DEPARTMENT OF CORRECTIONS

Policy Number:	**107.090**
Title:	**Sexual Assault Reporting for Fugitive Apprehension Unit Members (FAUMs)**
Effective Date:	**1/7/20**

PURPOSE: The purpose of this policy is to provide Minnesota Department of Corrections (MNDOC) Office of Special Investigations (OSI) Fugitive Apprehension Unit (FAU) sworn peace officers with guidelines for responding to reports of sexual assault. This agency strives to:

1. Afford maximum protection and support to victims of sexual assault or abuse if the FAU happens to be assisting or waiting for assistance from agencies who have local jurisdiction authority with an emphasis on a victim-centered approach;
2. Reaffirm peace officers' authority and responsibility in assisting agencies who have primary jurisdiction during preliminary investigations and to make arrest decisions in accordance with established probable cause standards; and
3. Increase the opportunity for prosecution and victim services.

APPLICABILITY: Office of special investigations, fugitive apprehension unit members

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

Consent – as defined by Minn. Stat. § 609.341, subd. 4, which states: "(a) 'Consent" means 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 Minn. Stat. § 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.

Family or household members – as defined in Minn. Stat. § 518B.01 Subd. 2(b): "(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."

Medical forensic examiner – the health care provider conducting a sexual assault medical forensic examination.

Sexual assault – when a person engages in sexual contact or penetration with another person in a criminal manner as identified in Minn. Stat. §§ 609.342 to 609.3451.

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 Minn. Stat. § 595.02, subd. 1(k) and/or domestic abuse advocate as defined by Minn. Stat. § 595.02, subd. 1(1) who provides confidential advocacy services to victims of sexual assault and domestic abuse.

Victim-centered – an approach that 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 the victim in 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 – as defined in Minn. Stat. § 609.232, subd. 11: "'Vulnerable adult' means any person 18 years of age or older who: (1) is a resident inpatient of a facility [defined in Minn. Stat. § 609.232, subd. 3]; (2) 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 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); (3) 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.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction: (i) 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 (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment."

PROCEDURES:

A. Jurisdictional Elements

Fugitive apprehension unit members (FAUMs) are governed by Minn. Stat. § 241.025 restricting their jurisdiction to supervision of release violators. FAUMs are encouraged to assist the law enforcement agencies in the local jurisdiction as needed until those jurisdictions can take over an investigation/response to sexual assault/abuse which was either reported to the FAUM or seen by the FAUM.

B. Communications Personnel Response/Additional Actions by Responding Officers

Fugitive apprehension unit (FAU) peace officers should inform the victim of ways to ensure critical evidence is not lost, including the following:

1. Suggest that the victim not bathe, or clean the victim's self if the assault took place recently;

2. Recommend that, if a victim needs to relieve themself, they should collect the urine in a clean jar for testing, and should avoid wiping after urination;

3. Ask the victim to collect any clothing worn during or after the assault and, if possible, to place the clothing in a paper bag, instructing the victim not to wash the clothing (per department policy); and

4. Reassure the victim that other evidence may still be identified and recovered even if the victim has bathed or made other physical changes.

C. Initial Officer Response

When encountering a report or seeing sexual assault/abuse, FAUMs should understand that the initial reactions and communication with the victims can have a lasting impact. FAUMs should:

1. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with a criminal investigation;

2. If the sexual assault/abuse was not witnessed by the FAUM, ask the victim where the incident occurred so the FAUM can contact the appropriate jurisdictional authority to handle the investigation;

3. Defer to the primary jurisdictional department to explain the process of reporting and the role of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation;

4. Allow the primary jurisdiction to inform local victim advocates as soon as possible;
   a) The FAUM should inform the victim that there are confidential victim advocates available to address any needs the victim might have and to support the victim through the criminal justice system process.

   b) The FAUM should inform the victim that the primary jurisdiction will provide contact information for the local victim advocate.

   c) Upon victim request, the primary jurisdiction may offer to contact the local victim advocate on behalf of the victim. Victim advocates provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency.

5. Document signs and symptoms of injury that they observe, including that information in the augmented criminal investigations support system (ACISS) report; and

6. Allow the primary jurisdiction to communicate to, and arrange the following with, a victim:
   a) Ensuring that the victim knows the victim can go to a designated facility for a forensic medical exam; and offering to arrange for transportation for the victim;

   b) Identifying and attempting to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault; and

   c) Requesting preferred contact information for the victim for follow-up.

D. Victim Interviews

This agency recognizes that victims of sexual assault, due to their ages or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Yet the jurisdictional requirements set forth by Minn. Stat. § 241.025 restrict the jurisdictional element of FAU sworn peace officers. FAUMs are, therefore, required to defer interviews to the primary jurisdictional agency.

E. Protecting Victim Rights

1. Confidentiality

   FAUMs should explain, if asked by a victim, 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. § 13.82, subd. 17(b).

2. Crime Victim Rights
FAUMs must defer the provision to the victim of required rights and resource information to the responding primary jurisdictional agency's responding officers as required by Minn. Stat. §§ 611A.02, subd. 2(b); 629.341, subd. 3; 611A.27, subd. 1; and 611A.26, subd. 1.

F. Evidence Collection
FAUMs should not gather evidence unless circumstances arise which make gathering the evidence essential to its preservation at the current moment. FAUMs should otherwise defer the collection of evidence to the primary jurisdictional agency.

G. Sexual Assault Medical Forensic Examinations
FAUMs should not be involved in the process of medical forensic examinations as those should be deferred to the responding primary jurisdictional agency.

H. Contacting and Interviewing Suspects
FAUMs may accompany a primary jurisdictional agency in contacting and interviewing a suspect. However FAUMs should not be conducting any interviews or questioning of the suspect and should defer to the primary jurisdictional agency for the interview.

I. Forensic Examination and/or the Collection of Evidence from the Suspect
FAUMs should defer forensic examination and collection of evidence from suspects to the primary jurisdictional agency.

J. Role of the Supervisor
FAUM supervisors should assist in the coordination of jurisdictional elements should the FAUM have issues with deferring an investigation or response.

K. Case Review/Case Summary
FAUM supervisors should provide information requested by the primary jurisdictional agency to assist in its investigation.

L. Reports
FAUMs must enter their reports into ACISS, where the reports are retained according to retention schedules.

INTERNAL CONTROLS:
A. Reports made by FAUMs are stored in the ACISS report system.

ACA STANDARDS: None

REFERENCES: Minnesota Peace Officers Standards and Training Board
Minn. Stat. §§ 13.82, subd. 17(b); 144A.43 to 144A.482; 241.025; 245A.01 to 245A.15; 256B.0625, subd. 19a; 256B.0651 to 256B.0654; 256B.0659; 518.B.01, subd. 2(b); 595.02, subds. 1(k) and 1(l); 609.232, subds. 3 and 11; 609.341; 609.342 to 609.3451; 611A.02, subd. 2(b); 611A.26, subd. 1; 611A.27, subd. 1; 626.8422; and 629.341, subd. 3

REPLACES: All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: None

APPROVALS:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
Assistant Commissioner, Operations Support
Assistant Commissioner, Facility Services