



# COMMONWEALTH of VIRGINIA

*Department of Criminal Justice Services*

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December 1, 2009

The Honorable David B. Albo, Chairman, House Courts of Justice  
General Assembly Building, Room 529  
Capitol Square  
Richmond, Virginia 23219

The Honorable Henry L. Marsh, III, Chairman, Senate Courts of Justice  
General Assembly Building, Room 432  
Capitol Square  
Richmond, Virginia 23219

Dear Chairman Albo and Chairman Marsh:

As you know, House Bill 1395, enacted in 2008, established a new section (§9.1-1301) requiring all law enforcement agencies to establish written policies and procedures regarding law enforcement officers response to alleged sexual assaults. These written policies must, at a minimum, provide guidance regarding departmental policy on: sexual assault training, compliance with statutes related to the use of polygraph testing (§19.2-9.1) and forensic evidence collection (§19.2-165.1), transportation of victims, and provision of information on available legal and community resources.

House Bill 1395 also amended item 36 of §9.1-102 by requiring that the Department of Criminal Justice Services (DCJS) submit a report on the status of implementation of §9.1-1301 to the Chairmen of the House and Senate Courts of Justice Committees by December 1, 2009.

In response to this directive, I have enclosed, for your review, a report entitled, "Report on Implementation of §9.1-1301 – Written Law Enforcement Policies on Response to Sexual Assault."

We appreciate your interest and concern regarding this important issue. Please contact me if you need any additional information.

Sincerely,

  
Leonard G. Cooke, Director

cc: John W. Marshall, Secretary of Public Safety  
Marilyn Harris, Deputy Secretary of Public Safety



# REPORT ON IMPLEMENTATION OF §9.1-1301

## Written Law Enforcement Policies on Response to Sexual Assault

NOVEMBER 2009



*Prepared by the Virginia Department of Criminal Justice Services*

[www.dcjs.virginia.gov](http://www.dcjs.virginia.gov)

## **Preface**

House Bill 1395, enacted in 2008, established a new section (§9.1-1301) requiring all law enforcement agencies to establish written policies and procedures regarding law enforcement officers' response to alleged sexual assaults. These written policies must, at a minimum, provide guidance regarding departmental policy on: sexual assault training, compliance with statutes related to the use of polygraph testing (§19.2-9.1) and forensic evidence collection (§19.2-165.1), transportation of victims, and provision of information on available legal and community resources.

House Bill 1395 also amended item 36 of §9.1-102 by requiring the Department of Criminal Justice Services (DCJS) to submit a report on the status of implementation of §9.1-1301 to the Chairmen of the House and Senate Courts of Justice Committees by December 1, 2009.

## Table of Contents

Executive Summary .....	4
Survey Design, Methodology and Response Rates .....	6
Prevalence of Written Policies.....	7
Required Policy Elements.....	7
Assessing Statutory Compliance and the Level of Detail Contained in Policies .....	7
Compliant Sexual Assault Policies .....	8
Detailed Sexual Assault Policies .....	9
Frequency of Inclusion of Various Policy Elements Among All Responding Agencies .....	10
Departmental Policy on Sexual Assault Training.....	12
Compliance with the Polygraph Testing Statute.....	12
Compliance with the Forensic Evidence Collection Statute.....	14
PERK Exams When Victims Decide Not to Cooperate with Subsequent Investigations .....	16
Transportation of Victims .....	20
Provision of Information on Available Legal and Community Resources.....	21
Written Policies: 2009 v. 2004.....	22
Findings and Strategies to Improve Compliance .....	22
Appendix 1 – Survey Instrument .....	26
Appendix 2 – Summary of PERK Data .....	34

## Executive Summary

House Bill 1395 (2008; Bell) requires the Department of Criminal Justice Services (DCJS) to submit a report on the status of implementation of §9.1-1301 to the Chairmen of the House and Senate Courts of Justice Committees by December 1, 2009. §9.1-1301 requires all law enforcement agencies to establish written policies and procedures regarding law enforcement officers' response to alleged sexual assaults. These written policies must, at a minimum, provide guidance on the following five broad statutory elements: sexual assault training, compliance with statutes related to the use of polygraph testing (§19.2-9.1) and forensic evidence collection (§19.2-165.1), transportation of victims, and provision of information on available legal and community resources.

DCJS designed and conducted a 20 item on-line survey of Virginia law enforcement agencies' sexual assault policies during July and August of 2009.

A total of 106 law enforcement agencies responded to the on-line survey (30% response rate).

### **Key Findings:**

- 76% (81) of the responding law enforcement agencies indicated that their departments had Code mandated written policies addressing sexual assault response.

These agencies indicated that the following broad statutory elements were included in their sexual assault response policies as detailed below.

<b>Broad Statutory Element</b>	<b>Percent of Agencies</b>
Community and legal referrals	91%
Transportation	80%
Forensic evidence collection	75%
Training	67%
Use of polygraphs	38%

- Among these agencies only 21% (17) indicated having policies which addressed *all five* required broad statutory elements.

### ***Summary of Findings and Strategies for Action***

Detailed written policies can be viewed as one important tool promoting appropriate, consistent, and complete investigations which are conducted by trained personnel aware of the dynamics of sexual assault and appropriately responsive to victims' needs and rights. Such a response promotes the best treatment of victims and provides the best basis for reducing the number of cases in which victims decline to cooperate with law enforcement investigations.

In view of the survey results, and to further promote the use of written policies, this report outlines strategies the Department of Criminal Justice Services will implement to encourage and improve overall compliance, that include:

- Collaborating with Professional Organizations to Encourage Use of Detailed Policies
- Providing Training on Responding to Sexual Violence and Sexual Assault Response Teams (SARTs)
- Emphasizing the Importance of Law Enforcement Policy at Mandated Sexual Assault Response Meetings
- Evaluating Recommendation for a New Law Enforcement Accreditation Standard on Sexual Assault
- Evaluating Recommendation to add Appropriate Amendments to the Compulsory Minimum Training Standards for Law enforcement Officers, Other Relevant Training Curricula, or Lesson Plan Guide Information
- Requesting that the Virginia Sexual and Domestic Violence Workgroup Promote Use of Detailed Policies and Review Sexual Assault Response Guidance to Promote Consistent and Complementary Policies

## Survey Design, Methodology, and Response Rates

Staff from DCJS' Office of Planning, Training and Research, Office of Programs, and Office of Regulatory Affairs worked together to design an on-line survey of Virginia law enforcement agencies' sexual assault policies. The survey was sent to approximately 350 law enforcement agencies in Virginia, primarily local police departments, sheriff's offices, and campus police departments. The survey instrument and a cover memorandum requesting participation of all police departments and sheriff's offices with investigative responsibilities are attached as Appendix 1. Participation in the survey was voluntary.

The survey was developed as a three-phase survey. After a few identification questions, agencies were asked whether they have a written policy on responding to sexual assault incidents. If they responded no, they were not asked any further questions. If they responded yes, they were asked a few questions designed to gather basic information about policy content related to each of the five required policy elements contained in §9.1-1301.

After completing the initial questions, responding agencies were given the option to close out the survey or to elect to answer a few additional questions which provided additional details about policy content. A total of 73 agencies answered the additional questions. This equates to 90% of respondents that report having sexual assault response policies.

The survey conducted during the period July 24, 2009 through August 7, 2009 was web-based. The survey instrument was constructed so that respondents only saw the survey questions that were applicable to them, based on their response to a previous question. This reduced the amount of time needed to complete the survey and prevented confusion about which follow up questions required responses.

As summarized in the table below, there were 106 law enforcement agencies that responded to the survey, resulting in a survey response rate of approximately 30%. Local police departments provided the majority of responses (61) to the survey. This represents 58% of all responses and equates to a 34% response rate from local police departments surveyed.

Type of Agency	Frequency	Percent*	Response Rate**
Local Police Department	61	58%	34%
Sheriff's Office	33	31%	27%
Campus Police Department	7	7%	20%
<b>Total</b>	<b>106</b>	<b>101%</b>	<b>~30%</b>

*\*Totals may not add up to 100% due to rounding. \*\* Response rate calculated based on DCJS current list of local Police Departments, Sheriff's Offices, and Campus Police Departments*

## Prevalence of Written Policies

As shown in table 1, 76% (81) of the law enforcement agencies that responded to the survey indicated that their departments had written policies. Of these, 79% of police departments and 73% of sheriff's offices indicated that their departments had policies. Note: One agency responded that the department had a sexual assault policy, however, all subsequent responses were "no" suggesting that the department probably did not have a policy. This agency is not included among the 81 that responded "yes."

<b>Table 1 Does Your Agency Have a Written Sexual Assault Policy?</b>				
<b>Type of Law Enforcement Agency</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Local Police Department	48	79%	13	21%
Sheriff's Office	24	73%	8	24%
Campus Police Department	6	86%	1	14%
Other	3	60%	2	40%
<b>Total</b>	<b>81</b>	<b>76%</b>	<b>24</b>	<b>24%</b>

## Required Policy Elements

§9.1-1301 requires that, at a minimum, written law enforcement policies address the following five broad elements:

- Departmental policy on sexual assault training
- Compliance with the polygraph testing statute
- Compliance with the forensic evidence collection statute; Physical Evidence Recovery Kit (PERK) use
- Transportation of victims
- Provision of information on available legal and community resources

## Assessing Statutory Compliance and the Level of Detail Contained in Policies

To understand the degree to which policies address the broad statutory elements and to assess the level of detail provided within policies, DCJS staff categorized policies as either "compliant" or "detailed."

## Compliant Sexual Assault Policies

*Compliant* sexual assault policies were defined as those policies which addressed, according to the survey respondent, all five statutory elements listed above, but which may not provide detailed guidance on each element.

Table 2 below describes the number of statutory elements addressed in policy and the frequency with which each element was addressed. Among the 81 agencies with written sexual assault policies, 17 (21%) indicated having policies which addressed all five broad statutory elements.

<b>Table 2 Compliance of Sexual Assault Policies</b>			
<b>Number of Required Statutory Elements Addressed in Sexual Assault Policy</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>	<b>Cumulative Percent of Agencies</b>
Addressed 1 required element	4	5%	5%
Addressed 2 required elements	10	12%	17%
Addressed 3 required elements	30	37%	54%
Addressed 4 required elements	20	25%	79%
Addressed all 5 required elements (compliant)	17	21%	100%
<b>Total</b>	<b>81</b>	<b>100%</b>	<b>100%</b>

As shown in table 3, provision of community and legal referrals were most frequently addressed in policies (91%), while policy guidance regarding the use of polygraph testing was least often addressed (33%).

<b>Table 3 Agency Inclusion of Required Statutory Elements in Sexual Assault Policy</b>		
<b>Required Statutory Elements Included in Policies</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>
Community and legal referrals	74	91%
Transportation	65	80%
Training	54	67%
Compliance with PERK statute	59	73%
Use of polygraphs	27	33%

## Detailed Sexual Assault Policies

*Detailed* sexual assault policies were defined as being compliant (see above) *and* as providing additional detailed guidance on 17 issues or topics consistent with the statutory elements.

So, for example, in addition to generally addressing appropriate officer training, detailed policies include specific reference to training on changes in the Code and training on new or modified procedural requirements related to sexual assault response. The statutory elements and associated specific guidance items are summarized in the listing below.

Note: §9.1-1301 does not require that law enforcement agencies maintain detailed policies. However, such detailed policy guidance can be viewed as promoting implementation of the five required broad statutory elements.

### *Training*

- Training on changes in Code
- Training on new or modified procedural requirements

### *Use of polygraph*

- Victims asked to take a polygraph exam are informed of conditions in writing
- If victims refuse to take a polygraph exam, refusal will not prevent investigation, charges, or prosecution

### *Compliance with PERK statute*

- Victims that request a PERK exam are not required to cooperate with the law enforcement investigation or prosecution of the case
- Authorization by a criminal justice agency is not required to obtain a PERK exam
- PERK exam is paid for by the Criminal Injuries Compensation Fund (CICF)
- Investigator will begin investigation and take custody of evidence when notified of PERK exam

*(Policy relating to victims that undergo PERK exams, but choose **not** to participate in law enforcement investigations)*

- Medical personnel agree to notify law enforcement that evidence is being held
- Adherence to all standard rules of evidence and chain of custody procedures
- Officer leaves contact information for victims that do not wish to be interviewed
- Officer notification of victim services agency with whom they have standard working relationship
- Cross reference case ID, victim name, and written reports with PERK number

### *Transportation*

- Transportation of victim to medical care, including PERK
- Transportation of victim to residence

**Legal and community resources**

- Sexual assault crisis center referral
- Victim/Witness program referral

There were 17 items identified as included in a “detailed” sexual assault policy, five of which are also required for a compliant policy (the five broad statutory elements). Table 4 below displays the number of “detailed policy” items that were included in the sexual assault policies among the 17 agencies that have “compliant” sexual assault policies.

<b>Table 4 Detailed Policy Elements Among Agencies With Compliant Sexual Assault Policies</b>			
<b>Number of Detailed Policy Elements Addressed in Sexual Assault Policy</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>	<b>Cumulative Percent of Agencies</b>
Addressed 9 detailed policy elements	2	12%	12%
Addressed 12 detailed policy elements	1	6%	18%
Addressed 13 detailed policy elements	4	24%	42%
Addressed 14 detailed policy elements	1	6%	48%
Addressed 15 detailed policy elements	6	35%	83%
Addressed 16 detailed policy elements	1	6%	89%
Addressed 17 detailed policy elements	2	12%	101%
<b>Total</b>	<b>17</b>	<b>101%*</b>	<b>101%*</b>

\*Totals may not add up to 100% due to rounding.

Of the 17 agencies that have “compliant” policies, only two are also “detailed,” containing all 17 detailed policy elements. The two agencies that have fully *detailed* sexual assault policies are the New Kent Sheriff’s Office and the Pulaski Police Department.

**Frequency of Inclusion of Various Policy Elements Among All Responding Agencies**

DCJS also examined survey responses in order to assess the frequency with which specific policy elements were addressed, regardless of whether the complete policies met the definition of “compliant” or “detailed.”

Table 5 below depicts the frequency with which certain policy elements were included within the policies maintained by the 81 agencies with written policies. Policies often specify referrals to sexual assault crisis centers and victim/witness programs. Specifically, 84% of agency policies indicate that victims should be referred to the local victim/witness program and 74% specify

referral to sexual assault crisis centers. Additionally, 80% of policies address transporting victims to the hospital. However, only 54% of policies specifically indicate that victims are not required to cooperate with law enforcement authorities in order to receive a forensic examination and evidence collection. Additionally, only 43% of policies indicate that law enforcement authorization is not required in order for victims to receive forensic examinations. And, only 53% of policies indicate that forensic exams can be paid for through the Criminal Injuries Compensation Fund (CICF).

**Table 5  
Agency Inclusion of Detailed Policy Items in Sexual Assault Policy**

<b>Detailed Policy Item Included in Policies</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>
Training – Changes in procedures	36	44%
Training – Changes in Code	33	41%
Use of polygraphs – Effect of refusal	16	20%
Use of polygraphs – Notice in writing	11	14%
Compliance with PERK statute – Law enforcement takes evidence	45	56%
Compliance with PERK statute – cooperation not required	44	54%
Compliance with PERK statute – paid by CICF	43	53%
Compliance with PERK statute – authorization by law enforcement not required	35	43%
<b>In cases where victim has completed PERK but decides not to participate in law enforcement investigation:</b>		
Adherence to standard procedures to preserve evidence and chain of custody	43	53%
Officer leaves contact information	35	43%
Medical personnel notify law enforcement that evidence is being held	29	36%
Officer notifies about victims services	28	35%
Officer cross references PERK ID/victim	26	32%
Transportation – To medical facility	65	80%
Transportation – To victim’s residence	36	44%
Referral – To victim/witness program	68	84%
Referral – To sexual assault center	60	74%

## Departmental Policy on Sexual Assault Training

As noted below 54 agencies, or 67% of survey respondents having written policies, indicate that their policies addressed appropriate training for officers in the handling of sexual assault incidents. Seventy-nine percent of sheriff's offices indicated that their written policies addressed appropriate training of deputies while 65% of police departments indicated that their policies specified training. Changes to the Code of Virginia and new or modified procedures were the training issues most frequently addressed in written policies. Training for dispatchers or communications officers was only rarely addressed in written policies.

<b>Table 6 Does Your Agency Have a Sexual Assault Policy that Specifies Sexual Assault Training?</b>				
<b>Type of Law Enforcement Agency</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Local Police Department	31	65%	17	36%
Sheriff's Office	19	79%	5	21%
Campus Police Department	3	50%	3	50%
Other	1	33%	2	67%
<b>Total</b>	<b>54</b>	<b>67%</b>	<b>27</b>	<b>33%</b>

Of the 54 agencies whose sexual assault policy specifies in-service training, the types specified are displayed in table 7 below.

<b>Table 7 Does Your Sexual Assault Policy Specify Types of Sexual Assault-Related In-Service Training?</b>				
<b>Type of Sexual Assault-Related Training Specified</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
New or modified procedural requirements	36	67%	18	33%
Changes in Code	33	61%	21	39%
Relevant case law	26	48%	28	52%
Specialized training for dispatchers/communication officers	7	13%	47	87%

## Compliance with the Polygraph Testing Statute

In order to be eligible to receive funding under the federal Violence Against Women Act (VAWA), states must comply with VAWA restrictions on polygraph testing of sexual assault victims. Specifically, state laws, policies, or practices must ensure that law enforcement officers, prosecutors, or other government officials do not ask or require adult, youth, or child victims of

alleged sex offenses to submit to polygraph examination, as a condition for proceeding with the investigation of such offenses. Additionally, the refusal of a victim to submit to such an examination cannot prevent the investigation, charging, or prosecution of the offense.

Section §19.2-9.1 of the Code of Virginia prohibits law enforcement officers and others from asking victims to take polygraph tests, as a condition of proceeding with investigations. Additionally, if victims are asked to submit to testing, they must be informed, in writing, that (i) the examination is voluntary, (ii) the results are inadmissible as evidence and (iii) the agreement to submit to testing cannot be the sole condition for initiating or continuing the criminal investigation.

A total of 72 agencies answered the questions regarding polygraph testing. As shown in table 8, overall, 27 agencies, or 38% of respondents with policies, indicated that their written policies described how to comply with §19.2-9.1. It appears that responding police departments are much more likely to describe compliance measures in their policies than are other types of responding agencies.

<b>Table 8</b>				
<b>Does Your Agency Have a Sexual Assault Policy that Describes Compliance with §19.2-9.1 (use of polygraph exams in sexual assault investigations)?</b>				
<b>Type of Law Enforcement Agency</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Local Police Department	21	49%	22	51%
Sheriff's Office	5	22%	18	78%
Campus Police Department	1	20%	4	80%
Other	0	0	1	100%
<b>Total</b>	<b>27</b>	<b>38%</b>	<b>45</b>	<b>63%</b>

*Missing 9 agency responses*

Of the 27 agencies whose sexual assault policies describe compliance with §19.2-9.1, 41% referenced providing victims with the required written information about polygraph testing. A directive indicating that a victim's refusal to submit to testing will not prevent investigation, charging, or prosecution was included in 59% of policies. Fifty nine percent of these policies also indicated that it is inappropriate to subject victims to polygraph exams, while 7 policies (26%) indicated that polygraph testing is considered when victims are suspected of making false reports. Table 9 below depicts the types of polygraph-related directives included within the policies of the 27 agencies whose sexual assault policies describe compliance with §19.2-9.1.

**Table 9  
Polygraph Related Directives in Written Policy**

Type of Polygraph-Related Directives Described in Policy	Yes		No	
	Number	Percent	Number	Percent
It is not appropriate to subject a victim to a polygraph exam	16	59%	11	41%
If a victim refuses to agree to a polygraph exam, it will not prevent the investigation, charging, or prosecution of the offense	16	59%	11	41%
Victims who are asked to submit to a polygraph exam are informed in writing that (i) the exam is voluntary, (ii) the results are inadmissible as evidence and (iii) their agreement to submit cannot be the sole condition for initiating or continuing the investigation	11	41%	16	59%
A polygraph exam may be considered when the alleged victim is suspected of making a false report	7	26%	20	74%

## **Compliance with the Forensic Evidence Collection Statute**

The federal Violence Against Women Act (VAWA) provides that states may not “require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursed for charges incurred on account of such an exam, or both.” Under this provision, states must ensure that victims have access to exams, and that the state will pay for the exams, even if the victim chooses not to participate in the criminal justice system, or otherwise cooperate with the criminal justice system or law enforcement authorities.

§19.2-165.1 of the Code of Virginia provides, in part, that all fees associated with gathering of evidence through physical evidence recovery kit (PERK) examinations conducted on victims of sexual assault are to be paid by the Commonwealth, whether or not victims cooperate with law enforcement authorities and/or participate in the criminal justice system. Additionally, the law indicates that the Criminal Injuries Compensation Fund (CICF) can pay health care providers directly for the costs of performing the exams.

The survey included a series of questions to assess the degree to which law enforcement policies address compliance with these requirements. A total of 79 agencies responding to the survey answered the questions regarding forensic examinations and collection of evidence using the PERK.

Overall, 59 agencies, or 75% of respondents with policies, indicated that their written policies addressed compliance with §19.2-165.1. Twenty-five percent of respondents indicated that their policies did not address compliance. It appears that responding police departments are more likely to describe compliance measures in their policies than are other types of responding agencies.

**Table 10**  
**Does Your Agency Have a Sexual Assault Policy that Addresses Compliance with §19.2-165.1 (forensic exams and the use of PERKs)?**

Type of Law Enforcement Agency	Yes		No	
	Number	Percent	Number	Percent
Local Police Department	38	81%	9	19%
Sheriff's Office	16	67%	8	33%
Campus Police Department	3	60%	2	40%
Other	2	67%	1	33%
<b>Total</b>	<b>59</b>	<b>75%</b>	<b>20</b>	<b>25%</b>

Missing 2 agency responses

As shown in table 11 below, of the 59 agencies whose sexual assault policy describes compliance with §19.2-165.1, 73% included a directive indicating that victims who request PERK exams are not required to participate in the criminal justice system or cooperate with law-enforcement authorities. Seventy-one percent of policies noted that PERK exam costs can be paid by the Criminal Injuries Compensation Fund (CICF). And, 58% of policies specifically acknowledged that neither victims, nor medical personnel, are required to obtain authorization from any criminal justice authority in order to obtain PERK exams.

**Table 11**  
**Does Your Agency Have a Sexual Assault Policy that Addresses Compliance with §19.2-165.1 (forensic exams and the use of PERKs)?**

Type of Forensic Exam (PERK) Directives Addressed in Policy	Yes		No	
	Number	Percent	Number	Percent
When notified by medical treatment facilities that they have a PERK, the officer or investigator will respond to begin an investigation and take custody of the evidence	44	75%	15	25%
Victims who request a PERK exam are not required to participate in the criminal justice system or cooperate with law-enforcement authorities	43	73%	16	27%
The PERK exam is paid for by the CICF	42	71%	17	29%
Neither the victim, nor medical personnel, are required to obtain authorization from any criminal justice authority in order to obtain a PERK exam	34	58%	25	42%

## ***PERK Exams When Victims Decide Not to Cooperate with Subsequent Investigations***

One intent of the VAWA forensic examination requirement is to allow victims time to decide whether to pursue their cases. A sexual assault is a traumatic event. Some victims are unable to decide whether they want to cooperate with law enforcement in the immediate aftermath of a sexual assault. Because forensic evidence can be lost as time progresses, such victims should be encouraged to have the evidence collected, as soon as possible, without having to decide immediately whether or not to initiate a report.

§19.2-165.1 accomplishes this intent and ensures that victims can receive timely medical treatment and evidence collection. Data regarding how frequently victims elect to have evidence collected and then decline to participate in the criminal justice process, and the law enforcement response in such cases, have not been readily available. The survey included a series of questions related to these issues. It was hoped that such data could contribute to better understanding, the development of effective policies for responding to victims, and ensuring appropriate handling of evidence in such cases.

Among the 59 agencies whose sexual assault policies address compliance with §19.2-165.1, many policies include specific guidance about procedures to be followed when victims undergo PERK exams, but choose not to participate in investigations. Table 12 below summarizes the types of issues covered in policies.

**Table 12  
Procedures to be Followed When Victims Undergo PERK Exams but Choose Not to Participate in Investigations**

Items Addressed in Policy	Yes		No	
	Number	Percent	Number	Percent
Adherence to all standard rules of evidence preservation and chain of custody procedures	42	71%	17	29%
If the victim does not wish to be interviewed, the officer should leave their contact information with a request that it be given to the victim in order to facilitate later contact	34	58%	25	42%
Medical facility personnel have agreed to notify the law enforcement agency that evidence is being held	28	48%	31	53%
The officer/investigator should notify any appropriate victims services organization with whom the agency has a standard working agreement so that they can follow-up independently with the hospital/medical facility about a possible contact with the victim	27	46%	32	54%
The agency case identification number, victim's name, and any written reports are cross-referenced to the unique number of the PERK	26	44%	33	56%

The survey also asked agencies to estimate the number of PERKs collected since July 1, 2008. Table 13 below details the range of responses. (See Appendix 2 for a Summary of PERK Data).

**Table 13  
Estimated Number of PERKs Collected Since July 1, 2008 Per Agency**

Number of PERKs collected	Number of Agencies	Percent of Agencies	Cumulative Percent of Agencies
0	23	29%	29%
1 – 5	23	29%	58%
6 – 10	15	19%	77%
11 – 20	9	12%	89%
21 – 100	6	8%	97%
101 +	2	3%	100%
<b>Total</b>	<b>78</b>	<b>100%</b>	<b>100%</b>

Missing 3 agency responses

A total of 55 agencies reported collection of 1 or more PERKs since July 1, 2008. The number of cases ranged from 1 to 150. Thirty-eight agencies (48%) estimated collecting between one and ten PERKs during the timeframe. Twenty-nine percent estimated collecting no PERKs and 23% estimated collection of more than 10 PERKs. The 50 agencies responding to each of the PERK questions reported collecting a total of 651 PERKs. The mean number of PERKs collected was 13.02.

A series of questions asked were intended to capture the number of cases where victims of sexual assault had forensic exams (PERKs) and then declined to cooperate with the investigations, immediately following the exams, or at any point after the exams were conducted. The survey also captured the number of cases where victims changed their minds and decided to cooperate in the investigations within a week after initially refusing to cooperate immediately following the exams. The purpose of collecting these estimates was to assess when and how frequently victims refused to cooperate with investigations following forensic exams and to assess when and how frequently they changed their minds. It was hoped that having such data might contribute to better understanding of issues including the impact that these cases may have on law enforcement workload and the development of procedures to most effectively respond to sexual assault victims and promote their cooperation with investigations.

Agencies that indicated that they had at least one case where a PERK was collected were asked *"Among the collected PERK cases, approximately how many victims initially consented to a forensic exam (PERK) and then declined to cooperate with the investigation at any point following the exam?"* Responses are summarized in table 14 below.

<b>Table 14</b>			
<b>Estimated Number of Victims that Declined to Cooperate at Any Point After PERK Exam</b>			
<b>Number of Victims</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>	<b>Cumulative Percent of Agencies</b>
0	20	40%	40%
1 – 5	24	48%	88%
6 – 10	3	6%	94%
11 – 20	1	2%	96%
21 – 100	2	4%	100%
101 +	0	0	
<b>Total</b>	<b>50</b>	<b>100%</b>	

Missing 5 agency responses

A total of 30 agencies reported at least one case in which a PERK was collected and the victim then declined to cooperate with the investigation *at any point* following the exam. This represented a total of 198 cases. Based on these data, one can infer that 30% (198/651) of cases where PERKs were collected involved victims that declined to cooperate at some point after the exams. (See Appendix 2).

Agencies that responded that they had at least one case where a victim initially consented to a forensic exam (PERK) and then declined to cooperate with the investigation *at any point* following the exam were asked “*Among these cases (where victims consented to a PERK and then declined to cooperate with the investigation at any point following the exam), approximately how many of the victims declined to cooperate immediately following the exam?*” Responses are summarized in table 15 below.

<b>Table 15</b> <b>Estimated Number of Victims that Declined to Cooperate</b> <b><i>Immediately Following the PERK Exam</i></b>			
<b>Number of Victims</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>	<b>Cumulative Percent of Agencies</b>
0	14	47%	47%
1 – 5	13	43%	90%
6 – 10	0	0	90%
11 – 20	2	7%	97%
21 – 100	1	3%	100%
101 +	0	0	
<b>Total</b>	<b>30</b>	<b>100%</b>	

Sixteen agencies reported at least one case in which a PERK was collected and then the victim declined to cooperate with the investigation *immediately* following the exam. The number of such cases reported per agency ranged between 1 and 30. A total of 86 cases were reported by all agencies. Consequently, it can be inferred that in 43% (86/198) of cases where victims decline to cooperate with investigations at some point after the exam, victims decline to cooperate immediately after the exam. (See Appendix 2).

Agencies that responded that they had at least one case where a victim initially consented to a forensic exam (PERK) and then declined to cooperate with the investigation *immediately* following the exam were asked “*Among these cases (where victims consented to a PERK and then declined to cooperate with the investigation immediately following the exam), approximately how many of the victims then changed their minds and decided to cooperate with the investigation within seven days following the exam?*” Responses are summarized in table 16 below.

**Table 16**  
**Estimated Number of Victims that Declined to Cooperate**  
**Immediately Following the PERK Exam, and**  
**Then Changed Their Minds and Decided to Cooperate Within Seven Days**

<b>Number of Victims</b>	<b>Number of Agencies</b>	<b>Percent of Agencies</b>	<b>Cumulative Percent of Agencies</b>
0	12	75%	75%
1 – 5	3	19%	94%
6 – 10	0	0	94%
11 – 20	1	6%	100%
21 – 100	0	0	
101 +	0	0	
<b>Total</b>	<b>16</b>	<b>100%</b>	

Four agencies reported at least one case in which a PERK was collected and the victim then declined to cooperate with the investigation immediately following the exam, but then changed their minds and decided to cooperate with the investigation, within seven days following the exam. The range of cases reported per agency varied from one to seventeen. A total of 20 cases were reported. As indicated previously, 86 cases were reported in which victims refused to cooperate immediately following the exam. Additionally, in 20 cases victims changed their minds within seven days. Consequently it can be inferred that of the cases where victims declined to cooperate with the investigation immediately after the PERK exams, 23% of victims changed their minds and decided to cooperate within 7 days after the exam. (See Appendix 2).

## **Transportation of Victims**

As indicated in table 17 below, 65 agencies, or 80% of agencies with policies, reported having written policies which address transportation of victims. Eighty-three percent of sheriff’s offices and 81% of police departments reported that written policies addressed transportation of victims.

**Table 17**  
**Does Your Agency Have a Sexual Assault Policy that Addresses Transport of Victims?**

<b>Type of Law Enforcement Agency</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Local Police Department	39	81%	9	19%
Sheriff’s Office	20	83%	4	17%
Campus Police Department	3	50%	3	50%
Other	3	100%	0	0
<b>Total</b>	<b>65</b>	<b>80%</b>	<b>16</b>	<b>20%</b>

Agencies whose written policies addressed transportation were asked *"To where does your policy specify transportation of alleged victims be provided?"* Table 18 below displays the locations specified.

<b>Table 18</b>				
<b>Does Your Agency Have a Sexual Assault Policy that Addresses Transport of Victims?</b>				
<b>Location to Where Victims Would be Provided Transportation Addressed in Policy</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Medical care including PERK	65	100%	0	0
Victim's Residence	36	55%	29	45%
Law enforcement facility	35	54%	30	46%
Domestic Violence Shelter	29	45%	36	55%
Residence of friend or family member	29	45%	36	55%
Magistrate	23	35%	42	65%

## **Provision of Information on Available Legal and Community Resources**

As indicated in table 19 below, 74 agencies, or 91% of agencies with policies, reported that their written policies address providing victims of sexual assault with information about available legal and community resources.

<b>Table 19</b>				
<b>Does Your Agency Have a Sexual Assault Policy that Addresses Providing Information on Legal and Community Resources to Victims?</b>				
<b>Type of Law Enforcement Agency</b>	<b>Yes</b>		<b>No</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Local Police Department	45	94%	3	6%
Sheriff's Office	21	88%	3	13%
Campus Police Department	5	83%	1	17%
Other	3	100%	0	0
<b>Total</b>	<b>74</b>	<b>91%</b>	<b>7</b>	<b>9%</b>

Of the 74 agencies whose policies address providing information on legal and community resources to victims of sexual assault, table 20 below displays the types of referrals.

**Table 20**  
**Does Your Agency Have a Sexual Assault Policy that Addresses Providing Information on Legal and Community Resources to Victims?**

Types of Specific Referrals to Legal and Community Resources Addressed in Policy	Yes		No	
	Number	Percent	Number	Percent
Victim/witness program	73	92%	6	8%
Sexual assault crisis center	63	80%	16	20%
Criminal Injuries Compensation Fund	47	59%	32	41%
Local or statewide hotline	27	34%	52	66%
Legal services available in area	25	32%	54	68%

## Written Policies: 2009 v. 2004

In addition to capturing data useful in describing current policies, the 2009 survey also followed up on a 2004 survey of law enforcement sexual assault policies. To assess changes in law enforcement policies, at the same law enforcement agencies, DCJS staff identified 64 law enforcement agencies that responded to both the 2004 and 2009 surveys. As indicated in table 21 below, the percentage of agencies indicating that they had written policies on responding to sexual assault increased from 52% to 75% among agencies that responded to both surveys.

**Table 21**  
**Comparison of Agencies That Responded to Both the 2009 and 2004 Sexual Assault Policy Surveys**

Year of Survey	Does Your Agency Have a Written Sexual Assault Policy?			
	Yes		No	
	Number	Percent	Number	Percent
2009	48	75%	16	25%
2004	33	52%	31	48%

## Findings and Strategies to Improve Compliance

There are a number of findings and trends which suggest both progress and the need for further improvement. For example:

- The percentage of agencies indicating that they had written policies on responding to sexual assault increased from 52% in 2004 to 75% in 2009 among the 64 agencies responding to both surveys.
- 91% of policies addressed providing victims with community and legal referrals.
- 80% of policies address transportation of victims

- 75% of policies address compliance with §19.2-165.1 (forensic evidence collection)
- 24% of agencies responding to the survey indicated that they *do not have written sexual assault response policies, as required by §19.2-1301*

Among agencies reporting that they maintain written policies, **79% of written policies do not appear to address all five broad statutory elements**. And, it appears that policies frequently do not provide detailed guidance on how the broad statutory elements are to be implemented.

For example, 59 agencies, or 75% of respondents with policies, indicated that their written policies addressed the broad statutory element of compliance with §19.2-165.1 (forensic evidence collection). Among those 59 agencies only 58% of policies specifically acknowledged that neither victims, nor medical personnel, are required to obtain authorization from any criminal justice authority in order to obtain PERK exams.

As already noted, written sexual assault response policies are mandated by the Code. The substantive purpose of requiring written policies is not to complicate the law enforcement response. Rather, it is to recognize that appropriate response is important and complex.

An illustration of the importance of appropriate law enforcement response can be found in the data regarding victims who decided not to cooperate with law enforcement investigations following PERK exams. According to the survey data:

- In 30% (198/651) of cases where PERKs were collected, victims declined to cooperate *at some point* after the exams.
- Among the victims who declined to cooperate, 43% (86/198) declined to cooperate *immediately after* the exams.

The presence or absence of written law enforcement response policies, and the level of detail contained in written policies, would not, in itself, change the above statistics. Additionally, the reasons why some victims decline to cooperate can be complex and may have nothing to do with the law enforcement response. However, detailed written policies can be viewed as one important tool promoting appropriate, consistent, and complete investigations which are conducted by trained personnel aware of the dynamics of sexual assault and appropriately responsive to victims' needs and rights. Such a response promotes the best treatment of victims, provides the best basis for reducing the number of cases in which victims decline to cooperate, and possibly increases the number of sexual assault offenses that are reported to law enforcement agencies.

The following strategies for action describe DCJS plans to promote the use of detailed law enforcement sexual assault response policies that comport with the statute. Such policies provide an important means of improving the criminal justice system response to sexual violence, while maximizing the likelihood of successful investigations and minimizing trauma to victims.

***Collaborate with Professional Organizations to Encourage Use of Detailed Policies***

DCJS will continue to work with the Virginia Association of Chiefs of Police, the Virginia Sheriffs Association and others to encourage adoption and use of detailed law enforcement

sexual assault response policies, including DCJS' General Order GO 2-31 (model policy), as part of larger efforts to promote coordinated multidisciplinary community responses to sexual violence.

### ***Conduct Training on Sexual Violence Response***

DCJS will, given adequate resources, offer appropriate sexual violence response training for law enforcement officers and allied professionals. Trainings, including DCJS' "Sexual Violence Training for Trainers," should include discussion of law enforcement response policies, the availability of model policies and technical assistance, and the role which detailed response policies can play in promoting appropriate and effective responses to sexual violence.

### ***Enhance SART Training***

Commonwealth's attorneys and law enforcement agencies have taken an active and pivotal role in the development of multidisciplinary team approaches in response to sexual assault. To support and contribute to these efforts, DCJS developed a draft Sexual Assault Response Team (SART) Protocol. Practice has demonstrated that coordinated multidisciplinary response programs and teams improve the community and criminal justice system responses to victims because they utilize the expertise of many disciplines in one setting. Sexual assault is a chronically underreported crime, and those assaults that are reported and investigated are often difficult to prosecute. Research indicates that when sexual assault response teams come together to respond to victims of sexual assault in a coordinated fashion, cases are reported more quickly, more evidence is collected, and more victim participation is noted. For these reasons, DCJS will, given adequate resources, develop and provide training for law enforcement officers, health care professionals, prosecutors, and victims' services professionals on the development of local and regional Sexual Assault Response Teams.

### ***Emphasize Importance of Law Enforcement Policy at Mandated Sexual Assault Response Meetings***

HB2400 (2009) provides a leadership role for Commonwealth's attorneys convening local meetings to: 1) discuss implementation of protocols and policies for sexual assault response teams, and 2) to establish and review guidelines for the community response. DCJS will encourage Commonwealth's attorneys, police chiefs, and sheriffs to include law enforcement sexual assault response policies, and the requirements of §9.1-1301, within these discussions.

### ***Evaluate Recommending New Law Enforcement Accreditation Standard on Sexual Assault***

The Virginia Law Enforcement Professional Standards Commission establishes professional standards and administers the accreditation process by which Virginia law enforcement agencies can be systematically measured, evaluated, and updated. DCJS will evaluate recommending to the Commission the addition of a new accreditation standard related to sexual assault policies. The Code of Virginia mandates that law enforcement agencies maintain a number of written policies. For example, as noted in this report, §9.1-1301 requires that written policies provide guidance regarding departmental policy on: sexual assault training, compliance with statutes related to the use of polygraph testing (§19.2-9.1) and forensic evidence collection (§19.2-165.1), transportation of victims, and provision of information on available legal and community resources. Additionally, §9.1-1300 requires departments to establish arrest policies and procedures addressing seven areas in domestic violence and family abuse cases. Current accreditation standards address domestic violence but do not appear to directly address sexual assault. To further promote the development and implementation of detailed sexual assault

response policies, consideration should be given to the development of an accreditation standard addressing §9.1-1301.

***Evaluate Recommending Appropriate Amendments to the Compulsory Minimum Training Standards for Law enforcement Officers, Other Relevant Training Curricula, or Lesson Plan Guide Information***

The Criminal Justice Services Board establishes minimum training requirements for criminal justice officers and DCJS is responsible for ensuring compliance with the training requirements. One way to accomplish this is through the initial review and approval of the training curriculum. As a means of further promoting appropriate, consistent, and complete sexual assault investigations the Curriculum Review Committee may wish to review the findings contained in this report and to consider appropriate amendments to the Compulsory Minimum Training Standards for Law enforcement Officers, other relevant training curricula, or lesson plan guide information. Specifically, with regard to training standards, consideration should be given amending training objective 5.8 by adding training objective criteria addressing the following issues:

- Provide or arrange for transportation of victims, at their request or with their consent, in accordance with §9.1-1301 and departmental policy.
- Encourage victims to receive appropriate medical care and forensic evidence collection.
- In accordance with §19.2-165.1(B), inform victims that they are not required to decide to cooperate with law enforcement or participate in the criminal justice process in order to have forensic evidence collected and that evidence collection costs can be paid through the Criminal Injuries Compensation Fund.

***Encourage the Virginia Sexual and Domestic Violence Workgroup to Promote Use of Detailed Policies and Review Guidance to Promote Consistent and Complementary Policies***

Executive Order 93 (2009) established the Virginia Sexual and Domestic Violence Workgroup to promote ongoing collaboration among and between relevant state agencies and private sector partners involved in sexual and domestic violence reduction, enforcement and prevention efforts. The workgroup is also directed to ensure that Virginia localities have law enforcement officers, prosecutors and victim advocates who are prepared to appropriately respond to sexual assault. In addressing this directive the workgroup may wish to consider the findings of this report and consider developing strategies to promote and encourage the use of detailed law enforcement response policies, as appropriate.

Additionally, the workgroup may wish to examine the various sources of guidance on sexual assault response in order to promote consistent and complementary guidance and, if appropriate, recommend improvements. For example, SART Protocols, law enforcement sexual assault response policies, law enforcement training standards, hospital procedures and standards of care, victims' compensation requirements related to PERK exam payment, and guidelines for community response developed as a result of local meetings, convened in accordance with statute by Commonwealth's attorneys, may or may not be appropriately consistent and complementary.

## Appendix 1 – Survey Instrument



### COMMONWEALTH OF VIRGINIA *Department of Criminal Justice Services*

Memorandum

Date: July 24, 2009

To: Chiefs of Police and Sheriffs with Investigative Responsibilities

From: Tim Paul, Virginia Department of Criminal Justice Services

RE: **Survey of Virginia law enforcement agencies' sexual assault policies**

I am writing to request your assistance in completing a brief on-line survey of Virginia law enforcement agencies' sexual assault policies.

The Department of Criminal Justice Services has maintained a sample directive (model policy) on sexual assault investigations for Virginia law enforcement agencies since the early 1990's. The purpose of the sample directive is to provide useful guidance to law enforcement agencies in response to changing legislation, case law, technology, victim needs, research findings, and investigative methods.

As you may know, there were changes to the Virginia Code dealing with sexual assault investigations in the 2008 and 2009 sessions of the General Assembly. DCJS drafted a sample directive that incorporated the code changes.

In order to ensure that our sample directive is useful and reflective of the diverse law enforcement infrastructure, we are seeking your support through the on-line survey. Specifically, your responses will enable us to:

- better understand current policies and practical issues confronted by law enforcement agencies responding to sexual assaults;
- develop and offer technical assistance and training that are helpful and responsive to your needs;

- keep the sample directive current and relevant for law enforcement agencies, and
- meet our legislative mandate to assess implementation of written law enforcement policies and procedures related to sexual assault response.

Thank you in advance for your cooperation. I appreciate your participation in this important survey. If you have any questions about this project, please contact me by e-mail at [Tim.Paul@dcjs.virginia.gov](mailto:Tim.Paul@dcjs.virginia.gov) or by calling 804-786-2407.

**Survey instructions:**

**To complete the survey most efficiently, it is advised that you have a copy of your agency's policy available.**

- Click this link to access the survey: <http://www.dcjs.virginia.gov/checkbox/Survey.aspx?surveyid=1213>
- Use this password to enter the survey: **policy** (the password is case-sensitive).
- **Caution:** After starting the survey, please *do not* shut down your browser or computer or you will lose any information you have entered into the survey. When you reach the end of the survey, you will see a "thank you" message -- this will indicate that you have completed and successfully submitted your survey responses.
- We hope that each of you will assist us by completing the survey online **no later than Friday, August 7th**. By doing so, you not only help us, you also help other law enforcement agencies who use or adapt the model policy for their own officers and deputies.

(Web Based Survey – Web format will be user friendly)

Blue text – respondents don't see this text, it provides direction for survey construction

Green text – contingency questions, respondents might see depending on their responses

## Survey of Virginia Law Enforcement Agencies' Sexual Assault Policies

### Identification

1. Name of Agency: (fill in)

2. Type of Agency: (check one)

- Campus Police Department
- Local Police Department
- Sheriff's Office
- VA State Police
- Other

*(In the event we may need to contact you for clarification, please provide your name and contact information.)*

3. Name of person responding to survey: (fill in)

4. Email of person responding to survey: (fill in)

5. Phone number of person responding to survey: (fill in)

6. Does your department have a written policy on responding to sexual assault incidents?

Yes/No

*(If yes, respondent will be directed to Q. 7 - 12. If no, they will be directed to end of survey.)*

*(Q. 7 – 12 will be asked of all survey respondents that have a written policy on responding to sexual assault incidents. Contingency question(s) for each will only be asked if they respond "yes" to the initial question.)*

7. Does the written policy specify appropriate training for officers in the handling of sexual assault incidents?

Yes/No

*If yes,*

7a. What types of sexual assault-related in-service training are specified in your policy? (check all that apply)

- changes in Code
- new or modified procedural requirements
- relevant case law.
- specialized training for dispatchers/communication officers

8. Does the written policy describe how officers should ensure compliance with §19.2-9.1 regulating the use of polygraph exams in sexual assault investigations?

Yes/No

*If yes,*

8a. What specific types of polygraph-related directives are specified in your policy? (check all that apply)

- that it is not appropriate to subject a victim to a polygraph exam
- that victims asked to submit to a polygraph exam are informed in writing that (i) the exam is voluntary, (ii) the results are inadmissible as evidence and (iii) their agreement to submit cannot be the sole condition for initiating or continuing the investigation

if a victim refuses to agree to a polygraph exam, it will not prevent the investigation, charging, or prosecution of the offense  
 that a polygraph exam may be considered when the alleged victim is suspected of making a false report.

9. Does the written policy address compliance with §19.2-165.1 including forensic exams and collection of evidence using the Physical Evidence Recovery Kit (PERK)?

Yes/No

*If yes,*

9a. What specific types of forensic exam (PERK) directives are specified in your policy? (check all that apply)

- victims who request a PERK exam are not required to participate in the criminal justice system or cooperate with law-enforcement authorities
- neither the victim, nor medical personnel, are required to obtain authorization from any criminal justice authority in order to obtain a PERK exam
- the PERK exam is paid for by the Criminal Injuries Compensation Fund
- when notified by medical treatment facilities that they have a PERK, the officer or investigator will respond to begin an investigation and take custody of the evidence

9b. If the victim has undergone a PERK exam, but chooses not to participate in the criminal justice system or cooperate with law-enforcement authorities, the written policy indicates that: (check all that apply)

- medical facility personnel have agreed to notify the agency that evidence is being held
- all standard rules of evidence preservation and chain of custody procedures should be adhered to
- if the victim does not wish to be interviewed, the officer should leave their contact information with a request that it be given to the victim in order to facilitate later contact
- the officer/investigator should notify any appropriate victims services organization with whom the agency has a standard working agreement so that they can follow-up independently with the hospital/medical facility about a possible contact with the victim
- the agency case identification number, victim's name, and any written reports are cross-referenced to the unique number of the PERK
- our policy does not address the specific situation of a victim that has undergone a PERK exam, but chooses not to participate in the criminal justice system cooperate with law-enforcement authorities

10. Approximately how many Physical Evidence Recovery Kits (PERKs) has your agency collected in sexual assault cases since July 1, 2008?

(number) \_\_\_\_\_

*(if the response to 10 is > 0, will be asked questions 10a)*

10a. Among the collected PERK cases, approximately how many victims initially consented to a forensic exam (PERK) and then declined to cooperate with the investigation **at any point** following the exam?

(number) \_\_\_\_\_

*(if the response to 10a is > 0, will be asked questions 10b)*

10b. Among these cases (*where victims consented to a PERK then declined to cooperate with the investigation at any point following the exam*), approximately how many of the victims declined to cooperate **immediately following the exam**?

(number) \_\_\_\_\_

*(if the response to 10b is > 0, will be asked questions 10c)*

10c. Among these cases (*where victims consented to a PERK then declined to cooperate with the investigation immediately following the exam*), approximately how many of

the victims then changed their minds and decided to cooperate with the investigation *within seven days following the exam?*

(number) \_\_\_\_\_

11. Does the written policy address transportation of alleged victims of sexual assault?

Yes/No

*If yes,*

11a. To where does your policy specify transportation of alleged victims be provided? (check all that apply)

- medical care including PERK
- magistrate
- shelter
- victim's residence
- residence of friend or family member
- law enforcement facility

12. Does the written policy address providing information on *legal and community resources* to alleged victims of sexual assault?

Yes/No

*If yes,*

12a. What types of specific referrals to legal and community resources are cited in your policy? (check all that apply)

- sexual assault crisis center
- victim/witness program
- legal services available in area
- local or statewide hotline
- Criminal Injuries Compensation Fund

***Thank you  
for answering these questions about your agency's policy  
on responding to reports of sexual assault.***

***Would you be willing to answer a few additional questions to clarify your policy? The additional questions should take approximately 5 – 7 minutes to answer.***

*Yes, I will answer a few more questions. /No, I am not willing to answer additional questions.*

*(If yes, respondent will be directed to Q. 13 - 21. If no, they will be directed to end of survey.)*

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### **Additional questions**

13. Have you reviewed or used General Order 2-31 of the Sample Directives Manual for Virginia Law Enforcement Agencies to help develop your own sexual assault policy?

Yes/No

14. When was your department's sexual assault policy last *revised*? (check one)

- 2009
- 2008
- 2007
- 2006
- 2005
- 2004
- prior to 2004

15. How often does your department *formally review* its written policy with respect to sexual assault? (check one)

- about annually
- every two - three years
- every four - five years
- whenever there are relevant changes to the Code of Virginia or case law
- we do not have a formal review schedule

16. Please check *each item* in the list below that is included in your department's written sexual assault policy.

*Definitions of key terms:*

- sexual assault
- rape

*Procedural/Investigation activities:*

Directs officers to draw diagrams and/or take photographs of the:

- crime scene
- personal injuries
- personal property damage

- Requires officers to take notes about the crime scene
- Provides guidance on investigative tools/techniques for cases in which a consent, rather than an identity, defense is raised (e.g., collection of evidence which demonstrates use of force)
- Directs officers to note statements of victims and witnesses in the police report
- Directs officers to give the victim a copy or summary of the police report
- Directs officers concerning when to refer the matter to their investigating unit
- Requires officers to accept a report from a victim who wishes to remain anonymous (i.e., a blind report)

*Use of Forensic Exams (PERK):*

Outlines procedures for obtaining a PERK (Physical Evidence Recovery Kit) examination for the victim and specifically indicates that:

- Regardless of whether or not a victim cooperates in an investigation, the Department will make reasonable efforts to document and investigate alleged sexual assaults
- If the victim states that s/he does not wish to make a report or talk to a law enforcement officer, officers are to advise the victim that s/he is not required to do so.
- All victims who were assaulted within the past 72 hours, should be encouraged to obtain a PERK, regardless of their current willingness to cooperate with an investigation or participate in the criminal justice process.
- If the assault occurred more than 72 hours ago, patrol officers encourage victims to seek medical treatment
- Patrol officers are to explain the medical and legal advantages of seeking treatment and the PERK exam
- A standardized form is used to explain the medical and legal advantages of seeking treatment and the PERK exam
- The law enforcement officer is not to be present in the examination room

- Patrol officers are to advise victims to take along a change of all clothing
- The PERK is the property of the Commonwealth and not the victim

Outlines procedures for situations where the victim has undergone a PERK exam, but chooses not to participate in the criminal justice system or cooperate with law-enforcement authorities and specifically indicates that:

- Victims should be appropriately informed about the benefits of cooperating, and the consequences of not cooperating, with law enforcement.
- If the treatment facility has provided the victim with a form on which to request no contact by law enforcement, that form (or a copy) should also be collected by the officer/investigator.
- The responding officer should proceed to the medical facility and obtain as much information as possible (if checked, they will be asked the following)

Which of the following are responding officers directed to collect at the medical facility?  
(check all that apply)

- any specific statements made by the victim
- names of medical personnel involved in treatment
- name of the person to whom the victim reported the alleged sexual assault
- names and locations associated with the chain of custody of the PERK and any other evidence.

17. How often are your law enforcement and dispatch/communication officers required to complete training on sexual assault policy and procedure?

Law enforcement officer (check one)

- about annually
- every 2 – 3 years
- every 4 – 5 years
- no specific requirement

Dispatch/communication officer (check one)

- about annually
- every 2 – 3 years
- every 4 – 5 years
- no specific requirement

18. Who typically conducts training on sexual assault policy and procedures for your law enforcement and

dispatch/communication officers? (check all that apply)

- Your agency (e.g., in-service training)
- Law Enforcement Academy
- Virginia Department of Criminal Justice Services
- Virginia Sexual and Domestic Violence Action Alliance
- Local sexual assault crisis center
- Local hospital or medical facility
- Local Victim/Witness program
- Local Commonwealth's Attorney's Office
- Other (describe) \_\_\_\_\_

19. Would your agency like assistance from DCJS in creating or updating your sexual assault policy?

Yes/No

If yes,

Describe any particular policy issues that you would like assistance with:

20. Would your agency like assistance from DCJS in providing training on sexual assault investigations?

Yes/No

*If yes,*

Describe any specific sexual assault investigation training that you would like assistance with:

*(If 6 = yes)*

Please forward a copy of your agency's written policy on responding to sexual assault incidents to us. You may do so electronically or via regular mail.

To forward via email, send to Tim Paul at: [tim.paul@dcjs.virginia.gov](mailto:tim.paul@dcjs.virginia.gov)

To forward via regular mail, send to:

Department of Criminal Justice Services  
Attn: Tim Paul  
1100 Bank Street  
Richmond, VA 23219

*(If the response "A standardized form is used to explain the medical and legal advantages of seeking treatment and the PERK exam" is checked in question 16)*

You indicated that your agency uses a standardized form to explain to victims the medical and legal advantages of seeking treatment and the PERK exam. Please forward a copy of this form to us. You may do so electronically or via regular mail.

To forward via email, send to Tim Paul at: [tim.paul@dcjs.virginia.gov](mailto:tim.paul@dcjs.virginia.gov)

To forward via regular mail, send to:

Department of Criminal Justice Services  
Attn: Tim Paul  
1100 Bank Street  
Richmond, VA 23219

***Thank you very much  
for answering these additional questions!***

## Appendix 2: Summary of PERK Data

There were 50 agencies that reported collecting at least one PERK exam in sexual assault cases since July 1, 2008 and that provided complete data (5 agencies reported PERKs but their data was incomplete).

**Approximately how many Physical Evidence Recovery Kits (PERKs) has your agency collected in sexual assault cases since July 1, 2008?**

Total for the 50 responding agencies:	651
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**Among the collected PERK cases, approximately how many victims initially consented to a forensic exam (PERK) and then declined to cooperate with the investigation at any point following the exam?**

Total for the 50 responding agencies:	198
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**Among these cases (where victims consented to a PERK then declined to cooperate with the investigation at any point following the exam), approximately how many of the victims declined to cooperate immediately following the exam?**

Total for the 30 responding agencies:	86
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**Among these cases (where victims consented to a PERK then declined to cooperate with the investigation immediately following the exam), approximately how many of the victims then changed their minds and decided to cooperate with the investigation within seven days following the exam?**

Total for the 16 responding agencies:	20
---------------------------------------	----