



## **Mount St. Mary's University Sexual Misconduct Policy**

Mount St. Mary's University is a Catholic institution committed to upholding standards which promote respect and human dignity. Sexual crimes, in any form, severely violate the trust and respect essential to the preservation of such an environment and directly threatens the safety and well-being of our community members. The University will not tolerate acts of sexual violence committed by or against any member of our community. Sexual assault in this policy is defined in two ways 1) As any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against that person's will when the victim is incapable of giving consent. This includes threats of a sexual nature that is against another person's will or without consent. 2) As unlawful, non-forcible sexual intercourse. Examples of such behavior include, but are not limited to, the following offenses:

**Level One:** Rape (anal, oral, or vaginal intercourse without consent or against another's will) whether achieved through force, threat or intimidation, or advantage gained by the aggrieved party's mental or physical incapacity or impairment of which the perpetrator was aware or should have been aware. Intercourse involves penetration, however slight, with any object (penis, finger, or other instrument). This would also include statutory rape and incest.

**Level Two:** Any actual or attempted non-consensual or forcible sexual touching, including but not limited to, attempted rape, fondling, kissing, groping, and deliberate physical contact with an individual's intimate parts (including but not limited to; genitalia, groin, breast, buttocks, or clothing covering them) or forcing an unwilling person to have contact with another's intimate parts.

**Level Three:** Deliberate or reckless threats, actual or implied, of physical contact of a sexual nature that result in intimidation, fear or reasonable apprehension of a sexual assault or physical harm. These might include, but are not limited to, threatening gestures or words conveyed directly or indirectly (e.g., through graffiti, written articles, online postings, etc.), obscene phone calls or computer contact, stalking, indecent exposure, or voyeurism. Complainants are also encouraged to confer with local police authorities to discuss external legal options.

**NOTE:** *Use of alcohol and/or drugs by the alleged assailant and/or the alleged victim is not an excuse or reason for violation of the sexual assault policy. A person who is intoxicated may have his or her judgment seriously impaired and thus might not be able to give informed consent to sexual activity. Instead, how about the following: Alcohol consumption by a perpetrator is not an excuse for violation of this policy. To have sex with someone who you know to be, or should know to be, incapable of making a rational, reasonable decision about a sexual situation is a sexual offense. This includes someone who has been drinking or consuming legal or illegal drugs, has taken or been given a so-called "date-rape drug," or is mentally or physically impaired. Even if an incapacitated person says "yes," by word or action, valid consent for*

*sexual conduct has not been given. It also should be underlined that silence, previous sexual contact relationships, and/or the current relationship between the parties may not be taken as an indication of consent.*

When there is reasonable cause to believe that state laws and campus regulations prohibiting sexual assault and "unwanted sexual contact" have been violated, the University will assist and fully support individuals who wish to pursue filing a criminal report through the local police and/or civil action through the legal system. The University will also support individuals who wish to pursue disciplinary action through the campus judicial process. Procedures have been developed to provide medical, emotional, and judicial assistance to victims of sexual assault and "unwanted sexual contact." Because the right to privacy is a particularly sensitive issue in dealing with incidents of a sexual nature, these procedures have been designed specifically to maintain the highest level of confidentiality possible. The University strongly believes that it is important whenever possible for victims to be active in the decision-making process and thus recover some sense of control in their lives.

Sexual harassment and other forms of sex discrimination that violate state law are prohibited under University regulations and are specifically addressed elsewhere in the University's policy on harassment and discrimination.

The following information will aid a victim of sexual assault or unwanted sexual contact, in dealing with the effects of rape or sexual abuse. Provided are the procedures to report the assault and to receive counseling and medical treatment that will be important in the victim's recovery.

### **Reporting Procedure**

This policy contains information about on campus and off campus resources. This information is made available to provide Mount St. Mary's community members with specific information about resources that are available in the event they become the victim of a crime. The information about "resources" is not provided to infer that those resources are "reporting entities" for Mount St. Mary's. Crimes should be reported to the Department of Public Safety to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, when appropriate.

A student who has been a victim of sexual assault or unwanted sexual contact is encouraged to report the incident by:

- Contacting a Resident Assistant or other Residence Life staff,
- Public Safety at 301-447-8111
- The Wellness Center at 301-447-5288, or by calling Public Safety after hours to have the counselor on-call contacted at 301-447-5357.
- Contact Heartly House, a rape and sexual assault crisis center in Frederick, Maryland, by calling 301-662-8800. Heartly House can provide counseling, emotional support and information regarding legal options. An advocate of the Heartly House will meet the victim at Frederick Memorial Hospital Emergency Room at the victim's request

- Contact the Frederick County Sheriff's Office by calling 301- 694-2071. Public Safety can expedite this call for the victim, if she/he so chooses)

### **Evidence Protection**

- A victim of rape or sexual assault should: Try to preserve all physical evidence. Do not wash, use the toilet, bathe, shower, or change clothing if it can be avoided. If clothes are changed, place all clothing worn at the time of the assault in a paper, not plastic, bag.
- Get medical attention as soon as possible to treat potential physical injuries and to collect important evidence that will assist with prosecution.
- The victim is encouraged to involve the Office of Residence Life and the Department of Public Safety. It is important that the personal safety of the victim and others is maintained, and these offices can be instrumental in this process, as well as provide information about the judicial and legal options. The victim's right to privacy is critical; as such, the decision to involve any offices will generally be left up to the victim.
- It will be necessary to involve Public Safety and the Office of Residence Life when:
  - The victim's physical or emotional condition is such that medical attention is necessary.
  - An incident of unwanted sexual contact raises immediate concerns for the safety of members of the community.
  - An incident of unwanted sexual contact has caused a public disturbance.

### **Rights of the Victim**

Anyone who is a victim in a case of sexual assault shall have the following rights:

- The right to decide whether she/he wants to press charges through the County of Frederick and/or pursue University disciplinary action.
- The right to have a person of his or her choice accompany him or her during a University hearing.
- The right to request to have his or her living arrangements (if on campus housing) modified pending the outcome of the University hearing.
- The right to make up academic work she or he has missed because of time lost due to the assault and the University hearing.
- The right, where possible, to have classes reassigned so as not to share classes with the accused.
- The victim has the right to file a *Peace/Protection* Order at the Frederick County Commissioner's Office prohibiting the alleged assailant or his/her friends from contact. Additionally, the victim has the right to request Mount St. Mary's to issue a campus No Contact Order restricting contact between both parties.
- The right to be present at the University hearing.
- The right not to have her or his sexual history discussed during the University hearing.
- The right to make a victim impact statement.
- The right to be notified immediately of the outcome of the University hearing.
- The right to request that the University proceedings be conducted so that the accused and the victim are never in the same room together.

### **Rights of the Accused**

Anyone accused of sexual assault has the following rights

- The right to an explanation of the charges.
- The right to be explained the campus student conduct system.
- The right to be presumed not-responsible.
- The right to a fair, and consistent process.
- The rights to have someone accompany them through the hearing. All participants will be bound by the rules of confidentiality governing the hearing.
- The right to know ahead of time the names of witnesses to be called in the hearing.
- The right to testify on their own behalf
- The right to be informed in a timely manner of the judicial findings and of the outcome of the hearing.
- The right to appeal the decision of the hearing officer.

### **Further Assistance**

The following personnel and offices can assist victims of sexual assault:

1. Wellness Center (1<sup>st</sup> Floor, McGowan 301-447-5288)
2. Campus Ministry/Chaplain (1<sup>st</sup> Floor, McGowan 301-447-5223)
3. Office of Residence Life (2<sup>nd</sup> Floor, McGowan 301-447-5274)
4. Center for Student Diversity (301-447-6932)
5. Public Safety (301-447-5357)
6. Human Resources (for employees 301-447-5372)
7. Dean of Students (2<sup>nd</sup> Floor, McGowan 301-447-5274)
8. Heartly House (301-662-8800) Frederick, MD