

# MINNESOTA DEPARTMENT OF NATURAL RESOURCES

## DIVISION OF ENFORCEMENT

### DIRECTIVE

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**DIRECTIVE NUMBER: O-28-19**

**SUBJECT: SEXUAL ASSAULT INVESTIGATIONS**

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EFFECTIVE DATE: 10-17-2019

SPECIAL INSTRUCTIONS: None

APPENDIX: None

REFERENCE: Minn. Stat. secs. 13.82, subd. 17(b); 518B.01, subd.2b; 595.02, subd. 1; 609.341; 609.342-609.3451; Directive O-16

DISTRIBUTION: All Conservation Officers

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This directive is for division use only and does not modify or supersede any law and should not apply to any criminal or civil proceeding except for civil proceedings related to departmental administrative actions. This directive should not be viewed as creating a higher standard of safety or care in any evidentiary sense. Violations of this directive may form the basis for departmental administrative action.

#### I. Purpose

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. Although officers do not directly conduct investigations into allegations of sexual assault, officers may still initially respond to reports or assist other agencies in such cases. In doing so, officers will strive to:

- afford maximum protection and support to victims of sexual assault or abuse through coordination with local law enforcement authorities, with an emphasis on a victim centered approach;
- reaffirm peace officers' responsibility to conduct thorough investigations and to make arrest decisions in accordance with established probable cause standards;
- increase the opportunity for prosecution and victim services.

## II. Policy

- A. It is the policy of this division to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring 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.
- B. Officers shall take a professional, victim-centered approach to sexual assaults, cooperate, and coordinate with the lead law enforcement agencies to ensure that these crimes are thoroughly investigated and prosecuted in a manner that helps restore the victim's dignity and autonomy. While doing so, it shall be this division's goal to decrease the victim's distress, increase the victim's understanding of the criminal justice system and process, and promote public safety.
- C. All officers will utilize this policy in response to sexual assault events discovered by or reported to this division. Officers will aggressively respond without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

## III. 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.

- A. 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.
- B. Family and Household Member: As defined in Minn. Stat. 518B.01 Subd.2.b. to include:
  - 1. spouses or former spouses;
  - 2. parents and children;
  - 3. persons related by blood;
  - 4. persons who are presently residing together or who have resided together in the past;
  - 5. persons who have a child in common regardless of whether they have been married or have lived together at any time;
  - 6. 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
  - 7. persons involved in a significant romantic or sexual relationship

- C. Victim Advocate: A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 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.
- D. 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 victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.

## IV. Procedures

### A. Initial Response

1. Minn. Stat. sec. 609.3459 allows a sexual assault victim to contact any law enforcement agency to initiate an investigation, regardless of where the crime occurred. The agency must then prepare a summary of the allegations and provide a copy to the alleged victim. The agency also must either begin an investigation into the facts or refer the matter to the agency with jurisdiction for an investigation into the facts.
2. Officers shall determine the jurisdiction of any alleged sexual assault and refer the investigation, with a summary of the allegations, to the appropriate agency as soon as possible. Officers shall also confirm that the agency with jurisdiction has received the referral.
3. Evidence Preservation  
Officers shall inform the alleged victim of ways to ensure critical evidence is not lost after an assault, and include the following:
  - a. Suggest that the victim not bathe, or clean him or herself if the assault took place recently.
  - b. Recommend that if a victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
  - c. Ask 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.

- d. Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.

#### 4. Additional Initial Response Considerations

- a. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- b. 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. Work with local authorities to provide the victim with contact information for the local victim advocate. Upon victim request, an officer can offer to contact local victim advocate on behalf of the victim.
- c. Ask about and document signs and symptoms of injury, to include strangulation.
- d. Ensure that the victim knows he/she can go to a designated facility for a forensic medical exam and offer to arrange for transportation for the victim if need be.
- e. Secure the crime scene if possible and any suspected evidence at the scene, including evidence of drug and alcohol use that may have been used to facilitate the sexual assault.
- f. Identify and attempt to interview any witnesses who are present or otherwise immediately available. The investigating agency with jurisdiction should conduct any in-depth interview with the victim.
- g. If the suspect is present, photograph/document any injuries and preserve clothing worn with consideration of any evidence that might still be collected.
- h. Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in directive O-16 (Domestic Abuse), in addition to the guidelines in this directive.
- i. For sexual assaults involving strangers, officers should assist with immediate investigative efforts regarding the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator.

B. Protecting Victim Rights

1. 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 Minn. Stat. section 13.82, subd. 17(b).
2. Officers should provide to the victim the ICR number and contact information for the reporting officer and/or the officer handling any follow up.

C. Interviews/Medical Exams

Although officers should take opportunities and diligently work to gather information upon initial response to any allegation of sexual assault, the investigating agency with jurisdiction and specialized training shall conduct the in-depth interviews of any alleged victim/suspect/witnesses and arrange for any forensic medical exams.

V. Reporting Requirements

All officers who respond to an allegation of sexual assault shall complete an incident report and ensure the investigating agency receives a copy as soon as practical.

**By Authority of:**

Signed 10/15/2019

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**COL. Rodmen Smith**

**Division Director**