

WILLMAR POLICE DEPARTMENT

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SUBJECT: SEXUAL ASSAULT INVESTIGATIONS

PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. The Willmar Police Department will strive:

- to afford maximum protection and support to victims of sexual assault or abuse through a coordinated program of law enforcement and available victim services, with an emphasis on a victim-centered approach.
- to reaffirm peace officers' authority and responsibility to conducting thorough preliminary and follow-up investigations and to make arrest decisions in accordance with established probable cause standards.
- to increase the opportunity for prosecution and victim services.

POLICY

It is the policy of the Willmar 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. Sexual assault crimes are under-reported to law enforcement, and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

All employees should take a professional, victim-centered approach to sexual assaults, protectively investigate these crimes, and coordinate with prosecution in a manner that helps restore the victim's distress, increase the victim's understanding of the criminal justice system and process, and promote public safety.

Peace officers will utilize this policy in response to sexual assaults reported to this agency. 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 or national origin.

DEFINITIONS

For purpose of this policy, the words and phrases in this section have the following meaning given to them, unless another intention clearly appears.

Consent – As defined by MN Statute 609.341, which states:

- Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant, or that the complainant failed to resist a particular sexual act.
- A person who is mentally incapacitated or physically helpless, as defined by MN Statute 609.341, cannot consent to a sexual act.
- Corroboration of the victim's testimony is not required to show lack of consent.

Child or Minor – A person under the age of 18.

Medical Forensic Examiner – The healthcare provider conducting a sexual assault medical forensic examination.

Sexual Assault – A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.

Family and Household Member – As defined in MN Statute 518B.01, Subd. 2(b) to include:

- spouse or former spouses;
- parents and children;
- persons related by blood;
- persons who are presently residing together or who have resided together in the past;
- persons who have a child in common, regardless of whether they have been married or have lived together at any time;
- a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- persons involved in a significant romantic or sexual relationship.

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

Sexual Assault Response Team (SART) – A multidisciplinary team generally composed of advocates; law enforcement officers; forensic medical examiners, including Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

Victim Advocate – 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, Subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates, as defined, provide coverage in all counties in Minnesota. Minnesota

Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.

Victim Centered – A victim-centered approach 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 – Any person 18 years of age or older who:

- is a resident inpatient of a facility as defined in MN Statute 626.5572, Subd. 6;
- receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who's committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- receives services from a homecare provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, Subd. 19a, 256B.0651 to 256B.0654, and 256B.0659; or
- regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental or emotional dysfunction:
 - that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, healthcare, or supervision; and
 - because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

PROCEDURE

Communications Personnel Response/Additional Actions by Responding Officers

Communications personnel and/or law enforcement officers should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- Suggest that the victim not bathe or clean himself/herself if the assault took place recently.
- Recommend that if a victim needs to relieve himself/herself, he/she should collect urine in a clean jar for testing and should avoid wiping after urination.

- Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing (per department policy).
- Reassure the victim that other evidence may still be identified and recovered even if he/she has bathed or made other physical changes.

Initial Officer Response

When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures. In addition, when interacting with victims, officers shall do the following:

- Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- The officer shall attempt to determine the location/jurisdiction where the assault took place.
- Explain the reporting process, including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- Officers are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request, the officer can offer to contact local victim advocate on behalf of the victim.
- Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- Ensure that the victim knows he/she can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- Request preferred contact information for the victim for follow up.

Victim Interviews

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 non-directive as possible, to elicit spontaneous responses.

In recognizing the need for non-traditional interviewing techniques for sexual assault victims, officers should consider the following:

- Offer to have a confidential victim advocate present (if possible), if the victim would benefit from additional support during the process.
- Whenever possible, conduct victim interviews in person.
- Make an effort to conduct the interview in a welcoming environment.
- Let the victim share the details at his/her own pace.
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion, and may remember details in days and weeks following the assault.
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle, to ask if they remember any additional details.
- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- Some victims do remember details vividly and may want to be interviewed immediately.
- During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
 - Whether the suspect was known to the victim.
 - How long the victim knew the suspect.
 - The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault.
 - The extent of their previous or current relationship.
 - Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear or force.
 - Specific actions, statements and/or thoughts of both the victim and the suspect immediately prior, during and after assault.
 - Relevant communication through social media, email, text messages, or any other forms of communication.

Special Considerations – Minor and Vulnerable Adults/Domestic Abuse Victims

Minors and Vulnerable Adults

The Willmar Police Department recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as non-directive as possible to elicit spontaneous responses. Members of this agency will be alert for victims who would be best served by the use of these 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 follow the guidance below.

- Officers responding to reports of sexual assaults involving these sensitive population groups shall 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.
- Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely 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 Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. 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 social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to 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 Section 260E.06 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve 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.

Victims of Domestic Abuse

Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in the Willmar Police Department's domestic abuse policy and protocol, in addition to the guidelines in this policy.

Protecting Victim Rights

Confidentiality – Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in MN Statute Section 13.82, Subd. 17(b).

Crime Victim Rights – Officers must provide the following information to the victim:

- Crime victim rights and resource information required to be provided to all victims as specified by MN Statute Section 611A.02, Subd. 2(b).
- If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by MN Statute Section 629.341, Subd. 3.
- The victim's right to be informed of the status of a sexual assault examination kit, upon request, as provided for under MN Statute Section 611A.27, Subd.1.
- Pursuant to MN Statute 611A.26, Subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging, or prosecution of such offense.

Other Information – Officers should provide to the victim the agency's crime report/ICR number and contact information for the reporting officer and/or investigator or person handling the follow up.

Language Access – All officers shall follow agency policy regarding limited English proficiency.

Evidence Collection

Consideration for Evidence Collection – Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:

- Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
- 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, or other related items.
- If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later, after these photographs are taken.

Sexual Assault Medical Forensic Examinations

- Prior to the sexual assault medical forensic examination, the investigating officer should do the following:
 - Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams, and provide information about evidence collection, storage and preservation in sexual assault cases.
 - Provide the victim with general information about the procedure and encourage them to seek further detail and guidance from the forensic examiner, healthcare professional, or a victim advocate. Officers and investigators cannot 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 might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a healthcare provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
 - Ask the victim for a signed release for access to medical records from the exam.
- Officers should not be present during any part of the exam, including during the medical history.
- Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and MN Statute 299C.106.

Contacting and Interviewing Suspects

Prior to contacting the suspect, officers should consider the following:

- Conduct a background and criminal history check, specifically looking for accusations, criminal charges and convictions for interconnected crimes, especially crimes involving violence.
- Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong

consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

- When possible, an attempt would be made to interview the suspect in person.
- In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
 - Collect evidence of past communications, including, but not limited to, all relevant interaction (including social media) between the suspect and victim.
 - Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

Forensic Examination and/or the Collection of Evidence from the Suspect

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

- Prior to or immediately after the preliminary suspect interview, photograph any injuries.
- Determine whether a sexual assault medical forensic examination should be conducted.
- Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
- During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - Collect biological and trace evidence from the suspect's body;
 - Document information about the suspect's clothing, appearance, scars, tattoos, piercings and other identifiable marks;
 - Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - Document the suspect's relevant medical condition and injuries.

Role of the Supervisor

Supervisors may do the following:

- Assist officers investigating incidents of sexual assault when possible, or if requested by an officer.
- Provide guidance and direction as needed.
- Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

Case Review/Case Summary

The Detective Sergeant should ensure cases are reviewed on an ongoing basis. The review process should include an analysis of:

- Case dispositions
- Decisions to collect evidence
- Submissions of evidence for lab testing
- Interviewing decisions
- Submission to County Attorney's Office for charging

The SART and/or victim advocates should be considered for involvement in this audit.

Releasing Information to the Public

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Detective Unit supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes. All press releases of this sort will be approved by the Chief or his/her designee.

ACCOUNTABILITY

It is the responsibility of each officer to be familiar with and adhere to this directive. It is the responsibility of all supervisors to ensure this directive is followed. Failure to adhere to this directive may result in disciplinary action up to and including termination.

BY ORDER OF THE CHIEF OF POLICE

James E. Felt

CLN/sae

WILLMAR POLICE DEPARTMENT CRIMINAL SEXUAL ASSAULT VICTIM WAIVER

ICR: _____

Victim's Name: _____ DOB: _____
(Please Print)

I, _____, give consent to the Willmar Police
(Victim's Name)
Department to reclassify the sexual assault kit provided by me to be changed from
"restricted" to "unrestricted." The kit may be sent to a criminal laboratory for testing
purposes. I understand that by signing this form, other parties involved in the
investigation may at some point have access to the results. These parties include law
enforcement, criminal laboratories, prosecuting and defense attorneys, and advocacy.

Victim's Signature: _____ Date: _____

TO BE COMPLETED BY OFFICER

How was victim identified?

- | | |
|---|-------------------------|
| <input type="checkbox"/> Victim is known to officer | |
| <input type="checkbox"/> Identification Card | State or Country: _____ |
| <input type="checkbox"/> Driver's License | State or Country: _____ |
| <input type="checkbox"/> Birth Certificate | State or Country: _____ |
| <input type="checkbox"/> Passport | |
| <input type="checkbox"/> Other | Describe: _____ |

Officer Providing Form: _____ Badge #: _____

Officer's Signature: _____ Date: _____