

## Sexual Assault Investigations

### 316.1 PURPOSE AND SCOPE

It is the policy of the Carver County Sheriff's Office to recognize sexual assault as a serious problem in today's society. This agency's policy is to thoroughly investigate all reported cases of sexual assault.

Peace officers shall utilize this policy in response to calls of sexual assault. This policy prescribes the course(s) of action peace officers should take in response to a sexual assault. 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.

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 dignity and autonomy. While doing so, it shall be this agency's goal to decrease the victim's distress, increase the victim's understanding of the criminal justice system and process, and promote public safety.

### 316.2 DEFINITIONS

**Forensic Laboratory:** publicly financed laboratory within the state that conducts forensic analysis on items of evidence that are part of or have the potential to be used in criminal investigation. The term does not include the following laboratories:

- (a) Medical examiners and coroners;
- (b) Educational institutions; and
- (c) Clinical laboratories and medical facilities.

**Patient:** Person who consents to a sexual assault examination.

**Release Form:** document provided by the hospital to the patient at the time of the sexual assault examination that gives the patient the option of authorizing, in writing, the release of the kit to law enforcement.

**Restricted Sexual Assault Examination Kit:** a kit that does not have an accompanying release form signed by the patient authorizing law enforcement to submit the kit to a forensic laboratory. A health care professional shall provide the patient with information about how to convert a restricted sexual assault examination kit to unrestricted status.

**Sexual Assault Examination Kit:** collection of evidence, including biological material, gathered from a patient by a health care professional.

## *Sexual Assault Investigations*

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**Submitted Sexual Assault Examination Kit:** an unrestricted kit that has been submitted by law enforcement to a forensic laboratory.

**Unrestricted Sexual Assault Examination Kit:** a kit that has an accompanying release form signed by the patient allowing law enforcement to submit the kit to a forensic laboratory.

**Un-submitted Sexual Assault Examination Kit:** an unrestricted kit that has not been submitted by law enforcement to a forensic laboratory.

**SANE:** Sexual Assault Nurse Examiner/Examination.

**Consent:** As defined by Minnesota Statutes 609.341, subd. 4 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 Minnesota Statutes 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.

**Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in Minnesota Statutes 609.342 to 609.3451.

**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.

**Family and Household Member:** As defined in Minnesota Statutes 518B.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 of 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.

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

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#### **316.3 COMMUNICATIONS**

Upon receiving the criminal sexual conduct call, the dispatcher will assign the call a high priority and dispatch a Patrol Unit(s) to the call.

##### **316.3.1 COMMUNICATION CENTER RESPONSIBILITIES**

Dispatch should attempt to elicit the following information from the caller. This information should then be communicated to the responding peace officer(s):

- (a) The nature of the incident;
- (b) Is the incident in progress;
- (c) The address of the incident, including apartment number, etc.;
- (d) The date/time when the incident occurred;
- (e) The identity/contact information of the caller, to include address and telephone numbers where the caller can be reached;
- (f) The identity/contact information for the victim if not the caller;
- (g) Whether weapons are/were involved or present;
- (h) Whether someone is injured and the nature of the injury;
- (i) Information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.;
- (j) Relationship between the caller and the suspect;
- (k) Whether there are non-English speaking people, or people with the mobility impairments or hearing impairments.
- (l) How the call came in, e.g. text, audio, etc.

#### **316.4 PATROL RESPONSE FOR ASSAULTS OCCURRING WITHIN 120 HOURS OF REPORT**

If the initial report is made during normal business hours, and is a First, Second, Third, or Fourth Degree criminal sexual conduct allegation, that occurred within the last 120 hours of the initial report, the Patrol Supervisor should notify an Investigative Sergeant. If an Investigative Sergeant is unavailable, contact the Lieutenant of Investigations. If the Lieutenant of Investigations is unavailable, contact any detective. A patrol deputy shall complete the initial report.

The Investigation Unit supervisor shall ensure that the victim of a sexual assault who reports an incident to this office is provided with a copy of the written summary of the allegation. If the incident occurred outside the jurisdiction of the Carver County Sheriff's Office, a copy of the written summary shall also be provided to the law enforcement agency where the incident occurred (Minn. Stat. § 609.3459).

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

---

#### 316.4.1 REPORT AFTER BUSINESS HOURS

If the initial report is not during normal business hours, determine if the above-listed initial information was collected by dispatch.

(a) If above listed initial information was collected by dispatch and the incident occurred within the last 120 hours of the initial report, the Patrol Supervisor shall contact the Standby

Detective as soon as reasonably possible (Investigations shall respond to any First, Second, Third, or Fourth Degree criminal sexual conduct allegation that occurred within the last 120 hours of the initial report). A patrol deputy shall complete the initial report.

(b) If the above listed initial information was not completely collected by dispatch, the assigned patrol deputy shall gather the information and the patrol supervisor shall contact the

Standby Detective immediately. Investigations shall respond to any First, Second, Third, or Fourth Degree criminal sexual conduct allegation that occurred within the last 120 hours of the initial report. A patrol deputy shall complete the initial report.

(c) Response by the patrol deputy should not include an interview unless they have been specially trained in sexual assault investigations. Otherwise the questions asked should be

directed only at gathering the above-listed initial information. The patrol deputy should inform the victim at the beginning of the interaction that they are merely gathering

preliminary information and that a detective trained in sexual assault investigations will be responding and will interview them.

(d) If the victim is a child, gather information from the adult reporting party, if there is one available. 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 statement.

(e) The initial information gathering exchange with the victim should be audio recorded.

(f) If the reported incident occurred within the last 120 hours of the initial report, and if the victim has not already done so, advise the victim not to wash, brush teeth, change clothes, gargle and/or clean anything from which evidence might be collected. Recommend that if a victim needs to relieve themselves, they should collect urine in a clear jar for testing, and

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

---

should avoid wiping after urination. Ask the victim to collect any clothing worn during or immediately after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing. If the victim has already bathed, etc. reassure them that they did nothing wrong by taking care of themselves and that a SANE may still be able to collect evidence.

(g) If the victim shows you text/app message conversations that are evidence to the case, notify the Standby Detective immediately and do not let them delete the messages. If the

reported incident occurred over a 120 hours from the initial report, and the detective will be contacting the victim on the next business day, ask the detective if they want you to

seize the victim's phone for a forensic examination. If necessary, the shift supervisor may purchase a temporary track phone for the victim's use. The victim will need to return the track phone once their phone has been returned.

(h) Do not ask the victim if they want to pursue prosecution.

(i) The patrol deputy shall provide the victim with the Sexual Violence Center's contact information (952) 448-5425 and the Southern Valley Alliance for Battered Women (SVABW)

contact information (952) 873-4214.

Deputies should assist, at the request and direction of the Detective, with any investigative duties such as collecting evidence, photographing, and transporting the victim to a SANE exam.

Any officer who speaks with a witness, victim, or suspect, identifies evidence, transports the victim or processes a crime scene shall write a report detailing the actions they took, including any referrals provided to the victim.

Any officer who interacts with the victim should document all observations of the victim's appearance and emotional condition.

### **316.5 PATROL RESPONSE FOR ASSAULTS OCCURRING MORE THAN 120 HOURS PRIOR TO REPORT**

If the reported incident occurred more than 120 hours from the initial report, determine whether the above-listed initial information was collected by dispatch.

(a) If the above-listed information was collected by dispatch, the Patrol Supervisor shall contact the Standby Detective immediately (for any First, Second, Third, or Fourth Degree criminal sexual

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

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conduct allegation). The Standby Detective will determine whether they need to make contact with the victim immediately. A patrol deputy shall complete the initial report.

(b) If the above-listed information was not completely collected by dispatch, the assigned patrol deputy shall gather the information and the patrol supervisor shall contact the Standby Detective immediately (for any First, Second, Third or Fourth Degree criminal sexual conduct allegation). The Standby detective will determine whether they need to make contact with the victim immediately. A patrol deputy shall complete the initial report.

(c) If the Detective determines they will respond, stay with the victim, but do not interview them. A patrol deputy shall complete the initial report.

(d) if the detective determines they will make contact with the victim on the next business day, the Detective shall speak directly to the victim by phone and inform them of this. A patrol deputy shall complete the initial report.

(e) If the victim is a minor, 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 future statements.

Deputies should assist, at the request and direction of the detective, with any investigation duties such as collecting evidence, photographing, and transporting the victim to a SANE exam.

Any officer who speaks with a witness, victim, or suspect, identifies evidence, transports the victim or processes a crime scene shall write his or her own report detailing the actions they took, including any referrals provided to the victim.

Any officer who interacts with the victim should document all observations of the victim's appearance and emotional condition.

### **316.6 SEXUAL ASSAULT EXAMINATION KITS**

(a) All victims who are reporting a sexual assault that occurred within the last 120 hours should be offered a Sexual Assault Nurse Examination (SANE).

(b) The SANE should be encouraged but not required.

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

---

(c) The officer offering the SANE should inform the victim that the costs of the SANE, including cost of the examination, associated tests relating to the victim's sexually transmitted disease status and pregnancy status are covered by the county and not billed to them.

(d) The officer offering the SANE should inform the victim which facilities are available to conduct the exam (Ridgeview, 212 Medical Center, and St. Francis Hospital). The victim should be informed which is the closest facility. The victim should be informed that there is a nurse on staff at St. Francis to conduct the exam, and that if they chose one of the other facilities, the nurse would respond from St. Francis. The victim should be allowed to choose which facility the SANE will be conducted at.

(e) If the victim selects Ridgeview or 212 Medical Center, an officer should immediately notify the facility that the victim will be coming for a SANE so as to assist in having a nurse available to conduct the exam.

(f) Provide the victim with transportation to the examination, if necessary or requested.

#### 316.6.1 TIMELINE

Sexual Assault examination kits must be retrieved within ten (10) days of receiving notice from the hospital that the kit is available.

#### 316.6.2 SUBMISSION

Sexual assault examination kits must be submitted to the Bureau of Criminal Apprehension for analysis within 60 days of the date it is received by CCSO unless it is determined, in consultation with the County Attorney's Office (Criminal Division Manager), that the kit would not be of evidentiary value to the case. If it is determined the kit will not be sent, a written record must be created stating the reasons why the kit was not submitted.

#### 316.6.3 RESTRICTED KITS

Restricted sexual assault examination kits will not be collected by this agency from any health care provider unless approved by the Investigation Supervisor or administration.

### **316.7 INVESTIGATIONS RESPONSE**

(a) If the reported incident occurred within the last 120 hours of the initial report, the assigned detective shall immediately respond to any First, Second, Third, or Fourth Degree criminal sexual conduct allegation.

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

---

(b) If the victim has not yet received medical treatment, make appropriate arrangements as needed for a SANE.

(c) Ensure that steps have been taken to preserve any crime scene(s) and/or evidence. When necessary, secure warrants to process the crime scene(s).

(d) If the victim of the reported incident is a minor and the perpetrator is a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, immediately contact the on-call Health and Human Services supervisor to conduct a joint investigation.

(e) If the victim is a minor, 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 future statements.

(f) Interview the victim and all witnesses, including outcry witnesses. Interviews shall be audio recorded. In the case of the victim, the interview should be video recorded as well if it is feasible to do so. If the victim is a minor child, the interview SHALL be audio and video recorded.

1. Do not ask the victim if they want to pursue prosecution.

(g) If the reported incident occurred less than 120 hours prior, and if the victim has not already done so, advise the victim not to wash, brush teeth, change clothes, use mouthwash and/or clean anything from which evidence might be collected.

(h) Ensure that photographs of the scene are taken.

(i) Photograph any injuries to the victim not photographed as part of the SANE Exam.

(j) Collect any available physical evidence (clothing, bedding, condoms, tampons, toilet tissue or other items used to clean up after the assault, items left or touched by the suspect, beverages and/or drugs that may have been ingested by the suspect or victim, etc.), electronic evidence (text messages, electronic exchanges or posts by any person regarding the incident).



# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

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(k) In situations where it is suspected that drugs and 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.

(l) Consider the use of pretext calls/text/electronic messages prior to a suspect interview. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state.

(m) If there are text message/app/etc. conversations on the victim or suspect's phone, seize the phone for a forensic examination to be completed rather than photograph the text messages. In the case of the victim's phone, work with the County Attorney's Office to obtain a spare phone for the victim. If necessary, the shift supervisor may purchase a temporary track phone for the victim's use. The victim will need to return the track phone once their phone has been returned.

(n) The Detective shall ensure the victim was provided with the contact information for the Sexual Violence Center's (952) 448-5425 and for Southern Valley Alliance (SVA) (952) 873-4214

(o) If the assault occurred within the prior 120 hours of the initial report, consider a warrant for a suspect forensic exam.

1. If a suspect exam is being utilized and the suspect is in custody, specifically instruct the jail regarding any restrictions on the suspects plumbing, water, intake, food intake, etc.
2. Specific consideration should be given to the following: penile swabbing, pubic hair combings and collection of other potential DNA evidence; biological and trace evidence from the suspect's body; documenting information about the suspects clothing, appearances, scars, tattoos, piercings and other identifiable marks; seizing all clothing worn by the suspect during the assault, particularly any clothing touching the genital area; documenting the suspect's relevant medical condition and injuries.

(p) Attempt an interview with the suspect. Audio record any suspect interview/attempt. Whenever possible, the suspect should be interviewed in person. Prior to contacting the suspect, consider conducting a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.

(q) Whenever possible, send all evidence to the Bureau Criminal of Apprehension at one time. If physical evidence is being sent to the Bureau of Criminal Apprehension for analysis, prior to

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

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sending the evidence obtain a known sample (buccal swab) from the suspect pursuant to a search warrant whenever possible.

(r) Provide the victim with the name and contact information for the County Attorney's Office Victim/Witness Coordinator. Provide the Victim/Witness Coordinator with the victim's contact information.

(s) All investigated reports of sexual assault shall be sent to the County Attorney's Office for charging review upon completion of the investigation.

#### **316.8 DETECTIVE TRAINING**

Any detective or other licensed deputy with the sheriff's office who investigate criminal sexual conduct allegations should have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations. This training shall be provided on an ongoing basis.

#### **316.9 VICTIMS RIGHTS**

Officers should provide victims the following information:

(a) The limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minnesota Statute 13.82, subd. 17(b).

(b) Crime victim rights and resource information required to be provided to victims as specified by Minnesota Statute 611a.02, subd. 2(b).

(c) 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 Minnesota Statute 629.341, subd. 3

#### **316.9.1 REQUESTS FOR EVIDENCE**

Pursuant to Minnesota Statutes 611A.27, all requests by victims for sexual assault evidence information must go through the Custodian of Records for the Carver County Sheriff's Office. The Custodian of Records should confer with the Investigative Sergeant prior to the disclosure of active sexual assault information. The Investigative Sergeant will act as the liaison between the agency and the forensic laboratory.

# Carver County Sheriff's Office

## Law Enforcement Services Manual

### *Sexual Assault Investigations*

---

(a) Upon written request from the victim or victim's designee, this agency shall release the following active investigative data, as defined in Minnesota Statutes 13.82, subd. 7, to a victim of sexual assault about a submitted sexual assault examination kit. The Custodian of Record or their designee shall respond to the request within 30 days of receiving the request.

1. The date that a sexual assault examination kit was submitted to a forensic laboratory and the date that the agency received notice of the results of that testing; and
2. Whether a DNA profile was obtained from the testing.

#### 316.9.2 DECLINE RELEASE IF INTERFERENCE WITH INVESTIGATION

This agency may decline the victim's rights to sexual assault evidence information under Minnesota Statutes 611A.27, subd. 1 (a), if the release of the data will interfere with the investigation Minnesota Statutes 611A.27, subd. 1 (b).

#### 316.9.3 VICTIM DESIGNEE TO RECEIVE INFORMATION

The sexual assault victim can designate another person to request information on the victim's behalf by providing written authorization to the agency. The agency can decline to provide the information under Minnesota Statutes 611A.27, subd. 1 (b).

#### 316.9.4 UNRESTRICTING A RESTRICTED KIT

Victims of sexual assault may contact the Investigations Supervisor and request that a restricted SANE kit, as defined by Minnesota Statutes 299C.106, subd. 1 (e), be reclassified as an unrestricted kit as defined in Minnesota Statutes 299C.106, subd. 1 (h). The Investigations Supervisor will have the restricted kit designated as unrestricted and sent to the Forensic Laboratory for processing within 60 days if the restricted kit is in possession of the agency.