



CRYSTAL POLICE DEPARTMENT

Department Policy Manual

TITLE: Sexual Assault Response

NUMBER: 4.17

DATE: 10/01/2019

NO. PAGES: 8

*This policy is a mandated policy by the Minnesota Board of Peace Officer Standards and Training (POST Board) by MSS §626.8442. This policy meets all requirements of the POST Board Model Policy.

PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive to a) 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; b) reaffirm peace officer's authority and responsibility to conducting thorough preliminary and follow up investigations and to make arrest decisions in accordance with established probable cause standards; and c) increase the opportunity for prosecution and victim services.

POLICY

It is the policy of the Crystal Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuing officers understand the laws governing this area and the processes for properly investigating these crimes. Sexual assault crimes are under reported to law enforcement and the goal of this policy is, in part, to improve the victim experience in reporting so that more people are encouraged to report.

All personnel should take a professional, victim-centered approach to sexual assaults, proactively investigate these crimes, and coordinate with prosecution in a manner that helps restore the victim's dignity and autonomy. The department's goal is to decrease 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. The department 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

The following words and phrases have special meanings as used in this policy:

CONSENT: As defined by MSS §609.341, which states:

- a. 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.

- b. A person who is mentally incapacitated or physically helpless as defined by MSS §609.341 cannot consent to a sexual act.
- c. 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 health care 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 MSS §609.341 to §609.3451.

FAMILY & HOUSEHOLD MEMBER: as defined in MSS §518. B.01 Subd.2. b. to include:

- a. Spouses or former spouses;
- b. Parents and children;
- c. Persons related by blood;
- d. Persons who are presently residing together or who have resided together in the past;
- e. Persons who have a child in common regardless or whether they have been married or have lived together at any time;
- f. 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,
- g. Persons involved in a significant romantic or sexual relationship

SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATION: 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: a Sexual Assault Counselor defined by MSS §595.02 Subd.1(k) and/or Domestic Abuse Advocate as defined by MSS §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.

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:

- a. Is a resident inpatient of a facility as defined in MSS §626.5572 Subd.6;
- b. Received 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 is 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);
- c. Receives services from a home care 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.0624 Subd.19a, 256B.0651 to 256B.0654, and 256B.0659; or

- d. Regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - 1. That impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - 2. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

OFFICER RESPONSE ACTIONS

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

- a. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- b. Attempt to determine the location/jurisdiction where the assault took place.
- c. 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.
- d. Suggest that the victim not bathe, or clean himself/herself if the assault took place recently.
- e. Recommend that if the victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
- f. 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.
- g. Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.
- h. 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 or the local victim advocate. Upon victim request, the officer can offer to contact local victim advocate on behalf of the victim.
- i. Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- j. Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- k. Request preferred contact information for the victim for follow-up.

VICTIM INTERVIEWS

The Crystal Police Department recognizes that victims of sexual assault, due to their age or physical, mental or emotional distress or other circumstances, 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 nondirective as possible to elicit spontaneous responses.

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

- a. Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process.
- b. Conduct victim interviews in person whenever possible.

- c. Make an effort to conduct the interview in a welcoming environment.
- d. Let the victim share the details at their own pace.
- e. Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault.
- f. 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.
- g. 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.
- h. Some victims do remember details vividly and might 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:

- a. Whether the suspect was known to the victim.
- b. How long the victim knew the suspect.
- c. The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault.
- d. The extent of their previous or current relationship.
- e. Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force.
- f. Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault.
- g. Relevant communication through social media, email, text messages, or any other forms of communication.

VICTIMS OF DOMESTIC ABUSE

Officers responding to a report of sexual assault committed against a family or household member must also follow the requirements and guidelines of the Crystal Police Department Policy 4.9 – Domestic Abuse, in addition to the guidelines in this policy.

SPECIAL CONSIDERATIONS – MINORS & VULNERABLE ADULTS

The Crystal Police Department recognizes that certain victims, due to their age, a physical, mental, or emotional distress, or other circumstances 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 nondirective as possible to elicit spontaneous responses. Officers will be alert for victims who would be best served by the use of these specialized interview techniques. In making this determination, officers 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.

- a. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
 - 1. Ensuring the safety of the victim;
 - 2. Ensuring the scene is safe;

3. Safeguarding evidence where appropriate;
4. Collecting any information necessary to identify the suspect; and,
5. Addressing the immediate medical needs of individuals at the scene.

- b. 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.
- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of MSS §626.556 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.
- d. 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 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 mandatory report under MSS §626.556 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.
- e. 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.
- f. 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.

PROTECTING VICTIM RIGHTS

The Crystal Police Department will view the protection of victim's rights as very important. Some ways this will be ensured include:

- a. 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 MSS §13.82 Subd.17(b);
- b. Crime Victim Rights: Officers must provide the following information to the victim:
 1. Crime victim rights and resource information required to be provided to all victims as specified by MSS §611A.02 Subd.2(b).
 2. 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 MSS §629.341 Subd.3.
 3. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under MSS §611A.27 Subd.1.
 4. Pursuant to MSS §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 or such offense.

- c. Other Information: Officers should provide to the victim the Crystal police Department crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling follow up.
- d. Language Access: all officers shall follow department procedures regarding limited English proficiency and use available resources to make every attempt to ensure the victim is able to communicate in the way most comfortable for them.

EVIDENCE COLLECTION

Officers shall follow all department policies and procedures regarding on crime scene response and evidence collection involving cases of sexual assault. In addition, officers may do the following:

- a. Collect evidence regarding the environment in which the assault took place, including indication of isolation and soundproofing. Hennepin County Sheriff's Office Crime Lab should be utilized for evidence collection when appropriate.
- b. 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;
- c. 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;
- d. 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. If possible, an officer of the same gender should be utilized for any photographing or obtaining of evidence. The victim should be given direction about how to document any bruising or injury that becomes evidence later after these photographs are taken.

SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS

Prior to a sexual assault medical forensic examination, the investigating officer should do the following:

- a. 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.
- b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators may not deny a victim the opportunity to have an exam.
- c. Officers should 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 health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to a medical facility.
- d. 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 department policies and procedures, as well as MSS §299C.106.

CONTACTING & INTERVIEWING SUSPECTS

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

- a. Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence;
- b. Consider conducting a pretext or confrontational call or messaging depending on 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;
- c. An attempt should be made to interview the suspect in person, when possible;
- d. 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:
 - 1. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
 - 2. 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.
- e. 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(s). All evidence should be handled in accordance with Crystal Police Department policies and practices.

FORENSIC EXAMINATION AND/OR COLLECTION OF EVIDENCE FROM SUSPECT

Whenever appropriate and possible, Hennepin County Crime lab should be utilized for the collection and/or forensic examination of evidence from suspects. When Hennepin County Crime Lab does not collect the evidence and it is collected by either an investigating officer or investigator, the following considerations should be made:

- a. Prior to or immediately after the preliminary suspect interview, photograph any injuries;
- b. Determine whether a sexual assault medical forensic examination should be conducted on the suspect;
- c. 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;
- d. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - 1. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence.
 - 2. Collect biologic and trace evidence from the suspect's body.
 - 3. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks.
 - 4. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area.
 - 5. Document the suspect's relevant medical condition and injuries.

ROLE OF THE SUPERVISOR

It is recognized that supervisors play an important role in the successful investigation of any sexual assaults. Towards that end, supervisors will be engaged in the following items in this process:

- a. Assist officers investigating incidents of sexual assault when needed or if requested by an officer. This included assisting in determination of any evidence and/or statements to be obtained.
- b. Provide guidance and direction as needed to investigating officers throughout the investigation.

- c. Review all sexual assault initial and follow-up reports, as well as case dispositions, to ensure that necessary steps were taken during the initial response and follow-up investigations.