GAYLORD
POLICE DEPARTMENT
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Title: **Sexual Assault Investigations**
Policy: **26**

SEXUAL ASSAULT INVESTIGATIONS

POLICY

It is the policy of the Gaylord Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. When investigating incidents of sexual assault, peace officers shall utilize investigative techniques that are victim centered. [*Officers*] should strive to protect the dignity and autonomy of victims by giving them choices, whenever possible, and by helping them to better understand the criminal justice system and its processes. [*Officers*] shall coordinate and work cooperatively with the prosecutor's office and assist in conducting any necessary follow-up investigations when directed to do so by the prosecuting attorney or a supervisor.

This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, immigration status, or national origin.

DEFINITIONS

Child or Minor: a person under the age of 18.

Consent: has the meaning given to it in MN Statute 609.341.

Criminal Sexual Conduct: a person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statutes 609.342 to 609.3451.

Family or Household Member: has the same meaning given to it in MN Statute 518B.01, subdivision 2(b).

Medical Forensic Examiner: the health care provider conducting a sexual assault medical forensic examination.

Mentally Incapacitated: has the meaning given to it in MN Statute 609.341, subdivision 7.

Physically Helpless: has the meaning given to it in MN Statute 609.341, subdivision 9.

Sexual Assault: refers to an act of sexual abuse in which an individual touches another in a sexual manner without consent or by coercion.

Sexual Assault Medical Forensic Examination: means an examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate: refers to a Sexual Assault Counselor defined by MN Statute 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by MN Statute 595.02, subdivision 1(l) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist with locating a local victim advocacy agency for the purposes outlined in this policy.

Victim Centered Approach: refers to an investigative approach which prioritizes the safety, privacy, and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victim's input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.

Vulnerable Adult: has the meaning given to it in MN Statute 626.5572, subdivision 21.

PURPOSE

This policy provides peace officers important guidelines and information for responding to reports of sexual assault and affirms the authority and responsibility peace officers have to conduct thorough investigations and to make arrest determinations in accordance with established probable cause standards.

PROCEDURE

RESPONDING TO A SEXUAL ASSAULT CALL

When responding to a sexual assault call, [*officers*] shall respond without delay and follow standard incident response procedures. Upon arrival, [*officers*] should determine whether the victim needs medical attention as well as the location/jurisdiction in which the assault took place. If the assault took place outside of the agency's jurisdiction, the responding [*officer*] should assist the victim in contacting the appropriate law enforcement agency and provide any services or assistance requested by the victim. If the victim is unsure of where the assault took place or another jurisdiction cannot be determined, the [*officer*] should take the report. Agency personnel shall treat victims of sexual assault with dignity and respect. Agency personnel should also recognize that victims of traumatic incidents may not be willing or able to immediately assist with the criminal investigation.

During initial contact, the responding [*Officer*] should explain the investigative process to the victim. This explanation should include a description of the various tasks and roles the first responder, investigator, and anyone else with whom the victim will likely interact. [*Officers*] are encouraged to connect the victim with local victim advocates as soon as possible. Personnel should inform the victim that there are confidential victim advocates available to address any

need they might have and to support them through the criminal justice process. These advocates may be present to support the victim during any interviews that take place. The victim should be provided with contact information for the local victim advocate and [*officers*] are encouraged to contact local victim advocates on the victim's behalf with their permission. Victim advocates are not, without the consent of the victim, allowed to disclose any opinion or information received from or about the victim.

INVESTIGATION

During a sexual assault investigation, peace officers shall ensure the following tasks are completed.

- The responding [*officer*] shall collect the victim's preferred contact information.
- [*Officers*] shall ask about and document any signs and/or symptoms of injury- including strangulation.
- [*Officers*] shall ensure the victim knows they can go to a designated facility for a forensic medical examination. [*Officers*] may arrange for transportation for the victim or transport the victim themselves.
- If the victim seeks medical attention or elects to have a forensic medical examination completed, [*officers*] shall attempt to obtain a signed medical release form from the victim.
- [*Officers*] shall identify and attempt to interview any potential witnesses to the sexual assault and/or anyone the victim may have told about the assault.
- [Officers] shall collect any evidence related to the assault, including, but not limited to, clothing, bedding, electronic data, and security footage.

This agency recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question-and-answer interviewing format with questioning being as nondirective as possible to elicit spontaneous responses. In recognizing the need for non-traditional interviewing techniques for sexual assault victims, [*officers*] should consider the following points.

- [*Officers*] are encouraged to offer to have a confidential victim advocate present as additional support for the victim during the process.
- [*Officers*] should conduct the victim interviews in person in a comfortable and welcoming environment to the extent possible.
- [*Officers*] should let the victim share details of the event at their own pace.
- [*Officers*] should be mindful of the fact that victims may have difficulty remembering incidents in a linear fashion and may remember details in the days and weeks following the assault.

Depending on the victim, additional interviews may be needed to gather any additional necessary information. In some instances, the victim may not have wanted to provide an initial statement at all. Therefore, after the initial interview or interview attempt, the [*officer*] or

investigator may need to reach out to the victim to conduct a follow-up interview. Personnel should consider reaching out to the victim within a few days of the incident, or minimally, after one sleep cycle to allow the victim to process the event. The details [*officers*] and/or investigators should attempt to discern through victim interviews includes the following:

- Does the victim know the suspect?
- How long has the victim known the suspect?
- What type of relationship does the victim have (past or present) with the suspect?
- Were drugs or alcohol involved in the incident?
- Were there any behaviors or actions that altered the encounter? (i.e., Did the encounter start off consensual and then change based on the behaviors of one or more of the individuals involved?)
- What, if any, specific statements, actions, and/or thoughts did the victim and/or suspect have prior, during, and after the assault?
- What, if any, digital communication exists between those involved? (i.e., Are there social media messages, text messages, or emails between the parties that may be of evidentiary value?)

Evidence Collection. Peace officers investigating a sexual assault shall follow standard evidence collection procedures and any other procedures mandated by this agency. When collecting evidence, [*officers*] should consider the following points.

- [*Officers*] should collect evidence or document information regarding the environment in which the assault took place, including indications of isolation and soundproofing.
- [*Officers*] should document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- In situations where it is suspected that drugs or alcohol may have facilitated the assault, [*officers*] should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, drug paraphernalia, or other related items.
- If the victim has declined a medical examination or a medical forensic examination will not be conducted, the [*officer*] should obtain victim consent and take photographs of visible physical injuries, including any healing or old injuries. Victim should be instructed on how to document any bruising or injury that becomes apparent in the hours or days after the altercation. [*Officers*] are encouraged to follow-up with the victim a day or two after the reported event to take additional photos if the victim consents.

Sexual Assault Medical Forensic Examinations. Prior to a sexual assault medical forensic examination, the investigating [*officer*] should do the following:

- Ensure the victim understands the purpose of the sexual assault medical forensic examination and its importance to both their general health and wellness and to the investigation. [*Officers*] should inform the victim that forensic medical examinations are completed at zero cost to them.
- Provide the victim general information about the procedure and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or

victim advocate. [*Officers*] and investigators shall not deny a victim the opportunity to have an exam.

- [*Officers*] should be aware and, if necessary, relay to victims who do not want to undergo an exam that there may be additional treatments or medications they are entitled to even if they do not want to have an examination completed. Victims can get additional information on these other treatments from a health care provider or a victim advocate. If possible, law enforcement should transport or arrange transportation of the victim to the designated medical facility.
- Ask the victim to sign a medical release form to gain access to any medical records related to the examination.

[*Officers*] should not be present during any part of the examination, including during the medical history. Following the examination, the evidence collected shall be handled according to agency policy and MN Statute 299C.106.

Minors and Vulnerable Adults. This agency recognizes that victims are better served by utilizing interview techniques and strategies that eliminate the need for multiple interviews. Members of this agency will be alert for victims who would be best served by the use of specialized interview techniques. [*Officers*], in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an [*officer*] determines that a victim requires the use of these specialized interview techniques, the [*officer*] should limit their actions to the following:

- ensuring the safety of the victim,
- ensuring the scene is safe,
- safeguarding evidence where appropriate,
- collecting any information necessary to identify the suspect, and
- addressing the immediate medical needs of individuals at the scene.

Essentially, initial responding [*officers*] should not attempt to interview the victim in these situations. Instead, [*officers*] should attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and what crime(s) may have occurred. [*Officers*] should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.

[*Officers*] responding to victims with special considerations must comply with the mandated reporting requirements of MN Statutes 260E.06 and 626.557, as applicable. [*Officers*] investigating cases involving victims with special considerations are encouraged to coordinate these investigations with human services. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to human services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian

pursuant to MN Statute 260E.22 can cause harm to the minor and/or impede the investigation. [*Officers*] responding to the sexual assault of a minor victim that does not trigger a mandated report under MN Statute 260E.06 should assess the impact on the victim and the investigation if parents/guardians were notified before involving them.

[*Officers*] should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. [*Officers*] should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating [*officer*] will follow up with information on a forensic interview. The [*officer*] should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident, they should listen to them but not question them as this may influence any future statements.

[*Officers*] responding to a report of sexual assault committed against a family and/or household member must follow the requirements/guidelines of this policy as well as those in the agency's domestic abuse policy.

Suspect Contact and Interviews. When circumstances allow, [*officers*] should review the suspect's criminal history record before initiating contact. When reviewing the record, [*officers*] should pay special attention to qualified domestic abuse related offenses and other accusations or charges related to criminal sexual conduct. Initial and subsequent interviews with a suspect should, whenever possible, be conducted in person and recorded. If the suspect does not deny having sexual contact with the victim, but denies the encounter was non-consensual, [*officers*] should:

- collect evidence of past communication, including but not limited to all relevant interactions on social media, through text message, and through any other mediums between the suspect and victim, and
- gather additional details regarding the events that transpired prior to, during, and after the assault in an effort to identify additional potential witnesses, crime scene locations, and evidence.

As part of their investigation, [*officers*] should collect evidence from the suspect- either by consent or with a search warrant. Sexual assault medical forensic examinations may be completed on a suspect by a medical professional. If a forensic examination is not conducted, the investigating [*officer*] should ensure the following evidence is collected:

- DNA (that of the suspect and any obtainable that may be from the victim, possibly via fingernail scrapings),
- biological trace evidence (if applicable),
- the suspect's clothing worn during the assault, and
- injury photographs.

[*Officers*] should also document the suspect's appearance, the presence of any scars/tattoos, piercings, and any other identifiable marks, features, or attributes.

For sexual assaults involving strangers, [*officers*] should focus investigative efforts on the collection of video, DNA, and other trace evidence that may help identify the perpetrator.

VICTIM RIGHTS

Peace officers have a statutory obligation to inform domestic and sexual assault victims of their rights. [*Officers*] must provide victims of sexual assault, minimally, with the information included herein.

- MN Statute 611A.02, subdivision 2(b)(1-6), requires peace officers to provide victims an initial notice of their rights as a victim of a crime.
- MN Statute 629.341, subdivision 3 requires peace officers to inform victims whether a shelter or other services are available in their community. Under this provision, [*officers*] shall also inform the victim of their legal rights and the remedies available to them.
- MN Statute 611A.27, subdivision 1, requires peace officers to release information regarding a sexual assault examination kit to the victim or their delegate upon request. Victims should be informed of their right to request this information.

As stated in MN Statute 611A.26, subdivision 1, no law enforcement agency or prosecutor shall require a victim, or complainant, of sexual assault to submit to a polygraph examination as a condition of proceeding with the investigation or prosecution of the crime. A victim may submit to a polygraph examination if the conditions described in MN Statute 611A.26, subdivisions 2-4 are met.

EVIDENCE PRESERVATION

When a victim calls to report a sexual assault and the assault was recent, dispatchers and/or peace officers should inform the victim of the following to ensure critical evidence is not lost:

- suggest to the victim that he or she not bathe or clean up,
- if the victim needs to urinate, suggest he or she collect the urine in a clean container for test and avoid wiping, and
- place any clothing, blankets, or linens worn or present during or after the assault in a paper bag unwashed.

If the assault happened more than 24 hours ago or the victim has already bathed or washed their clothing/bedding, [*officers*] should reassure the victim that other evidence may still be identified and recovered by other means.

STATUTORY REFERENCES

- MN STATUTES CHAPTER 260E – Reporting Maltreatment of Minors
- MN STATUTE 260C.175 – Taking Child Into Custody
- MN STATUTE 260E.22 – Interviews

- MN STATUTE 299C.106 – Sexual Assault Examination Kit Handling
- MN STATUTE 518B.01 – Domestic Abuse Act
- MN STATUTE 595.02 – Testimony of Witnesses
- MN STATUTE 609.341 – Definitions
- MN STATUTE 609.342 – Criminal Sexual Conduct in the First Degree
- MN STATUTE 609.343 – Criminal Sexual Conduct in the Second Degree
- MN STATUTE 609.344 – Criminal Sexual Conduct in the Third Degree
- MN STATUTE 609.345 – Criminal Sexual Conduct in the Fourth Degree
- MN STATUTE 609.3451 – Criminal Sexual Conduct in the Fifth Degree
- MN STATUTE 609.3453 – Criminal Sexual Predatory Conduct
- MN STATUTE 609.3458 – Sexual Extortion
- MN STATUTE 609.3459 – Law Enforcement; Reports of Sexual Assaults
- MN STATUTE 609.347 – Evidence in Criminal Sexual Conduct Cases
- MN STATUTE 609.35 – Costs of Medical Examination
- MN STATUTE 611A.02 – Notification of Victim Services and Victims' Rights
- MN STATUTE 611A.26 – Polygraph Examinations; Criminal Sexual Assault Conduct Complaints; Limitations
- MN STATUTE 611A.27 – Victim Rights to Sexual Assault Evidence Information
- MN STATUTE 626.5572 – Definitions
- MN STATUTE 626.8442 – Policies on Sexual Assaults
- MN STATUTE 629.341 – Allowing Probable Cause Arrests for Domestic Violence; Immunity from Liability
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

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