.org/ethics/code/>;

<http://www.socialworkers.org/pubs/code/default.asp>;

http://www.crc certification.com/pages/crc_ccrc_code_of_ethics/10.php;

http://www.naadac.org/assets/1959/naadac_code_of_ethics_brochure.pdf

⁴⁷ 2014 American Counselors Association Code of Ethics Manual SECTION B.1.c "Respect for Confidentiality: Counselors protect the confidential information of prospective and current client. Counselors disclose information only with appropriate consent or with sound legal or ethical justification."

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Beyond the conflicts to field response, state laws also do not allow information sharing for case review on adult sex offense cases⁴⁸ as they do for child sex offense cases. This type of case review provides valuable learning opportunities for professionals to not only assist one particular victim, but apply those lessons learned to future cases.

What will help address this gap?

Of all the gaps, this is the most difficult to address. Rules and regulations on three entirely different platforms are intersecting. Law enforcement is abiding by a state statute related to dissemination of CCJI, university administration is abiding by a federal statute related to student privacy, and advocacy is abiding by their professional code of ethics standard.

These three legal prohibitions are unlikely to be changed as a result of this audit. Nor does the audit team necessarily believe that is the solution. Some of these obstacles can be overcome by subpoena or court order but others may not. Regardless, community partners must operate within existing limitations to the best of their ability and practitioners must be vigilant in shouldering the burden of these complexities so that victims are not left to navigate them on their own.

- Recommend each agency maintain, and strictly adhere to protocols about information sharing. Those protocols should include clear information for victims so victims understand their right to privacy and the implications of consenting to share their information. Victims must also understand what agencies are allowed to share information amongst themselves and what agencies are prohibited from sharing information.
- Recommend research regarding promising practices related to information-sharing in sexual assault cases.
- Recommend continued discussions with agency partners to develop solutions and strategies to overcome information-sharing obstacles that limit the community's ability to support and enhance safety and well-being for victims and to hold offenders accountable.

Conclusion

The audit team has worked consistently on this community project for nearly a year and is proud to provide this document from which to build a coordinated community response to sexual assault.

All of the recommendations in this report are made in effort to improve each organization and our collective performance. The members of the team represent the key stakeholders in this issue and will assist each other to support the implementation of these recommendations.

⁴⁸ MCA 52-2-211. County interdisciplinary child information and school safety team. (in part) (4)The purpose of the team and written agreement is to facilitate the exchange and sharing of information that one or more team members may be able to use in serving a child in the course of their professions and occupations, including but not limited to abused or neglected children...

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE
AND THE CITY OF MISSOULA REGARDING THE MISSOULA
POLICE DEPARTMENT'S RESPONSE TO SEXUAL ASSAULT**

I. RECITALS

- A. This Agreement (“Agreement”) is entered into by the City of Missoula (the “City”) acting through the Missoula Police Department (“MPD”), and the United States Department of Justice (“DOJ”) (collectively, “the Parties”). This Agreement is intended to resolve DOJ’s investigation of MPD, initiated pursuant to 42 U.S.C. §14141 and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d. DOJ has provided the City and MPD preliminary feedback indicating areas of concern. The City and MPD have engaged in open dialogue about concerns raised by DOJ regarding response to sexual assault.
- B. The United States has investigated claims of gender bias by MPD in its response to sexual assault. The City and MPD enter into this agreement expressly denying any claims of constitutional or statutory violations. The City and MPD have fully and completely cooperated with the DOJ investigation. DOJ acknowledges that MPD had been working to improve its response to sexual assault prior to DOJ initiating its investigation. DOJ has issued a Letter of Findings regarding the conclusions of its investigation. The City and MPD are agreeable to making changes to improve practices.
- C. The purpose of this Agreement is to provide for a cooperative effort by DOJ and the City to institute improvements to MPD’s policies, practices, and supervision that will promote effective, nondiscriminatory law enforcement and community support for victims, the MPD, and its officers. Entry of this Agreement is in the public interest since it provides for expeditious changes in the community’s interest.
- D. The Parties recognize that public safety, constitutional policing, and the community’s trust in its police force are interdependent. The United States recognizes that the City and MPD have already taken steps to help effectuate these goals. This Agreement is intended to continue promoting all three of these goals by requiring MPD to implement new or revise existing policies, provide training, and change practices, to improve its response to sexual assault, including by combating gender bias. The Parties’ mutual intent is to ensure that law enforcement responds to sexual assault in a nondiscriminatory manner that complies with the Constitution and laws of the United States; improves the safety and security of victims of sexual assault in Missoula; and

increases the Missoula community's confidence in law enforcement's response to sexual assault.

- E. DOJ acknowledges that, by already taking proactive steps to help effectuate the intent of this Agreement, the City and MPD have demonstrated their commitment to improving MPD's response to reports of sexual assault. The Parties intend that MPD will continue to implement improved policies, provide increased training, and modify practices, in order to further improve its response to sexual assault and ensure that there is no gender bias. This Agreement further requires MPD to demonstrate that the implementation of this Agreement has eliminated the practices that may unnecessarily compromise sexual assault investigations and result in violations of federal law, and that MPD has put in place the systems and oversight that will prevent patterns or practices of gender bias or unconstitutional conduct from occurring. To that end, the Agreement calls for MPD to develop procedures for gathering and analyzing data to assess the incidence and outcomes of reports of sexual assault; to work with an Independent Reviewer, community-based organizations, and other stakeholders to develop and implement the reforms described in the Agreement; and to evaluate MPD's success in effecting meaningful reform.
- F. The Parties acknowledge that this Agreement is intended to ensure the success of MPD's efforts to improve its response to sexual assault. Nothing in this Agreement shall be construed as an acknowledgement, an admission, or evidence of liability of the City or MPD for any violation of State or Federal law, violation of the State or Federal Constitution, or for any alleged gender bias in the performance of law enforcement duties.
- G. DOJ agrees to forego the filing of any claim relating to MPD's response to sexual assault under Section 14141 for the duration of this Agreement. The Parties acknowledge that nothing in this Agreement shall preclude DOJ from filing any other claims against the City or MPD, including claims under Section 14141.
- H. The City agrees to fully implement this Agreement within two years of the Effective Date of this Agreement. DOJ agrees it shall timely respond to requests for approval and shall not unreasonably withhold approval for any actions required by this Agreement. DOJ reserves its right to enforce the provisions of this Agreement through specific

performance in the United States District Court for the District of Montana if it determines that the City has failed to fully comply with any provision of this Agreement during that period of time.

- I. Noting the general principle favoring settlements, particularly settlements between government entities, the City agrees to undertake the measures set forth herein.

II. DEFINITIONS AND ABBREVIATIONS

1. The following terms and definitions shall apply to this Agreement:
 - a) "DOJ" means the United States Department of Justice's Civil Rights Division and its agents and employees.
 - b) "Effective Date" means the date this Agreement is executed by the Parties.
 - c) "Implement" or "implementation" means the development or putting into place of a policy or procedure, including the appropriate training of all relevant personnel, and the consistent and verified performance of that policy or procedure in actual practice.
 - d) "Include" or "including" means "include or including, but not limited to."
 - e) "Independent Reviewer" means a person, persons, or team of people, independent from the City and MPD, who shall be selected to assess and report on implementation of this Agreement.
 - f) "MPD" means the Missoula Police Department and its agents, officers, detectives, supervisors, command staff, employees (both sworn and unsworn), and contractors.
 - g) "MPD personnel" or "MPD employee" means all MPD employees, contractors, and volunteers, including command staff, supervisors, officers, detectives, and civilian employees.
 - h) "Policy" or "protocol" means a written regulation or directive, regardless of the name of the regulation or directive, describing the duties, functions, and obligations of MPD personnel, and/or providing specific direction in how to fulfill those duties, functions, or obligations.
 - i) "Sexual assault," for the purposes of this Agreement, means sexual assault as defined by Montana Code Annotated §§ 45-5-502 (sexual assault) and 45-5-503 (sexual intercourse without consent), exclusive of child sexual assault.
 - j) "Shall" means that the provision imposes a mandatory duty.

k) "Supervisor" means a sworn MPD employee at the rank of sergeant or above (or anyone acting in those capacities) and non-sworn personnel with oversight responsibility for MPD personnel.

III. IMPROVING MPD'S RESPONSE TO SEXUAL ASSAULT

In accordance with the Recitals set forth above, MPD shall develop and implement the following measures:

A. Sexual Assault Policies and Protocols

2. MPD shall assess and modify as necessary its policies and protocols to strengthen its response to sexual assault, and ensure that the policy incorporates the requirements of this Agreement and comports with best practices and current professional standards. These policy modifications shall include but not be limited to revising MPD's existing policy, entitled "Response to Rape and Sexual Assaults." MPD's revised sexual assault policy should incorporate the requirements of the International Association of Chiefs of Police Model Policy on Investigating Sexual Assaults on at least the following topics:
 - a. Initial officer response to a report of sexual assault, including requirements specific to assisting the victim, evidence collection, and the identification and location of witnesses;
 - b. Response to stranger and non-stranger sexual assault;
 - c. The preliminary victim interview, including the development of a victim interview protocol, and the comprehensive, follow-up victim interview;
 - d. Contacting and interviewing suspects;
 - e. Medical forensic examinations and coordination with the forensic examiner;
 - f. Participation of victim advocates;
 - g. Investigative considerations regarding alcohol and drug-facilitated sexual assault, including requirements specific to evidence collection and the forensic examination of victims;
 - h. The role of the supervisor; and
 - i. Procedures for blind reporting of sexual assault.

B. Sexual Assault Response Training

3. MPD shall provide initial and on-going annual in-service training to all MPD officers, detectives, and recruits about law enforcement response to sexual assault. This initial and annual in-service training shall ensure that all MPD officers and detectives understand and can perform their duties pursuant to this Agreement, and shall reflect and incorporate any developments in applicable law, best practices, and professional standards. Annual in-service training also shall address any training needs identified throughout the previous year. This initial and in-service training shall be of sufficient length and scope to include the following topics:

- a. MPD's new or revised sexual assault policy, developed pursuant to this Agreement;
- b. Effective law enforcement response to reports of sexual assault;
- c. Effective law enforcement response to non-stranger sexual assault; alcohol and drug-facilitated sexual assault; and sexual assault where the victim is incapacitated or otherwise unwilling or unable to clearly describe the assault;
- d. The dynamics of and relevant core scientific concepts related to sexual assault including counterintuitive behavior, tonic immobility, and the effects of trauma on memory;
- e. Taking statements from individuals reporting sexual assault;
- f. Forensic examinations of sexual assault victims, including understanding, interpreting, and documenting medical forensic reports; communicating and coordinating with medical staff involved in forensic exams; and using forensic exams in development of investigations and referrals for prosecution;
- g. The impact of officers' and detectives' attitudes towards victims on investigative outcomes; and
- h. The impact of bias in law enforcement agencies' response to sexual assault and strategies to ensure that bias does not undermine investigations, damage rapport with victims reporting sexual assault, or re-traumatize victims.

4. This training shall include presentations by victims of sexual assault and victims' advocates in order to provide officers with the unique perspectives of those who have been victimized by sexual assault and/or those who work with sexual assault survivors.

5. MPD shall provide additional in-depth training in sexual assault investigations to all MPD detectives who conduct such investigations. This training shall include the following topics:

- a. The elements of sexual assault offenses under Montana law;
- b. Forensic and investigative steps to be taken in response to sexual assault allegations, including focused training on the forensic and investigative steps specific to non-stranger sexual assault, alcohol and drug-facilitated sexual assault, and sexual assault involving victims who are incapacitated or otherwise unable or unwilling to clearly describe the assault;
- c. Taking statements from and interviewing individuals reporting sexual assault; and
- d. Taking statements from, interviewing, and interrogating suspects in non-stranger and alcohol and drug-facilitated sexual assault.

6. MPD personnel who provide direct supervision of officers who respond to reports of sexual assault and of detectives who investigate sexual assault allegations shall receive training on how to review sexual assault response and investigations for comprehensiveness and to detect indications of bias, including how to implement the supervisory reviews and responsibilities contained in this Agreement.

7. Training pursuant to this Agreement shall be provided in accordance with best practices and include adult-learning methods that incorporate role-playing scenarios and interactive exercises, as well as traditional lecture formats. Training also shall include testing and /or writings that indicate that MPD personnel taking the training comprehend the material taught.

C. Review of Policies and Training

8. Each of the requirements of this Agreement shall be incorporated into MPD policy, and all relevant MPD officers and employees shall be trained how to meet the requirements of this Agreement. MPD shall submit new and revised policies and protocols related to sexual assault and/or the terms of this Agreement, and all curricula for trainings developed pursuant to this Agreement to the Independent Reviewer and DOJ for review and comment prior to implementation and/or training delivery. MPD will seek to address all reasonable concerns raised by the Independent Reviewer or DOJ. MPD

shall publish and/or implement the policies, protocols, and/or curricula within 30 days of approval by the Parties and Independent Reviewer.

9. MPD's sexual assault related policies shall be publicly available.

D. Investigating Non-Stranger and Alcohol- or Drug-Facilitated Sexual Assault

10. MPD shall enhance and improve policy, training, and oversight to ensure that patrol officers and detectives: 1) recognize the prevalence of non-stranger and alcohol- or drug-facilitated sexual assault, and the relative infrequency of false reporting of such assault, and, 2) accordingly take all appropriate investigative steps when investigating non-stranger sexual assault, alcohol- or drug-facilitated sexual assault, and sexual assault involving victims who were incapacitated at the time of the assault or otherwise unable or unwilling to clearly describe the assault.

E. Victim-Centered Response to Sexual Assault

11. MPD shall enhance and improve policy, training and oversight to ensure victim-centered practices in the areas of sexual assault response, interviews, and investigations in order to increase the likelihood of victims' continued participation with law enforcement; improve the experience for victims; and strengthen sexual assault investigations. These practices shall include the following:

- a. Inviting and encouraging advocates to be present during interviews, if consistent with the victim's wishes;
- b. Conducting interviews at times and locations convenient to the victim, whenever possible;
- c. Introducing particularly sensitive lines of questioning by first explaining why those questions are important to the investigation;
- d. Instructing detectives and officers not to ask victims whether they wish the assailant to be prosecuted;
- e. Ensuring that officers describe the process of taking forensic exams and working with law enforcement and the courts in a manner that is both sensitive to the needs of victims and supports their participation in the criminal justice process;
- f. Documenting reports of sexual assault using the language of non-consensual sex, as appropriate, and using the victim's own language as much as possible; and

- g. Transporting the victim to the designated medical facility for a forensic exam where such an examination is warranted and the victim consents.

F. Close Supervision and Internal Oversight

- 12. MPD shall establish and implement measures to ensure close supervision and internal oversight of all sexual assault investigations. These measures shall include:
 - a. MPD shall develop and implement measures, including a survey designed and administered consistent with best practices, to obtain feedback on the treatment of victims from victims and advocates.
 - b. The treatment of sexual assault victims, especially the treatment of victims of non-stranger sexual assaults, shall be included as a factor in evaluating MPD detectives and patrol officers.
 - c. Non-stranger and alcohol or drug-facilitated sexual assault investigations shall be assigned only to those detectives with the demonstrated skills, interest, and training to conduct those investigations effectively and without bias.
 - d. The Captain of Detectives shall sign off on any sexual assault investigation that is not referred for prosecution.
 - e. A supervisor shall review all sexual assault reports within 48 hours of the report being taken to ensure consistency with MPD policy for initial officer response and documentation.
 - f. A supervisor shall review all sexual assault investigations to ensure comprehensive investigation has been conducted and all indicated follow up has been completed before they are closed or referred to the prosecutor.
 - g. Before a sexual assault investigation is closed, MPD shall refer the case for review by the relevant prosecuting agency and a MPD supervisor shall make all reasonable efforts to consult with a supervising prosecutor regarding whether closure is appropriate or whether additional investigation should be conducted.
 - h. MPD supervisors shall conduct a periodic review of closed cases and cases where victims declined to participate in the investigation to identify any systemic problems. Periodic reviews shall include a review of case files, recorded interviews, and victim and advocate feedback for investigative comprehensiveness and indications of bias.

G. Coordination with Law Enforcement and Community Partners

13. To improve the reporting and participation experience for victims of sexual assault, MPD shall increase and improve its communication, coordination, and collaboration with community and law enforcement partners, including the University of Montana (the "University"), the University's Office of Public Safety ("OPS"), the Missoula County Attorney's Office ("MCAO"), and community advocates. MPD shall:
- a. Draft and work with MCAO to seek a Memorandum of Understanding with MCAO clarifying the roles and responsibilities of MPD and MCAO involved in the referral of a sexual assault case from MPD to MCAO, and take affirmative steps to ensure effective communication and collaboration between MPD and MCAO, especially on subjects including case referrals, charging decisions, and areas for investigative follow up.
 - b. Develop an effective mechanism to ensure that MPD understands and documents why MCAO downgrades, upgrades, or declines to prosecute sexual assault cases referred by MPD. Where MCAO declines a case due to insufficient evidence, this mechanism proposed to MCAO shall request sufficient information from MCAO for MPD to ensure it understands which elements lack evidence to support a charge and whether additional avenues for investigation may exist.
 - c. Ensure that relevant MPD personnel understand their role and responsibility, pursuant to MPD's Memorandum of Understanding with OPS, to respond to on-campus sexual assault reported directly to MPD or referred by OPS.
 - d. Take affirmative steps to ensure effective communication and coordination between MPD, the University, and OPS.
 - e. Increase coordination and communication with medical staff and forensic examiners interacting with individuals reporting sexual assault, in order to improve sexual assault investigations and reduce unnecessary burdens on individuals reporting sexual assault. Measures to increase such coordination and communication shall include:
 - i. in cases where law enforcement has been involved prior to the victim's forensic exam, briefing the medical staff and/or forensic examiners about the reported assault prior to the forensic exam;

- ii. receiving a briefing following the exam from the medical staff and/or forensic examiners regarding their findings, including the results of the forensic examination;
 - iii. including reference to any forensic examination, and specifically referencing findings related to all injuries and other significant evidence, in the case report;
 - iv. incorporating information from the forensic report and communication with medical staff in development of investigative strategy and determination as to whether to refer the case for prosecution; and
 - v. attaching a copy of the forensic examination report to the case file.
- f. Further strengthen the partnership and improve the cooperation between MPD and agencies involved in the First Step Resource Center Multidisciplinary Team and other community and systems advocates by facilitating opportunities for officers to meet with and learn about these agencies and advocates; and soliciting feedback from the agencies and advocates, identifying barriers, and implementing remedies in order to increase victim participation in sexual assault investigations and prosecutions; improve the experience for victims who participate in sexual assault investigations and prosecutions; and otherwise improve sexual assault investigations.

H. Data Collection and Reporting

14. To identify shortcomings, assess improvement, and increase community confidence in Missoula law enforcement's response to sexual assault, MPD shall enhance its data collection, analysis, and reporting. Data collection shall include the following:
- a. Collect and record information about rates of sexual victimization in Missoula and track reports of sexual assault received by MPD through their outcomes in the court system. This information shall include the number of sexual assault reports to MPD; the number of cases referred from other law enforcement agencies to MPD; and the number of cases in which MPD assisted in transporting or obtaining transport for a victim to a medical facility equipped to perform a medical forensic exam. To the extent that MPD can reasonably obtain this information, it shall collect and record the number of reported sexual assaults in

Missoula, regardless of the entity to whom the sexual assault was reported; and the number of cases referred to MPD by Missoula 911 or the YWCA Rape Crisis Hotline.

- b. To the extent permissible by applicable law, MPD shall share this information with the public, and with its University, community, and law enforcement partners to allow them to increase public safety and respond to and support the needs of sexual assault survivors.
- c. As to unresolved investigations of reports of sexual assault, implement and maintain the use of a database to collect crime-specific information in order to identify similarities between reported sexual assaults and previous, unsolved cases.

IV. EXTERNAL REVIEW OF SEXUAL ASSAULT CASES

15. The Parties shall jointly select and establish a group of qualified representatives, including experienced sexual assault prosecutors, public defenders and/or other legal service providers, experienced sexual assault investigators, and/or advocates, to serve as an external review group for sexual assault cases. Beginning three months after the Effective Date, the external review group shall review, on a semi-annual basis, all reports of sexual assault received by MPD, and all investigations of those reports opened by MPD, since the Effective Date. Thereafter, this external review group shall review all reports of sexual assault received by MPD, and investigations of those reports opened by MPD, since the external review group's last such review.

16. The external review group shall, in conjunction with MPD, develop a protocol to guide their review and ensure consistency. This protocol shall set out a methodology and outcome measures for examining sexual assault investigations for comprehensiveness and indications of bias through a review of written reports and recorded interviews, and to review feedback collected by MPD or the City from advocates and victims. The protocol shall include appropriate safeguards to protect ongoing investigations, confidential or privileged information, and personal information protected from disclosure by applicable laws. Upon approval by MPD and the external review group, the protocol shall be approved by DOJ and the Independent Reviewer.

17. MPD shall develop a protocol to ensure that feedback and recommendations from this external review group are shared with MPD supervisors and command staff and incorporated into policies, general training, and targeted training for specific officers or detectives; the decision to reopen, reexamine, or re-categorize cases; and the decision to pursue additional avenues of investigation, where warranted.

V. **COMMUNITY-CONDUCTED SEXUAL ASSAULT RESPONSE SAFETY AND ACCOUNTABILITY AUDIT**

18. With oversight and advice from the Independent Reviewer, the City shall organize and lead a sexual assault safety and accountability audit ("Audit") designed to assess how the City, Missoula County, and the University respond to and collaborate to address sexual assault, with a focus on enhancing victim safety, support, and participation in the law enforcement process.

19. The Audit shall examine how, where, and if existing practices support victims of sexual assault and the accountability of offenders by undertaking a holistic examination of the processes, practices, routines, and functions of the criminal justice response to sexual assault. Specifically, the Audit will examine how the agencies and organizations participating in that response interact and work together to support victims and hold offenders accountable.

20. The Audit shall be designed to analyze and improve the criminal justice system's response to sexual assault. The Audit is not intended to examine or evaluate any single individual's work, or to review the MPD's response to or investigation of individual reports of sexual assault.

21. The Audit shall be conducted by an inter-agency, multi-disciplinary Audit team, which shall consist of individuals from participant agencies and organizations within the Missoula community, and other key stakeholders. The Audit team may receive advice, training, and technical assistance from qualified experts and Audit teams from other communities that have implemented similar audits;

22. The Audit team shall solicit the participation of agencies and organizations that participate in the sexual assault response in Missoula. These agencies and organizations may include the MPD, the University, OPS, MCAO, the Missoula County Sheriff's Office, the Missoula City Attorney's Office, the Missoula District Court, the Missoula

Crime Victim Advocate Office, the First Step Resource Center Multidisciplinary Team, and community-based sexual assault advocates.

23. The Audit will comport with the Duluth Safety and Accountability Audit (“Duluth Model”), and include the following steps:

- a. Forming and preparing the Audit team;
- b. Mapping the response to sexual assault cases and the different systems and organizations’ roles, actions, and relationships;
- c. Observing that response by shadowing and interviewing participants and victims;
- d. Analyzing, to the extent allowable by relevant privacy laws, the documents and information collected, shared, and used by participants, including 911 and dispatch transcripts, police reports, medical forensic reports, and pre-sentence reports; and
- e. Making recommendations for changes that will improve participants’ ability to perform their duties, support victims, and hold offenders accountable, and a plan for implementing those changes.

24. Prior to conducting the Audit, the City shall invite the community to attend a forum on the Audit to provide interested community members an opportunity to learn about the purpose of the Audit and how it will be implemented, and to provide input.

25. The City shall hold a second forum following the conclusion of the Audit, during which members of the Audit team shall present their recommendations to the community.

26. Following the Audit, the Parties and the Independent Reviewer shall confer and determine whether changes to this Agreement are appropriate in light of the Audit’s findings.

VI. INDEPENDENT OVERSIGHT

A. Selection of the Independent Reviewer

27. The parties have jointly selected Thomas R. Tremblay to serve as the Independent Reviewer to oversee the terms of this Agreement. The parties have jointly selected Anne Munch, Esq., to assist the City, MPD, external review group and the Independent Reviewer with respect to training.

28. The Independent Reviewer shall be appointed for a period of two years and shall have his appointment presumptively extended every year until the City demonstrates compliance with the entire Agreement. The Parties anticipate that compliance can be demonstrated no later than two years from the Effective Date.

29. The City shall bear all fees and costs of the Independent Reviewer. In selecting the Independent Reviewer, DOJ and the City recognize the importance of ensuring that the fees and costs borne by the City are reasonable, and accordingly fees and costs were one factor considered in selecting the Independent Reviewer. The Parties shall work with Mr. Tremblay and Ms. Munch to reach mutually agreed upon reasonable limits on the Independent Reviewer's fees and costs.

30. The City shall provide the Independent Reviewer with office space and reasonable office support such as office furniture, secure internet access, telephones, secure document storage, and photocopying, faxing, and scanning equipment, that the Independent Reviewer may use while on-site in Missoula.

B. Role of the Independent Reviewer

31. The Independent Reviewer shall only have the duties, responsibilities, and authority conferred by this Agreement.

32. The Independent Reviewer will assess and report whether the requirements of this Agreement have been implemented. The Independent Reviewer will also analyze the data collected pursuant to this Agreement and report on all measurable changes in MPD's response to, and investigation of, reports of sexual assault. The Independent Reviewer shall conduct regular compliance reviews, outcome assessments, and investigation reviews specified by this Agreement, and such additional reviews and assessments as the Independent Reviewer or the Parties deem appropriate to assess and report whether this Agreement has been implemented and is having the intended effect.

33. If the Independent Reviewer resigns from his or her position as Independent Reviewer, the former Independent Reviewer may not enter into any contract with DOJ or the City on a matter related to the Agreement without the written consent of the other Party while the Agreement remains in effect.

C. Compliance Reviews, and Outcome Assessments

34. The Independent Reviewer shall conduct regular compliance reviews to determine whether MPD has implemented and continues to comply with the material requirements of this Agreement. Compliance with a material requirement of this Agreement requires that MPD has: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; (c) ensured comprehension of all training received; and (d) ensured that the requirement is being carried out in actual practice. Compliance reviews shall contain both qualitative and quantitative elements as necessary for reliability and comprehensiveness.

35. In addition to compliance reviews, the Independent Reviewer shall conduct regular outcome assessments to determine whether MPD's implementation of this Agreement is having its intended effect, and whether the implementation of this Agreement has had any unintended negative impacts on either accomplishing the purposes of this Agreement, or on MPD's ability to conduct effective, constitutional policing. Outcome assessments shall not be determinative of whether this Agreement is having its intended effect, as each outcome measure is not designed to be considered in isolation. These outcome assessments shall include collection and analysis, both quantitative and qualitative, of the following outcome data:

- a. Number of sexual assault reports made to MPD;
- b. Rate of victim participation in MPD sexual assault investigations;
- c. Sexual assault victims' experience with MPD, including those victims who declined to participate in an investigation;
- d. MPD detectives' perceptions of their own sexual assault investigations, including whether those investigations result in: a higher rate of victim participation, improved evidence collection, more frequent discovery of similar acts by the same perpetrator, and more information elicited from interviews;
- e. Clearance codes assigned to closed sexual assault cases;
- f. To the extent that MPD can reasonably obtain such information, prosecutors' stated reasons for declining to charge sexual assault cases referred for prosecution;
- g. Rate of declination of sexual assault cases referred to MCAO for prosecution;

- h. First Step Resource Center Multidisciplinary Team experience with MPD; and
- i. Outcome measures developed by the external review group and/or the Audit team in conjunction with MPD.

36. In conducting these compliance reviews and outcome assessments, the Independent Reviewer may use any relevant data collected and maintained by the City that the Independent Reviewer and United States deem reliable and sufficiently complete.

37. The parties acknowledge that, while the above information shall be gathered, tracked, and assessed to determine the need for further law enforcement or community action changes, such factors shall not be used by DOJ to determined compliance with this Agreement.

D. Access and Confidentiality

38. The Independent Reviewer shall have timely, full, and direct access to all individuals, facilities, data, and documents, including both open and closed sexual assault investigative files, that the Independent Reviewer reasonably deems necessary to carry out the duties assigned to the Independent Reviewer by the Agreement. To facilitate his work, the Independent Reviewer may conduct on-site visits and assessments without prior notice to the City. The Independent Reviewer will cooperate with the City to access personnel, facilities, and documents in a reasonable manner that, consistent with the Independent Reviewer's responsibilities, minimizes interference with daily operations, and will not compromise the integrity of any ongoing criminal investigation.

39. DOJ and its consultants, experts, and agents will have full and direct access to all City staff, employees, facilities, data, and documents, including both open and closed sexual assault investigative files, reasonably necessary to review MPD's compliance with and enforce this Agreement. DOJ and its consultants, experts, and agents will cooperate with the City to access involved personnel, facilities, and documents in a reasonable manner that, consistent with DOJ's responsibilities to enforce the Agreement, minimizes interference with daily operations.

E. Independent Reviewer Plan and Review Methodology

40. Within 45 days of the Independent Reviewer's appointment, the Independent Reviewer will develop an Independent Reviewer plan, including proposed interim

deadlines for MPD's implementation of the requirements of this Agreement. The Independent Reviewer plan will set out a schedule for conducting the compliance reviews and outcome assessments that is consistent with the interim deadlines for implementation of this Agreement. The Independent Reviewer shall submit the plan to the Parties for review and comment.

41. At least 45 days prior to the initiation of any outcome measure assessment or compliance review, the Independent Reviewer shall submit a proposed methodology for the assessment or review to the Parties. The Parties shall submit any comments or concerns regarding the proposed methodology to the Independent Reviewer within 15 days of the proposed date of the assessment or review. The Independent Reviewer shall modify the methodology as necessary to address any concerns or shall inform the Parties in writing of the reasons he is not modifying the methodology as proposed.

42. Where the Independent Reviewer recommends and the Parties agree, the Independent Reviewer may refrain from conducting a compliance review of a requirement previously found to be in compliance by the Independent Reviewer, or where outcome assessments indicate that the outcome intended by the requirement has been achieved.

43. DOJ shall treat all non-public information obtained during the course of its investigation and during the pendency of this Agreement as confidential pursuant to applicable laws and regulations, and shall not release such information to any person.

F. Independent Reviewer Recommendations and Technical Assistance

44. The Independent Reviewer may make recommendations to the Parties regarding measures necessary to ensure timely, full, and effective implementation of this Agreement and its underlying objectives. Such recommendations may include a recommendation to change, modify, or amend a provision of the Agreement, a recommendation for additional training in any area related to this Agreement, or a recommendation to seek technical assistance. In addition to such recommendations, the Independent Reviewer may also, at the request of the City or DOJ, provide technical assistance consistent with the Independent Reviewer's responsibilities under this Agreement.

G. Comprehensive Re-Assessment

45. The Independent Reviewer shall conduct a comprehensive assessment one year after the Effective Date to determine whether and to what extent: (1) the outcomes intended by this Agreement have been achieved, and (2) any modifications to the Agreement are necessary for continued achievement in light of changed circumstances or unanticipated impact (or lack of impact) of a requirement. This assessment shall also address areas of greatest achievement and the requirements that appear to have contributed to this success, as well as areas of greatest concern, including strategies for accelerating compliance. Based upon this comprehensive assessment, the Independent Reviewer shall recommend modifications to the Agreement necessary to achieve and sustain intended outcomes. Where the Parties agree with the Independent Reviewer's recommendations, the Parties shall work to adopt mutually acceptable modifications of the Agreement.

H. Independent Reviewer Reports

46. The Independent Reviewer shall provide the City and MPD quarterly written, public reports covering the reporting period that shall include:
- a. A description of the work conducted by the Independent Reviewer during the reporting period;
 - b. A listing of each Agreement requirement indicating which requirements have been: (1) incorporated into implemented policy; (2) the subject of adequate and appropriate training for all relevant MPD personnel; (3) reviewed by the Independent Reviewer to determine whether they have been fully implemented in actual practice, including the date of the review; and (4) found by the Independent Reviewer to have been fully implemented in practice;
 - c. The methodology and specific findings for each review conducted. An unredacted version shall be provided to the Parties. The underlying data for each review shall not be publicly available but shall be retained by the City for at least three years after the Independent Reviewer's Comprehensive Assessment Report and provided to either or both Parties upon request;
 - d. For any requirements that were reviewed and found not to have been fully

implemented in practice, the Independent Reviewer's recommendations regarding necessary steps to achieve compliance;

- e. The methodology and specific findings for each outcome assessment conducted;
- f. A qualitative assessment of MPD's progress in achieving the desired outcomes for each area covered by the Agreement, noting issues of concern or particular achievement; and
- g. A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of the Agreement.

47. The Independent Reviewer shall provide a copy of the reports to the Parties in draft form at least ten business days prior to releasing them publicly to allow the Parties to informally comment on the reports. The Independent Reviewer shall consider the Parties' responses and make appropriate changes before issuing the report.

48. The reports shall be public with the exception of material covered by applicable privacy laws and, to facilitate public access to the reports, the City shall post the reports to the City's public website.

49. The Independent Reviewer will not issue statements or make findings with regard to any act or omission of any Party, or their agents or representatives, except as required by the terms of this Agreement. The Independent Reviewer may testify in any enforcement proceedings regarding provisions of the Agreement and the Parties' compliance. The Independent Reviewer will not testify in any other litigation or proceeding with regard to any act or omission of any Party, or any of their agents, representatives, or employees, related to the Agreement or regarding any matter or subject that the Independent Reviewer may have learned of as a result of his/her performance under the Agreement. This restriction does not apply to any proceeding before a court related to performance of this Agreement.

50. Unless such conflict is waived by the Parties, the Independent Reviewer shall not accept employment or provide consulting services that would present a conflict of interest with the Independent Reviewer's responsibilities under the Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such

litigant's or claimant's attorney, in connection with a claim or suit against the City or its departments, officers, agents, or employees.

I. **Independent Reviewer Budget**

51. Within 30 days of appointment, the Independent Reviewer shall submit to the Parties a proposed budget for year one of this Agreement.

52. The Parties shall raise with the Independent Reviewer any objections they may have to the proposed budget within 10 business days of receipt.

53. Thereafter, the Independent Reviewer shall submit annually a proposed budget to review at least three months prior to expiration of the preceding year's budget, in accordance with the process set forth above.

54. At any time, the Independent Reviewer may submit to the Parties for approval proposed revisions to the budget, along with an explanation of the reasons for the proposed revisions. Such proposed changes may only be made upon written agreement by the Parties.

55. The Independent Reviewer will submit monthly statements to the Parties, detailing all expenses incurred during the prior month. The Parties will review such statements for reasonableness. Upon completion of the Parties' review, but in no case more than 10 business days after submission of the statements by the Independent Reviewer, the Parties will notify the Independent Reviewer of their approval of the statement. The City shall pay the full amount of the statement to the Independent Reviewer within 30 days of the Parties' approval of the statement.

VII. **AGREEMENT IMPLEMENTATION AND ENFORCEMENT**

A. **Modification and Enforcement of the Agreement**

56. At all times, the City shall bear the burden of demonstrating compliance with this Agreement. When DOJ and the Independent Reviewer agree that the City has maintained compliance for one year with any portion of the Agreement, the City's compliance with that portion of the Agreement shall no longer be subject to review by the Independent Reviewer.

57. DOJ reserves its right to seek enforcement of the provisions of this Agreement, through specific performance in the United States District Court for the District of

Montana, if it determines that the City has failed to fully comply with any provision of this Agreement. Prior to initiating any court proceeding, DOJ agrees to provide written notice of the failure to the City. The City shall have 60 days from receipt of such notice to cure the failure. During the 60-day period, the Parties shall meet and confer to resolve any disputes regarding the failure or to otherwise explore a joint resolution. The Independent Reviewer shall assist the Parties in reaching a mutually agreeable resolution to the compliance failure or dispute, including by facilitating discussions and providing relevant factual assessments. If the Parties are not able to reach a mutually agreeable resolution to the compliance failure or dispute within the 60-day period, DOJ may, without further notice to the City, file an action in the United States District Court for the District of Montana (the "Federal Court Action") against other party for breach of contract and may seek specific performance and any other appropriate form of relief.

58. In connection with the Federal Court Action:

- a. The Parties shall stipulate to in personam jurisdiction and venue in the United States District Court for the District of Montana (the "Court").
- b. The City agrees that service by hand delivery of the summons, complaint, and any other documents required to be filed in connection with the initiation of the Federal Court Action upon the City Attorney, will be deemed good and sufficient service upon the City and MPD.
- c. DOJ agrees that service by hand delivery of documents filed in connection with the Federal Court Action upon the United States Attorney for the District of Montana will be deemed good and sufficient service upon the United States.
- d. The Parties agree to an expedited trial of the Federal Court Action.

59. The Parties agree to defend the provisions of this Agreement. The Parties shall notify each other of any court or administrative challenge to this Agreement. In the event any provision of this Agreement is challenged in any state, county, or municipal court, the Parties shall seek removal to federal court.

60. If any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, that finding shall not affect the remaining provisions of this Agreement.

61. Should the Independent Reviewer determine that any portion of the Agreement is ineffective at achieving the desired goals, or causing unintended negative consequences, he or she may recommend modifications to the Agreement. Where the Parties agree with the Independent Reviewer's recommendations, the Parties shall modify the Agreement accordingly.

62. This Agreement constitutes the entire integrated agreement of the Parties. No prior drafts or prior or contemporaneous communications, oral or written, will be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or other proceeding.

63. The City shall require compliance with this Agreement by the City's respective officers, employees, agencies, assigns, or successors.

64. The Agreement is enforceable only by the Parties. No person or entity is intended to be a third-party beneficiary of the provisions of the Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under the Agreement.

65. The City agrees to promptly notify the United States if any term of this Agreement becomes subject to collective bargaining consultation and to consult with the United States in a timely manner regarding the position the City takes in any collective bargaining consultation connected with this Agreement.

66. All Parties agree that, as of the date of entry of this Agreement, litigation is not "reasonably foreseeable" concerning the matters described in this Agreement. To the extent that either Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Agreement, the Party is no longer required to maintain such a litigation hold.

VIII. TERMINATION OF THE AGREEMENT

67. The Parties anticipate that the City and MPD will have complied with all provisions of the Agreement within two years of the Effective Date.

68. The Agreement shall remain in effect for two years following the Effective Date, unless any of the following occur:

- a. The Parties jointly agree, in writing, to terminate the Agreement before two years

of the Effective Date, on the grounds that the City has complied with this Agreement and maintained compliance for one year; or

- b. the United States disputes that the City is in compliance with the Agreement within two years of the Effective Date and has maintained compliance for one year. Such a dispute will be addressed through negotiation between the Parties or, if the Parties are unable to reach a mutually agreeable resolution, through civil enforcement proceedings, as described in the above ¶ 57.

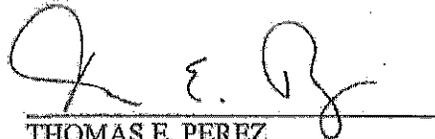
69. "Compliance" shall be defined to require both sustained compliance with all material requirements of this Agreement and sustained and continuing improvement in the response to and investigation of reports of sexual assault, as demonstrated pursuant to the outcome measures determined by the Independent Reviewer. Compliance shall be achieved where any violations of the Agreement are minor or incidental and not systemic. Noncompliance with mere technicalities, or temporary or isolated failure to comply during a period of otherwise sustained compliance, will not constitute failure to maintain full and effective compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance will not constitute compliance.

Respectfully submitted, this 15th day of May, 2013,

For the UNITED STATES OF AMERICA:



MICHAEL W. COTTER
United States Attorney
District of Montana



THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

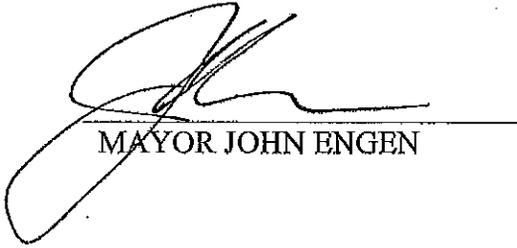
ROY L. AUSTIN, JR.
Deputy Assistant Attorney
Civil Rights Division

JONATHAN M. SMITH
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Special Litigation Section

CHRISTY E. LOPEZ
Deputy Chief
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For the CITY OF MISSOULA:



MAYOR JOHN ENGEN

Missoula Police Department Statistical Analysis

The following data points have been identified as areas to evaluate sexual assault in Missoula and the MPDs response to sexual assault:

- Reporting
- Cases referred from an outside law enforcement agency
- Victim participation
- Access to forensic medical examination
- Offender accountability
- Final court dispositions

Also, the Victim and Advocate Surveys, although they began relatively recently on October 23, 2014, now offers us the benefit of hearing the victim and advocate perspectives. Some quotes from those victims are also included in this report as they relate to the above areas.

REPORTING

All reporting of sexual assault¹ to the MPD are up over the last three years. Since 2012, sexual assault reports have increased by 54%. Blind/3rd Party Reports are consistent from partial year 2012 to 2014.

	2012	2013	2014
Reports of all Sexual assaults	59	79	91
Blind/3 rd Party ² Reports	6	25	25

To evaluate if Missoula had an increase in sexual assault, or rather an increase in reporting, the MPD looked to our community partners' data, listed below.

	2012	2013	2014
First STEP	75	71	80
SARC ³	213	320	544
YWCA ⁴	130	102	126
911	97	98	77

¹ Sexual Assault, as referenced in this report includes offenses as defined by MCA 45-5-502 (Sexual Assault) and 45-5-503 (Sexual Intercourse Without Consent) exclusive of child sexual assault. This is consistent with the definition of "Sexual Assault" in II.1.i of the USDOJ Agreement with the City of Missoula.

² Blind/3rd Party reporting began in March 2012 upon the implementation of the MPD Policy #10.15 "Response to Sexual Assault", therefore there an entire calendar year of data for 2012 is not available.

³ SARC tracks and reports service units, which reflects contacts from students and other community members. The reason SARC reports service units, rather than individuals is because SARC offers services anonymously, therefore SARC has no way to track contacts by the individual. SARC believes the sharp increase in service units is a reflection of increased public awareness, more on-call service and more interns who are able to handle higher case load.

⁴ The YWCA reports unduplicated individual clients, rather than "service units" as SARC reports.

Unlike the increase the MPD experienced from 2012-2014, our community partners are *not* seeing the equivalent increase in reporting. This is consistent with increased reporting due to better public trust, rather than an increase in criminal activity, although it cannot be stated as certainty. An example of this trust can be seen in a victim quote from the survey.

“It’s the right thing to do and they are there to help you.”

- **Anonymous victim, Sexual assault Victim Survey in response to question about reporting⁵.**

CASES REFERRED FROM OUTSIDE AGENCY

The MPD has had eight SIWOC investigations referred from the UMPD from 2012-2014. This is a product of the MOU in place between the MPD/MCSO/UMPD and MCAO which guides the investigations of felony persons crimes. During this time the UMPD has not had any reported SIWOCs which they referred to the MCSO.

	2012	2013	2014
UMPD	2	2	4

VICTIM PARTICIATION

Between 2012-2014, the MPD has experienced an improvement in victim participation. There has been a cumulative reduction of 16% of victim discontinuation in this time frame.

2012	
All Sexual Assaults	59
Victim Discontinue	24
Percentage end with Victim Discontinue	41%
2013	
All Sexual Assaults	79
Victim Discontinue	29
Percentage end with Victim Discontinue	37%
2014	
All Sexual Assaults	91
Victim Discontinue	23
Percentage end with Victim Discontinue	25%

⁵ Sexual assault Victim Survey question #8: “If I knew someone who had been sexually assaulted, I would encourage them to report this to the police.” (yes/no); comment allowed.

The way law enforcement treats victims of sexual assault has an enormous impact on the victim's willingness and ability to participate in a criminal investigation. Some quotes below from victims highlight how treating victims with respect and showing patience and understanding to victims can have such a positive outcome with victims.

"Treated me with respect. I felt comfortable every step of the way."

- ***Anonymous victim, Sexual assault Victim Survey in response to question about listening without judgment or blame.***

"The detectives... were amazing-explained why there were asking the questions that they were asking, listened, made sure I understood my rights in the interviewing process. Could not have been better experience, despite the circumstances."

- ***Anonymous victim, Sexual assault Victim Survey in response to question about listening without judgment or blame.⁶***

ACCESS TO FORENSIC MEDICAL EXAMINATION

The MPD has performed nearly flawlessly with its responsibility to transport or arrange for transportation for victims to obtain a forensic medical examination.

Since the beginning of the USDOJ Agreement, the MPD has had only a single incident in which the MPD didn't immediately either transport or arrange for transportation for a victim to obtain a forensic medical examination when that exam was warranted and the victim consent to such exam. In that single event, the forensic medical exam was conducted when the follow-up investigation unveiled an exam had not yet been completed.

One victim in the survey was very grateful to law enforcement for encouraging medical attention:

"They even offered to drive me to the hospital...I was going to refuse an ambulance, but the officer said he would drive me to the hospital. Said that I had a lot of adrenaline in system and there would be injuries that I hadn't noticed yet,"

- ***Anonymous victim, sexual assault victim survey in response to question about encouraging resources.⁷***

⁶ Sexual assault Victim Survey question #6: "The responding officer listened and understood my perspective without judgment or blame." (yes/no); comment allowed.

⁷ Sexual assault victim Survey question #9: "The responding officer encouraged me to use additional services such as advocates and/or a medical examiner."

OFFENDER ACCOUNTABILITY

Offender accountability for all reported sexual assaults to the MPD has been consistent from 2012-2014. To evaluate these charging rates, the MPD evaluated *completed* investigations which were able to be referred to the relevant prosecuting attorney. In other words, the following cases were removed from the calculation:

- Cases determined to be unfounded
- Case made inactive at the victim's request
- Case pending a charging decision
- Cases that are still active

The following reflects charging rates for both local prosecutors for all sexual assaults reported to the MPD between 2012-2014:

	2012	2013	2014
Percentage Charged with related offense	39%	38%	38%

Below is the breakdown of case dispositions for the above case:

	Adult Arrest	Juvenile Citation	Unfounded Baseless	Unfounded False	Inactive - Exhausted all Leads	Inactive @ Victim Request	Exceptional	Charging Decision Pending	Active	TOTAL
2012										
All Sexual assaults	13	0	2	0	18	24	2	0	0	59
2013										
All Sexual assaults	17	1	1	4	23	29	4	0	0	79
2014										
All Sexual Assault	21	0	2	4	31	23	3	2	5	91
2015 YTD 03/31/15										
All Sexual Assault	0	0	1	0	4	1	0	2	0	8

The MPD evaluated the cases referred for prosecution by soliciting feedback from several disciplines about charging rates from 2012-2014. The one-on-one feedback showed common observations which are categorized below:

	Increase in extraordinarily difficult cases reported that may not have been previously reported	Disclosures made during another incident, now being coded as SIWOC, but victim not engaged in following through with investigation.
SVU Detective #1	x	x
Prosecutor	x	x
First STEP	x	x
Advocate	x	x
SVU Detective #2	x	x

After hearing their initial opinions, the MPD asked a series of direct questions to the prosecutor, First Step representative and advocate about the MPDs performance:

- Are we appropriately interviewing victims?
- Are we appropriately locating and interviewing witnesses?
- Are we appropriately interviewing suspects?
- Are we thoroughly identifying sources of evidence and processing evidence?
- Are we providing adequate referrals for victim services?

Unanimously, the advised they had no problems with the investigations and the MPD handling of the cases and they reiterated the categories above are a significant shift in the cases being reported.

FINAL COURT DISPOSITION

The Missoula City Attorney's Office prosecutes misdemeanor offenses for the MPD and UMPD. The Missoula County Attorney's Office prosecutes all felony offenses within Missoula County. Below are final dispositions for cases referred to the two prosecutors' offices during the USDOJ Agreement:

Missoula City Attorney's Office
23 MPD Misdemeanor Sexual Assault Cases
10 - Plead Guilty to Misdemeanor Sexual Assault
1 - Plead Guilty to Misdemeanor Assault
1 - Warrant issued for offender / not in custody
6 - Case Dismissed ⁸
5- Pending

Missoula County Attorney's Office
9 MPD SIWOC cases referred for prosecution
2 - Plead Guilty to SIWOC
1 - Plead Guilty to Felony Criminal Endangerment
1 - Plead Guilty to Misdemeanor Sexual Assault
1 - Case dismissed ⁹
1 - Deferred Sentence
1 - Hung jury @ SIWOC trial / pending retrial
2 - Pending trial

Missoula County Attorney's Office	
5 UMPD/MPD cases referred for other than SIWOC prosecution	
Disorderly Conduct Misdemeanor Sexual Assault	Plead Guilty: DOC and Misdemeanor Sexual Assault
Aggravated Assault Misdemeanor Sexual Assault	Plead Guilty: Aggravated Assault and Misdemeanor Sexual Assault
Incest	Dismissed ¹⁰
Aggravated Assault Attempted SIWOC	Pending
Burglary Misdemeanor Sexual Assault	Pending

⁸ One case dismissed when victim could not return to Missoula for trial; Two cases were dismissed when victim declined to participate in prosecution; One case dismissed when victim was unable to participate in trial due to health complication; Two cases were dismissed when victim recanted and video evidence corroborated the recantation.

⁹ Case dismissed when the defense witness interviews established the witnesses considered the victim to be intoxicated, not incapacitated.

¹⁰ Case dismissed when victim declined to participate in the prosecution.

VICTIM/ADVOCATE SURVEY DATA

VICTIM SURVEY

So far, five victims have participated in the survey. Of those five, four reported to law enforcement¹¹.

Of the four victims, 100% responded in the affirmative to the following questions:

- “The responding officer made me feel safe and comfortable”
- “The officer took time to clearly explain what was happening at each step of his/her response.”
- “The responding officer addressed any question and concerns I had.”
- “The responding officer listened and understood my perspective without judgment or blame.”
- “I felt the responding officer believed me.”

Of the four victims, 75%¹² responded in the affirmative to the following questions:

- “If I knew someone who had been sexually assaulted, I would encourage them to report this to the police.”
- “The responding officer encouraged me to use additional services.”

ADVOCATE SURVEY

So far, we have received 17 advocate responses to the survey questions.

The advocates responded with the most positive feedback on the detective performance to the following questions:

- | | |
|---|------------------------|
| • “The detective encouraged the victim to use additional services.” | 93% Affirmative |
| • “The detective took time to clearly explain what was happening at each step of his/her response.” | 87% Affirmative |
| • “The detective addressed any questions and concerns the victim had.” | 80% Affirmative |

The advocates responded with less certain feedback on the detective performance to the following questions:

- | | |
|--|------------------------|
| • “The detective made the victim feel safe and comfortable. ¹³ ” | 73% Affirmative |
| • “The detective listened and understood the victim’s perspective without judgment or blame. ¹⁴ ” | 60% Affirmative |

¹¹ There is no indication from the victim about why he/she did not report to law enforcement.

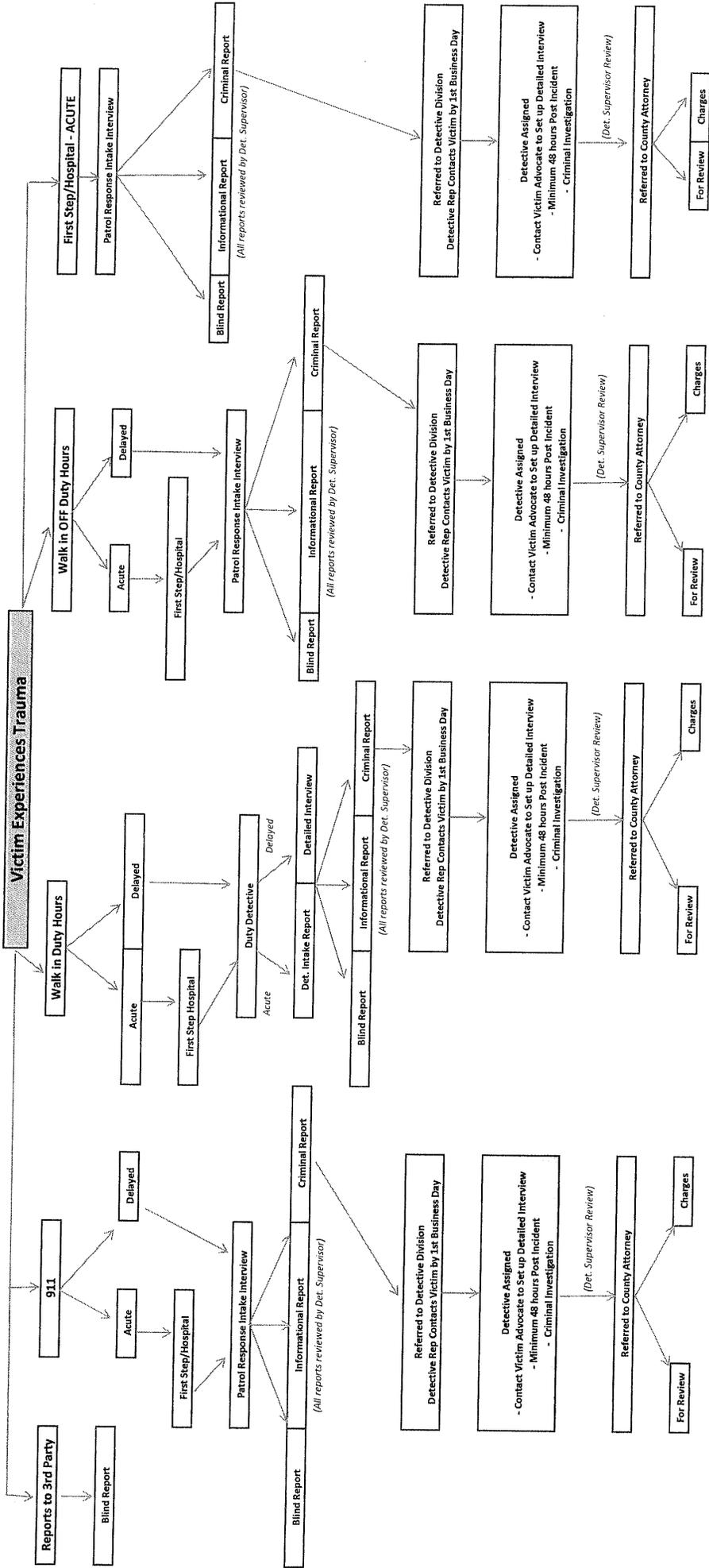
¹² The response that were not “yes” was “unsure.” There was not a “no” response.

¹³ Of the responses that were not “yes”, 3 were “unsure” and none were “no.”

¹⁴ Of the responses that were not “yes”, 3 were “unsure” and 2 were “no.”

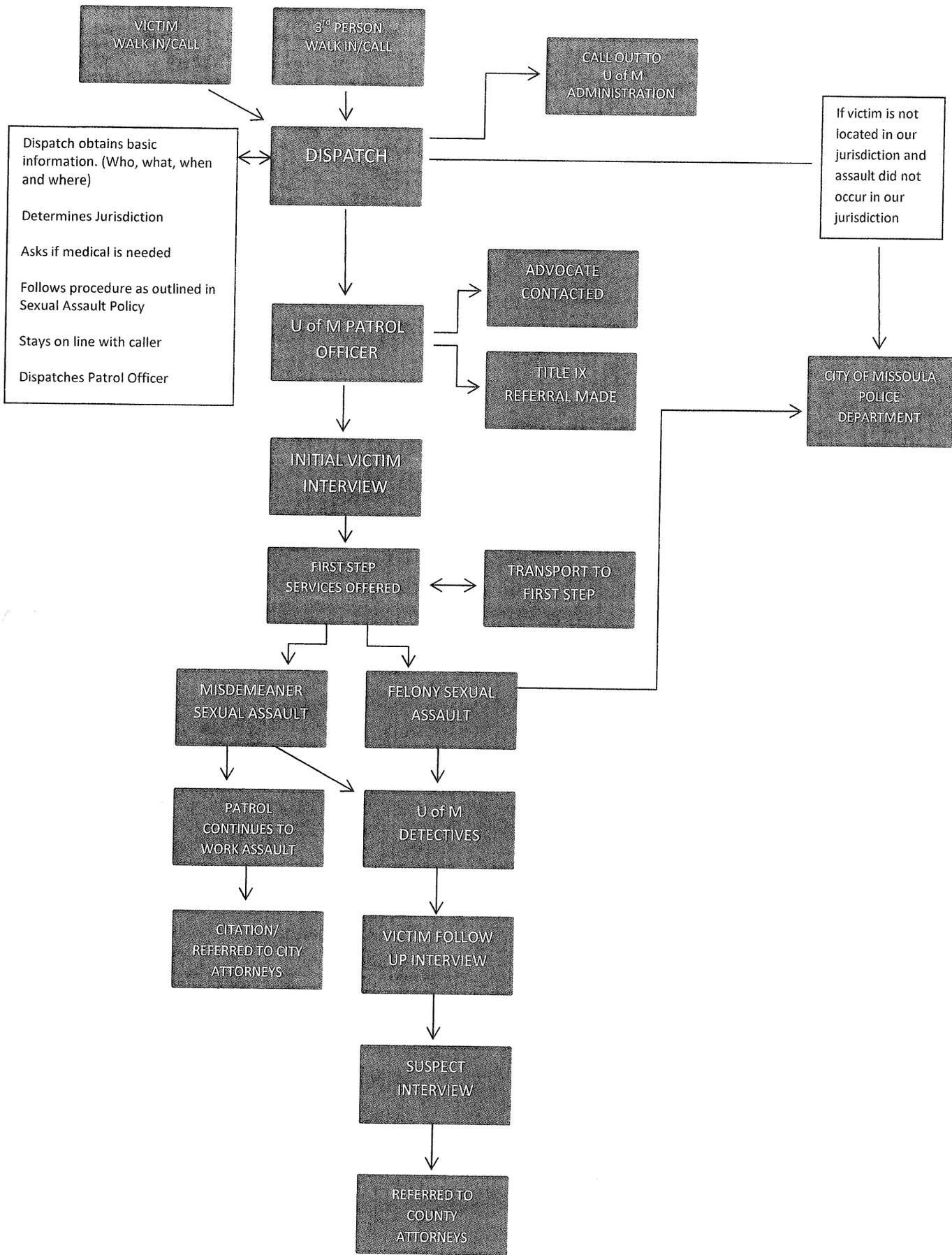
Agency
Mapping

LAW ENFORCEMENT RESPONSE



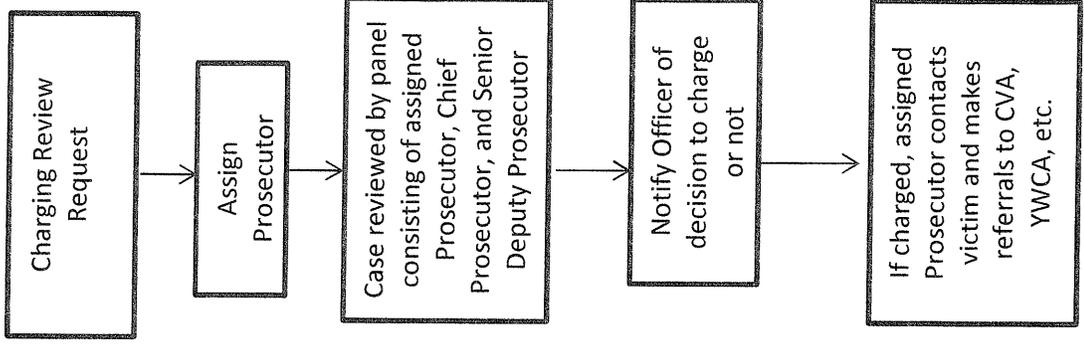
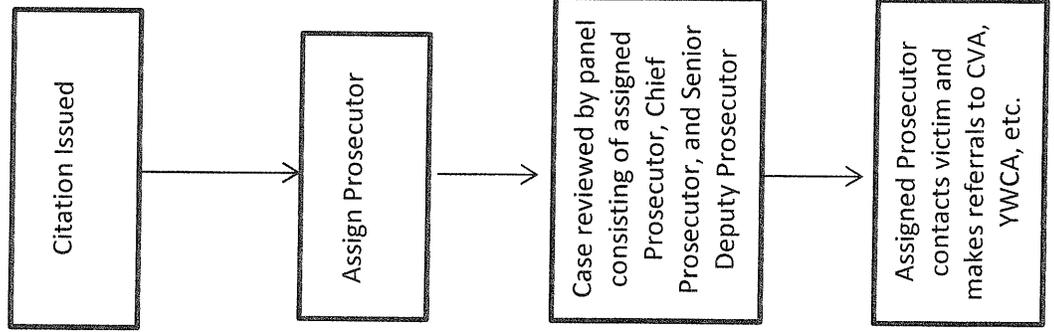
DEFINITIONS

- Blind Report:** Sex Assault Supplement/Blind Report Form with facts as reported. Not in records system. Filed with Detective Captain
- Informational Report:** in records system, detailed report. No further criminal investigation unless re-contacted by victim.
- Criminal Report:** Detailed report with investigation
- Detailed Report:** Done by detective only. Lengthy investigation with advocate present preferably.
- Intake Report:** Assess victim safety, medical needs, ID suspect, evidence, basic facts of case
- Acute Incident:** Just happened or within 5 days.
- Delayed Incident:** Beyond 5 days.
- Duty Detective:** Detective assigned to take walk in felony reports during normal business hours, may not be the detective assigned.
- Advocate:** YWCA, SARC or CVA may become involved at any point per victim request, but will always be contacted by LE before interview.



UMPD Map

City Attorney Mapping Sexual Assault Cases



IN CUSTODY CASE

Case received at CAO from LE

|

Case assigned to SVU atty for charging

|

CVA notified of atty assigned and sent copy of report

|

Case Reviewed

|

Victim contact attempted based on victim preferences listed on referral form (from atty, from CVA, from LE)

|

Case charged and filed or declined (if declined - meeting scheduled with victim, advocate, investigator to discuss why)

|

Possible contact with CVA/victim regarding bail issues

|

Initial Appearance, bail and conditions of release set

URGENT WARRANT REQUEST

Case received at CAO from LE

|

Case assigned to SVU atty for charging and warrant

|

Case Reviewed

|

Victim contact attempted based on victim preferences listed on referral form (from atty, from CVA, from LE)

|

Case charged and filed – warrant requested

|

Meeting with victim/advocate

|

Defendant taken into custody on warrant

|

CVA/victim notified

|

Initial Appearance, bail and conditions of release set

OUT OF CUSTODY CASE

Case received at CAO from LE

|

Case assigned to SVU atty for charging

|

Case Reviewed

|

Victim contact attempted based on victim preferences listed on referral form (from atty, from CVA, from LE)

|

If able to contact victim, meeting scheduled with victim and advocate and charging discussed. May include discussion of why case is being declined with victim and advocate.

|

Case charged and filed or declined (if declined – contact with investigator to discuss why)

|

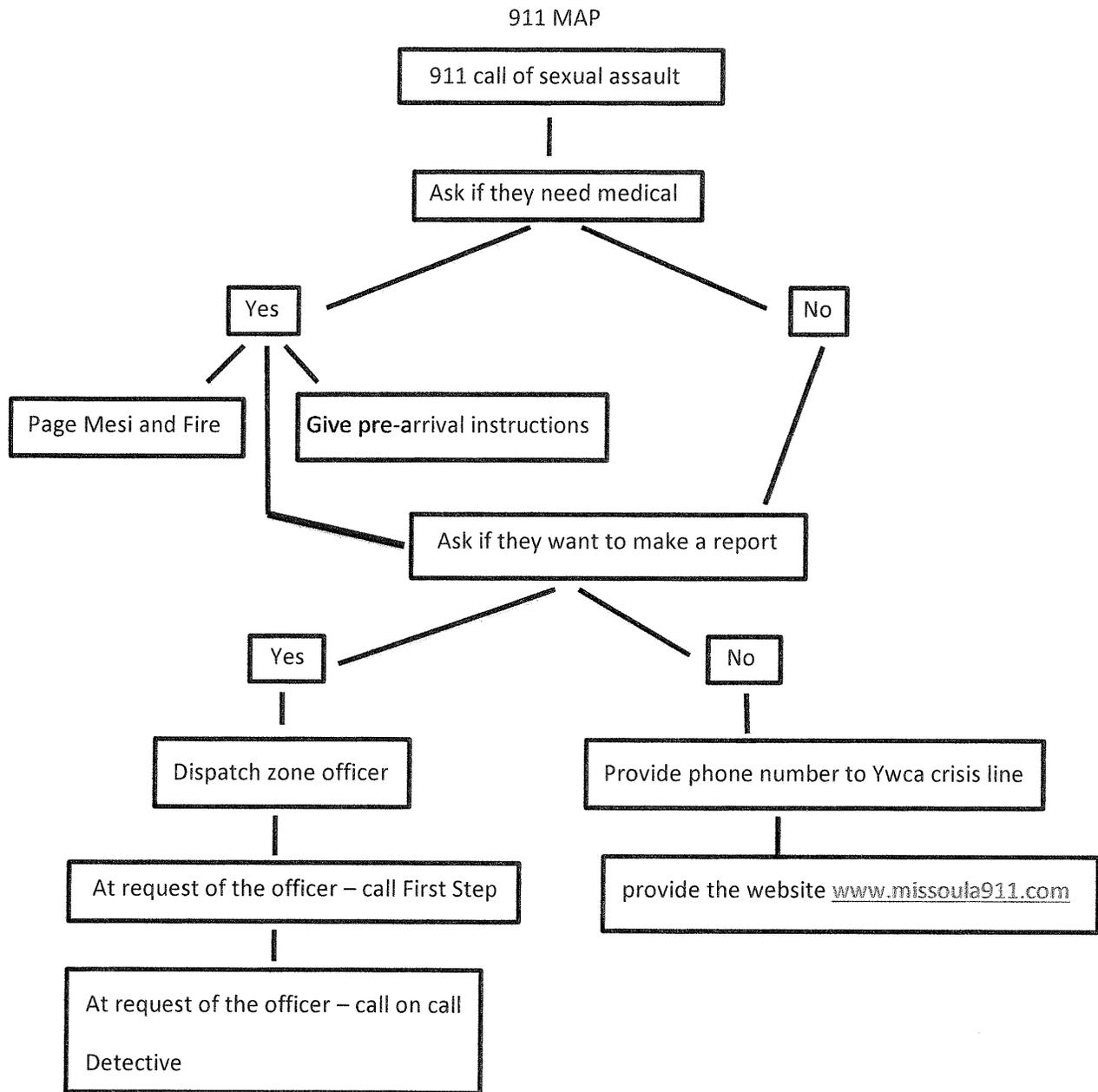
Possible contact with CVA/victim regarding bail issues

|

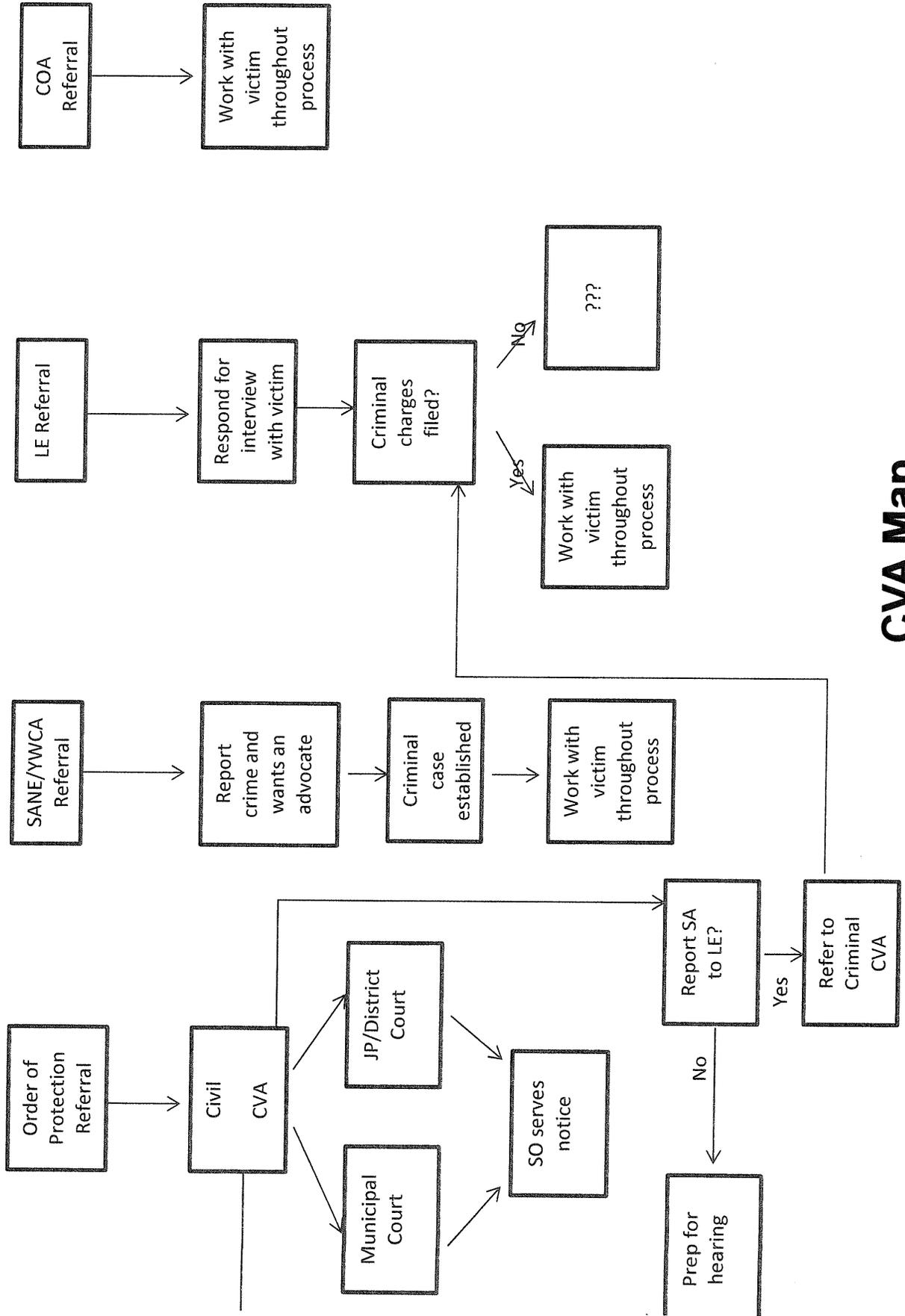
Summons or warrant issued

|

Initial Appearance, bail and conditions of release set

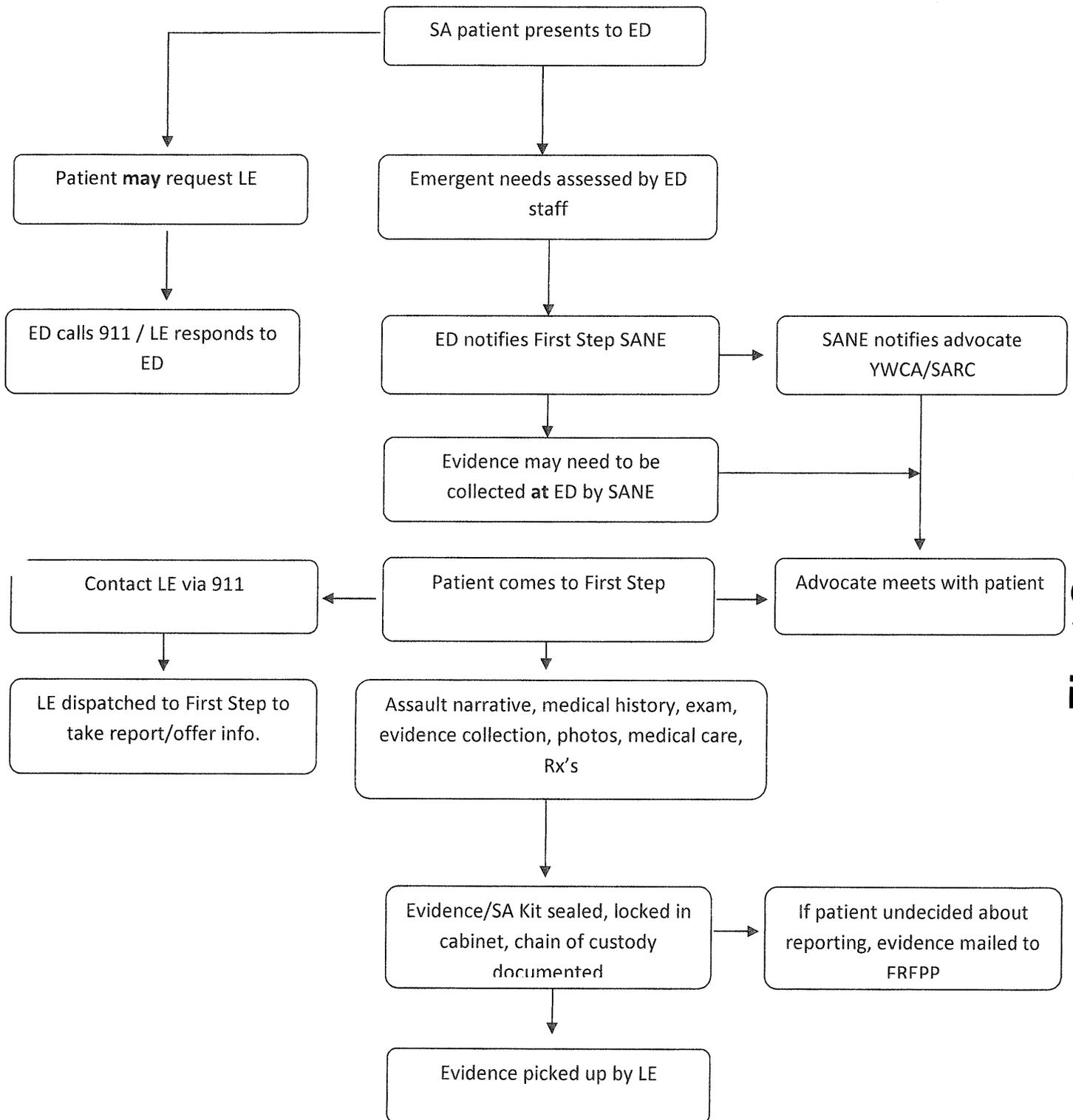


CVA Sexual Assault Response

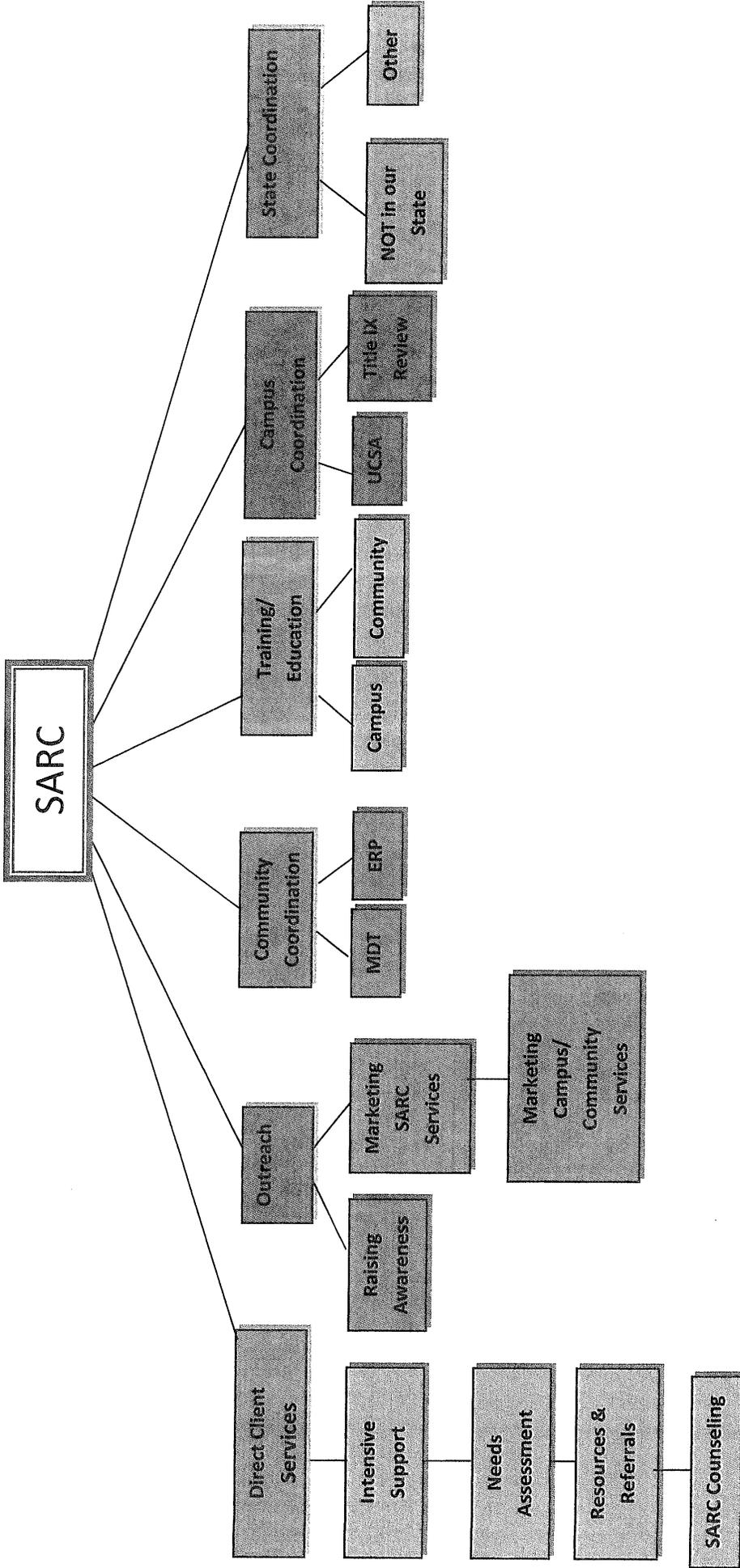


CVA Map

First Step--SA Patient Enters System Through Emergency Dept.

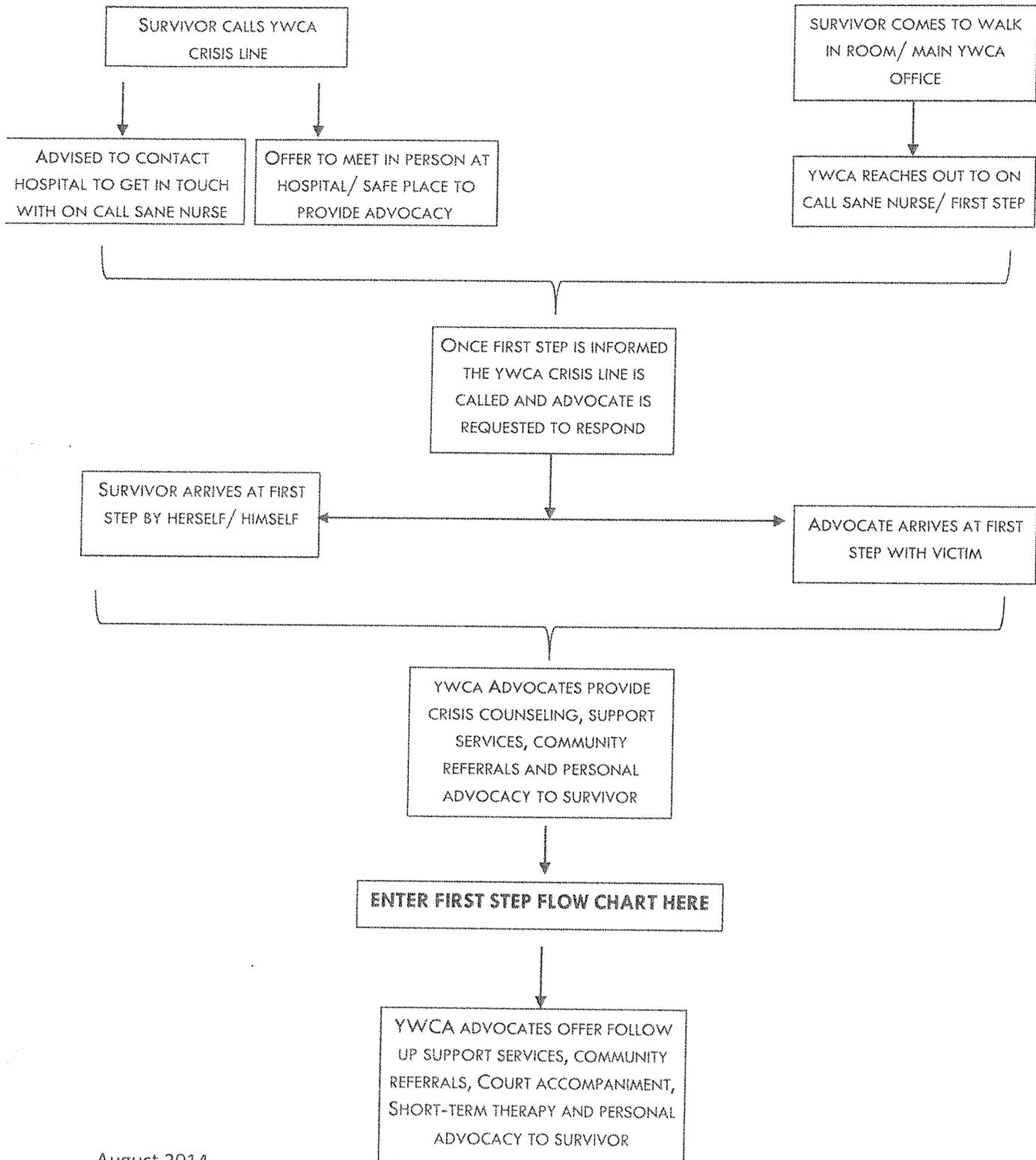


First Step Map



SARC Map

YWCA Sexual Assault Response Flow Chart



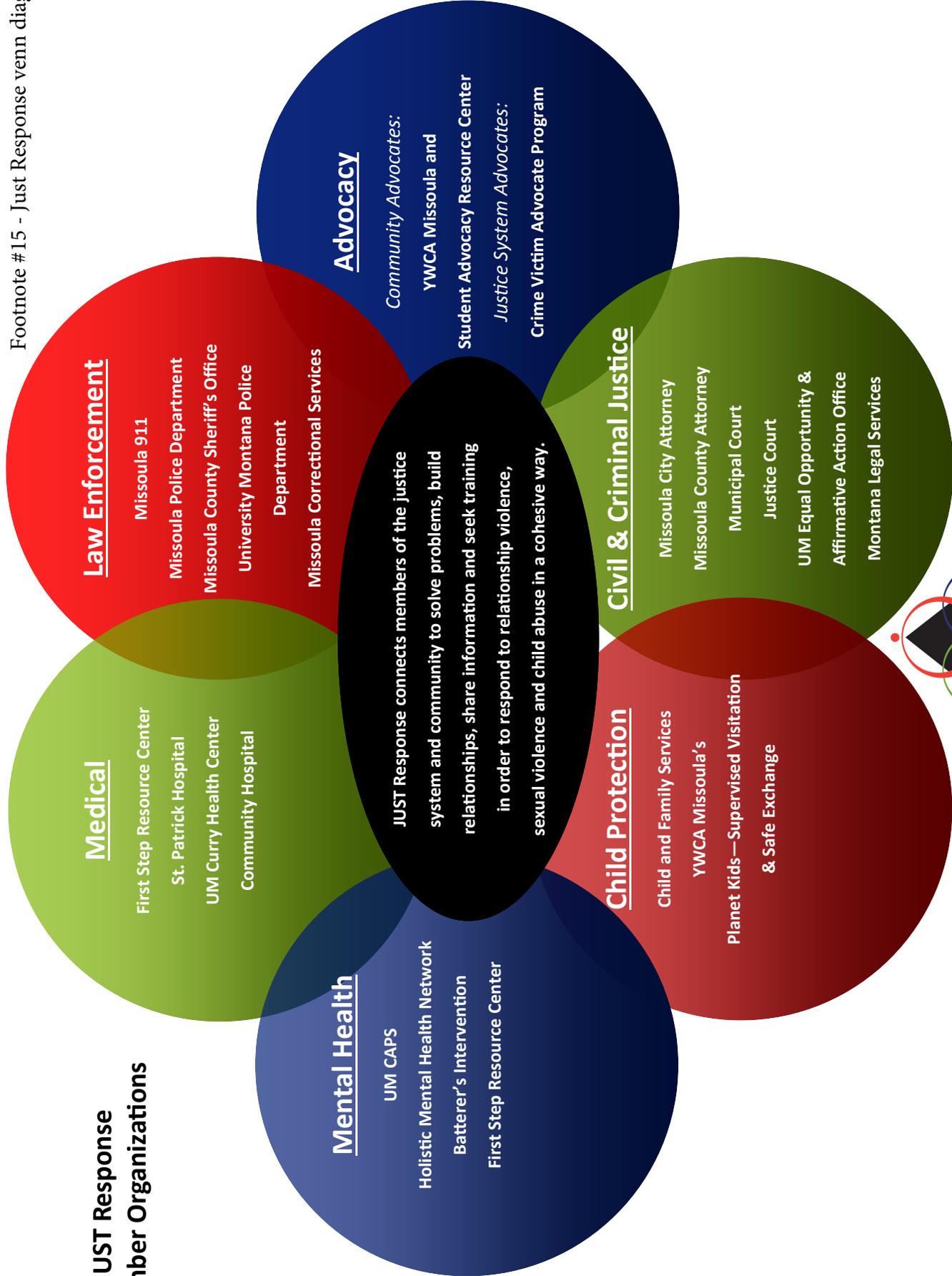
YWCA Map

Victim Interview Questions

Missoula Safety and Accountability Audit Team Interviews

1. Over the course of your contact – with law enforcement, prosecutors, advocates (YWCA, CVA, SARC, or First Step), social workers, or any other agency, what was most helpful from people you interacted with?
2. What, if anything, did it feel like any person, agency – or the system as a whole – didn't do, or could have done better, to **engage and support you** during your experience??
3. What, if anything, did it feel like any person, agency – or the system as a whole – didn't do, or could have done better, to **help keep you safe** during your experience?
4. What, if anything, did it feel like any person, agency – or the system as a whole – didn't do, or could have done better, to **hold your offender(s) accountable** during your experience?
5. What was most difficult for you over the course of your experience – either with a particular person, agency, or the system as a whole?
6. What would you have wanted more of / different during your experience?
7. What else do you want these folks to understand, so that they can better serve their clients?

JUST Response Member Organizations



JUST RESPONSE

Missoula's coordinated community response to Relationship Violence, Sexual Violence and Child Abuse



**MISSOULA COUNTY SHERIFF'S OFFICE
FIELD TRAINING PROGRAM
TRAINING BRIEF**

Topic: **SEXUAL ASSAULT /
SEXUAL INTERCOURSE W/O CONSENT** **Number: TB 27**

Radio Signal(s): 20, 21, 22

Instruction: The following material will be discussed with the trainee to ensure a complete understanding of the Missoula County Sheriff's Office policy, procedure, and methods used when responding to this type of incident.

Reference Material: MCA 45-5-502 Sexual Assault
MCA 45-5-503 Sexual Intercourse Without Consent
MCA Chapter Five, Part Five, Sex Crimes
Inter Departmental Memorandum 01/17/01 Detective Division

Cross References: Childhood sexual abuse -- statute of limitations for civil action: 27-2-216.
Victim less than 16 years old -- extension of statute of limitations: 45-1-205.
Definition of bodily injury: 45-2-101.
Definition of knowingly: 45-2-101.
Definition of purposely: 45-2-101.
Definition of sexual contact: 45-2-101.
Sexual abuse of children: 45-5-625.
Definition of mentally defective: 45-2-101.
Definition of mentally incapacitated: 45-2-101.
Definition of sexual intercourse: 45-2-101.
Definition of without consent: 45-5-501.
Limitation on deferral or suspension of sentence: 46-18-201.

Definitions:

Acute: Acute is an offense that has just occurred
Scheduled: Scheduled is an offense that has been on going or not recent

Procedures:

A. Sexual Assault: General Overview

1. Upon arrival, determine if fire/rescue is required. If so, have dispatch contact them.
2. If fire/rescue responds, impress upon them the importance of crime scene and evidence preservation.
3. When interviewing the victim be sure to remember this crime can be traumatic.
4. Determine the classification of the sexual assault. Factors such as the age of the victim or the relationship between the victim and suspect determine the type crime. (Incest?)
5. Determine the time delay and suspect description. Broadcast an ATL as soon as possible.
6. If the suspect is on scene, or is located, complete the applicable arrest procedures.
7. Determine the location of the crime. If the crime scene is at a different location, have another deputy respond to secure that scene.
8. Protect the crime scene if there is one.
9. Contact your supervisor so he/she can contact the on-call detective.



**MISSOULA COUNTY SHERIFF'S OFFICE
FIELD TRAINING PROGRAM
TRAINING BRIEF**

10. The victim will be transported to the Sexual Assault Treatment Center. (Saint Patrick's Hospital) It is strongly recommended that you transport the victim as opposed to allowing a family member to drive him/her. Allow the family member/friend to ride with the victim in your car, if possible. (You will need a car seat to transport children under 5 years-of-age.)
11. Make sure the victim brings the clothes he/she was wearing at the time of the offense, and do not allow the victim to shower, wash his/her hands, and in the case where the crime involved oral intercourse, to eat or drink anything.
12. Have dispatch contact "First Step" and DFS to respond to meet you at the hospital.
13. Sexual Assault Treatment Center Staff (First Step) will collect physical evidence from the victim and complete all applicable property receipts. You may have to sign these.
14. The on-call detective will process the crime scene. If not, you should do it. Make sure you take photographs, and collect anything you deem of value. Packaging should be in paper.

B. Sexual Assault: (Not Recent or Active Scene or Hospital Setting)

1. Respond to residence or hospital setting
2. Determine through dispatch if DFS has been notified and is responding to location.
3. Meet with victim, family members, witnesses and DFS.
4. Determination of type:
 - a. Acute
 - b. Scheduled
5. Acute is an offense that has just occurred
6. Scheduled is an offense that has been on going or not recent

Acute Cases:

1. Determine if an immediate arrest is possible and arrest suspect using safe deputy tactics.
2. If at residence secure crime scene contact supervisor for on call notification.
3. If at hospital determine if there is a crime scene that needs to be secured and advise supervisor so that a deputy can respond and secure that scene.
4. Acute cases generally require that the victim receive a medical examination.
5. After the medical examination if it is determined that a formal interview should be done the victim should be taken to the City Police Department and you should use the interview room video taping the interview.
6. Confer with the on-call detective prior to interviewing.



**MISSOULA COUNTY SHERIFF'S OFFICE
FIELD TRAINING PROGRAM
TRAINING BRIEF**

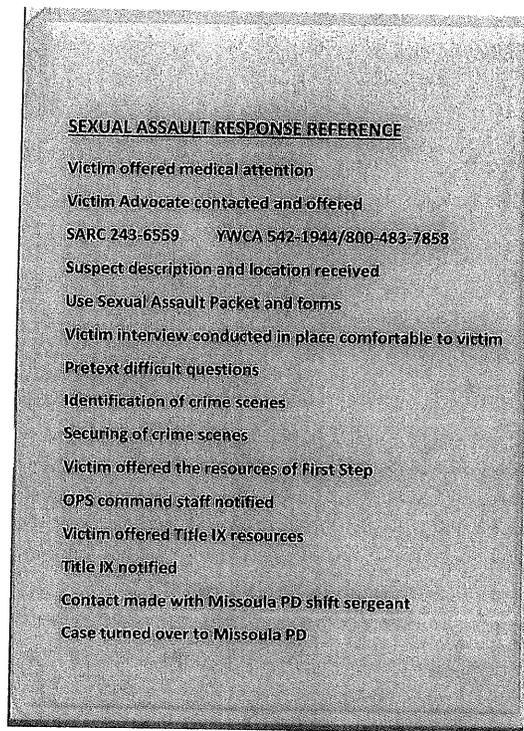
Scheduled Cases:

1. Scheduled cases are those that have been previously reported to either DFS or the S.O. In these cases DFS should already be aware of the situation.
2. Check with Dispatch to ensure that DFS has been notified and is involved.
3. There is generally no exigency in these type cases and crime scene investigations are not generally needed.
4. Scheduled cases generally do not require that the victim receive a medical examination but they may.
5. If there is a medical examination and it is determined that a formal interview should be done the victim should be taken to the City Police Department and you should use the interview room video taping the interview.
6. Confer with the on-call detective prior to interviewing.

Required Paperwork:

- A. With no arrest:**
- Investigative Report CFS
 - Evidence Collection
 - Photographs
 - Victim / Witness Statements
 - Medical Release Form (If applicable)
- B. With arrest:**
- Above Paperwork Plus the Following:
- Suspect Statement
 - Miranda Waiver
 - Consent to Search Body (If Applicable)
 - Criminal History

Footnote #27: UMPD Sexual Assault Pocket Card



MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU), dated the 30th day of June, 2013 is between the University of Montana Office of Public Safety (hereinafter "UMMCOPS"), the Missoula Police Department (hereinafter "MPD"), and the Missoula County Sheriff's Office (hereinafter "MCSO") (collectively "the Parties").

- I. **PURPOSE:** The purpose of this agreement is to;
 - a. Define a mutual aid agreement between the MPD, MCSO, and UMMCOPS; and
 - b. Establish the jurisdiction of the UMMCOPS for the enforcement of parking and moving violations and criminal matters; and
 - c. Establish a procedure for the transfer of criminal investigations from the UMMCOPS to the MPD or MCSO for felony crimes against persons and felony drug crimes. Under this agreement the UMMCOPS shall investigate other felony crimes and all misdemeanors on University of Montana campus properties and other offenses as provided below; and
 - d. Improve the coordination and communication between the Parties; and
 - e. Establish responsibility for crime reporting.

II. **MUTUAL AID:** It is the intent of the MPD and the MCSO to provide assistance to the UMMCOPS whenever requested by the UMMCOPS. The UMMCOPS officers may provide mutual aid outside of the University of Montana campus properties, to the MPD or the MCSO if requested by either agency under Mont. Code Ann. § 44-11-101.

If any crime or incident exceeds the resources of the UMMCOPS, the MPD shift commander and/or the MCSO shift commander will make every effort to provide mutual aid, if requested. This may include assuming jurisdiction and responsibility for the investigation if appropriate to the incident and agreed upon by the agencies' shift commander and the senior UMMCOPS officer involved.

III. **JURISDICTION:** The UMMCOPS primary focus is the University of Montana campus properties, as they are defined in this agreement, and campus related activities within one mile of the exterior boundaries of each campus. Under this agreement and under Montana law, the MPD extends the jurisdiction of the UMMCOPS.

- a. Criminal Offenses: The UMMCOPS jurisdiction is extended to the City limits of Missoula for the enforcement of criminal offenses that occur in the UMMCOPS officer's presence and poses an imminent threat to public safety Mont. Code Ann. § 20-25-321 (3). If the criminal offense that occurred in the UMMCOPS officer's presence was a felony crime against a person or a felony drug offense, it shall be treated in the same fashion under this agreement as if it had occurred on campus properties.
- b. Parking and Moving Traffic Violations: Under Mont. Code Ann. §20-25-322, the MPD, MCSO and UMMCOPS agree to provide jurisdiction for the UMMCOPS to enforce parking and moving traffic violations that occur within the boundaries of the campus or on streets or alleys contiguous thereto. The UMMCOPS jurisdiction is extended to the

City limits of Missoula for the enforcement of all traffic offenses that occur in the UMMCOPS officer's presence and poses an imminent threat to public safety. Mont. Code Ann. § 20-25-321 (3)

- c. UM Fraternity and Sorority Houses: University of Montana fraternity and sorority houses are within the jurisdiction of the MPD. These locations do have some connection to the University of Montana but all activities at these residences are not campus related activities. The MPD is the first responder to calls for service at fraternity and sorority houses. The UMMCOPS will be notified of activities that occur in either fraternity or sorority houses that generated a call for service. The UMMCOPS can act as back-up when needed for calls for service at fraternities and sororities. The UMMCOPS shall utilize its ability to hold students accountable under the UM student conduct code. These sanctions under the student conduct code can often assist in resolving issues relating to the residents' actions that effect neighbors and other students.

This agreement extends, but does not limit the grant of jurisdiction provided UMMCOPS under Mont. Code Ann. § 20-25-321.

IV. TRANSFER OF CERTAIN FELONY INVESTIGATIONS: The UMMCOPS is the primary agency to investigate misdemeanors and felony crimes other than felony crimes against persons and felony drug crimes that occur on University of Montana campus properties.

Either the MPD or the MCSO is the primary agency to respond to all felony crimes against persons and felony drug crimes that occur on University of Montana campus properties. If the UMMCOPS investigates an incident that involves a felony crime against persons or a felony drug crime, the UMMCOPS will immediately contact and transfer the investigation to the MPD if the incident occurred within the City of Missoula or the MCSO if the incident occurred outside the City limits.

The referral and transfer of the investigation will occur promptly after it is apparent that the offense is a felony crime against persons or a felony drug crime. UMMCOPS personnel will document all information gathered in an official report and forward to the assisting agency.

a. Felony Crimes Against Persons

Under this agreement the MPD assumes primary jurisdiction and responsibility for all felony crimes against persons committed within the city limits of Missoula including those on the campus properties that are within the city limits of the City of Missoula.

Under this agreement the MCSO assumes primary jurisdiction and responsibility for all felony crimes against persons committed within the county of Missoula for those offenses that occur on campus properties outside the city limits of Missoula but within the county of Missoula.

b. Felony Drug Crimes

The Missoula Police Department assumes primary jurisdiction and responsibility for all felony drug crimes committed within the city limits of Missoula including those on the campus properties that are within the city limits of the City of Missoula.

The Missoula County Sheriff's Office assumes primary jurisdiction and responsibility for all felony drug crimes committed outside the city limits, including those committed on University of Montana properties which are so situated.

c. Other Felony Crimes and all Misdemeanors:

The UMMCOPS assumes primary jurisdiction and responsibility for the investigation of all felony crimes other than crimes against persons and felony drug crimes and all misdemeanors that occur on the University of Montana campus properties.

V. IMPROVING COMMUNICATION AND COORDINATION: The participating agencies agree to take affirmative steps to clarify, through policy, procedures, and/or training, the respective roles of the participating agencies in fulfilling the intent of this MOU. These steps shall clarify UMMCOPS' responsibilities between the time a felony crime against a person or a felony drug crime is received and the time the MPD or MCSO assumes responsibility for such a crime.

These steps shall also clarify the role of the first responder in gathering relevant and necessary information from the crime victim and conveying such gathered information to the MPD or MCSO.

Parties to this agreement agree to provide notice and opportunity for comment on any policy or procedure changes made in relation to subjects of this agreement.

VI. CRIME REPORTING: It is agreed by participating agencies that the UMMCOPS assumes reporting responsibilities to comply with federal and state requirements. All criminal activity reported on University of Montana properties will be submitted as criminal activity in that jurisdiction. In cases of investigation by Missoula City Police or the Missoula County Sheriff's Office those agencies will note the incident as an agency assist and not report the same incident as a crime in each respective jurisdiction.

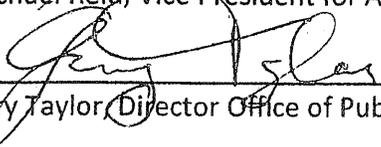
- a. If a criminal report of a felony persons crime or drug offense on UM property is made directly either MPD or MCSO, the investigating agency will notify UMMCOPS of the investigation.
- b. It remains the obligation of UMMCOPS to seek disposition and clearance information for those investigations referred to MPD or MCSO.

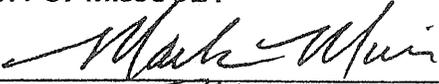
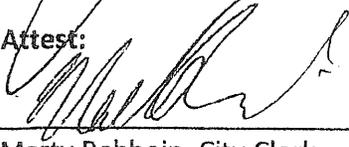
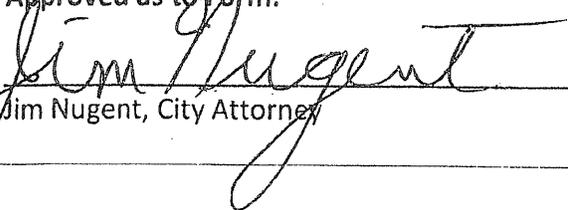
VII. DEFINITIONS:

- a. Campus related activities are activities that are officially funded, sponsored and/or endorsed by the University.
- b. Contiguous thereto refers to an area that is adjacent to, in contact with, touching or next to any campus property.

- c. University of Montana campus properties include all property on the University of Montana campus, married student housing, the Missoula College south and west campuses, the Fort Missoula Research Center, Dornblazer Field, the University of Montana golf course, practice fields, the Lubrecht Forest Research Center and grounds or properties owned, operated, controlled or administered by the regents or any unit of the Montana university system.

VIII. **AUTHORITY:** The MPD, MCSO and UMMCOPS law enforcement agencies will provide mutual assistance between agencies as authorized by the mutual assistance statutes of the State of Montana under Mont. Code Ann. §§ 44-11-101, 44-11-102. UMMCOPS officers have the powers listed in Mont. Code Ann. 20-25-321. The UMMCOPS jurisdiction is extended as stated above under Mont. Code Ann. § 20-25-321 (3).

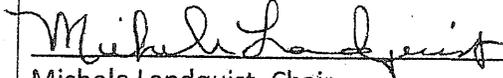
UNIVERSITY OF MONTANA	
 Michael Reid, Vice President for Administration & Finance	<u>11/4/13</u> Date
 Gary Taylor, Director Office of Public Safety	<u>10-14-13</u> Date
Approved as to Form:	
 Claudia D. Eccles, Associate Legal Counsel	<u>10-14-13</u> Date

CITY OF MISSOULA	
 Mark Muir, Chief	<u>10-16-13</u> Date
 John Engen, Mayor	<u>10/22/13</u> Date
Attest:  Marty Rehbein, City Clerk	 <u>10/31/2013</u> Date
Approved as to Form:  Jim Nugent, City Attorney	<u>10/18/2013</u> Date

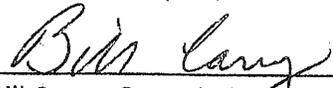
COUNTY OF MISSOULA



Carl Ibsen, Sheriff 22 Oct 13
Date



Michele Landquist, Chair 10/29/13
Date

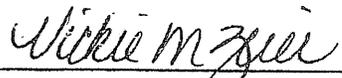


Bill Carey, Commissioner 10/29/2013
Date



Jean Curtiss, Commissioner 10/29/13
Date

Attest:



Vickie Zeier, Clerk & Recorder 10/29/2013
Date