

# MISSOULA POLICE DEPARTMENT POLICY MANUAL



<b>Subject:</b> <b>RESPONSE TO RAPE (SIWOC) AND SEXUAL ASSAULTS</b>		
<b>Effective Date:</b> <b>11/15/2013</b>	<b>Original Date:</b> <b>03/15/2012</b>	<b>Next Review:</b> <b>11/15/2014</b>
<b>Chapter</b> <b>10</b>	<b>Policy #</b> <b>10.15</b>	<b>Distribution:</b> <b>ALL DIVISIONS</b>
<b>References:</b> <i>45-5-503 MCA Sexual Intercourse without Consent; 4 5-5-502 MCA Sexual Assault; Sexual Assault Investigation S.O.P.; Adult Sex Crime Supplemental Report Form</i>		

## I. PURPOSE

The purpose of this policy is to provide officers and investigators with guidelines for responding to reports of sexual assault, assisting victims, collaborating with local health and service agencies, and conducting initial interviews with victims, witnesses, and suspects. The accompanying mandatory Supplemental Report Form is designed to assist with accomplishing fair, unbiased and thorough investigations.

## II. POLICY

Trauma from crime victimization complicates a victim's participation in the investigation. The trauma may be so overwhelming that a victim cannot function well enough to assist in the investigation at certain stages of the case. Trauma also affects memory and the ability to explain events in a narrative form for the investigator. Officers and investigators play a significant role in both the victim's willingness to participate in the investigation and ability to cope with the emotional and psychological after effects of the crime. Therefore, it is especially important that these cases be handled from a nonjudgmental perspective so as not to communicate in any way to a victim that the victim is to blame for the crime. Like all reported crimes, every sex crime investigation is to be initiated with the belief it is true, requiring a thorough investigation to determine the facts in accordance with this policy and the supplemental report form.

## III. DEFINITIONS

***Rape and Sexual Intercourse without Consent:*** For purposes of this policy, the terms are considered to have identical meaning as defined by Montana law under 45-5-503 MCA.

***Sexual Assault:*** For purposes of this policy, the term is the legal definition found under Montana statute 45-5-502 MCA.

***Victim Advocate:*** This generic term may apply to a wide range of service providers, rape crisis counselors, social workers, crime victim advocates or UM Student Advocacy Resource Center (SARC) advocates. The roles and services of these different advocates should be explained to the victim. Police will help obtain access to victim advocates when reasonably possible.

**Third Party Reporter:** Any person who on behalf of a victim seeks to report a crime or obtain information to assist a victim in obtaining victim services.

**Blind Report:** For purposes of this policy the term is an instance created by the receipt of confidential information of an alleged adult sex crime from any victim reluctant to make an official report to law enforcement.

## **IV. PROCEDURES**

### **A. Initial Officer Response**

1. As part of any law enforcement first response, officers shall:
  - a. Make contact with the victim or third party reporter as soon as possible to address safety concerns and summon emergency medical assistance if needed,
  - b. Secure the crime scene to ensure that evidence is not lost, changed, or contaminated,
  - c. Begin a search for the suspect and contact when appropriate,
  - d. Temporarily detain or arrest the suspect as appropriate based on evidence of probable cause, and if the suspect is detained, attempt to get an early statement from any known suspect or contact detectives for further investigative guidance.

2. Responding officers shall be familiar with common defenses to the charges of sexual assault.

#### **a. Nonstranger Assault**

The majority of nonstranger sexual assaults result in a consent defense. Thus, evidence of particular importance includes:

- (i) Evidence of physical or verbal resistance on the part of the victim
- (ii) Evidence of genital or nongenital injury
- (iii) Detailed account of the victim's thoughts and feelings during the assault
- (iv) Information regarding the suspect's size and strength in comparison to the victim's
- (v) Information regarding the environment in which the assault took place (such as isolation, soundproofing)
- (vi) Information regarding the victim's behavior after the assault, including common traumatic responses

#### **b. Stranger Assault**

Evidence in stranger sexual assaults often centers on a question of identification pending the processing of evidence collected, such as biological evidence for DNA, latent fingerprints, lineups, and trace evidence. Therefore, investigative strategies must remain flexible.

### 3. Assisting the Victim

As part of the first response, officers shall:

- a. Show understanding, patience, and respect for the victim and attempt to establish trust and rapport,
- b. Commend the victim for coming forward to the police,
- c. Inform the victim that victim advocacy will be contacted and services are available:
  - i. If the victim initially presents at the police department or a hospital, the officer/detective will promptly arrange for an advocate response.
    - The officer/detective may begin collecting personal and statistical information from the victim and explaining the process outlined in sections (c) – (f) below.
    - The victim may choose to volunteer general information about the incident, or the situation may require that the officer seek immediate information, before an advocate is available. However, the preferred response is to introduce an advocate to the victim as soon as possible, and allow the victim to decide if they would like the advocate with them during the preliminary interview.
  - ii. If the initial response is to a scene other than the MPD or a hospital, the responding officer will determine if the victim will agree to go to the PD or FirstSTEP for the initial interview, then promptly arrange for an advocate response and provide any necessary transportation for the victim.
    - If the victim chooses not to leave that location, the officer/detective may conduct the preliminary interview without an advocate, then leave the required written resource material with the victim and encourage the use of an advocate.
- d. Explain to victims the option of working with a responder of the same sex and recognize that a victim may not be able or willing to immediately assist in the criminal investigation,
- e. Supply victims of sexual assault with printed resources that include the phone number for the YWCA Rape Crisis Hotline and the WWW address for [Missoula911.com](http://Missoula911.com) where extensive victim information is available,

- f. Advise victims they will not be arrested for minor offenses that might be discovered in the investigation, such as minor in possession,
- g. Explain the reporting options, the investigative process and the first responder's role commending them again for coming forward to police,
- h. To the extent possible, the first responder initial interview should obtain the information necessary to determine a crime is being reported and document the basic information needed to request a follow-up investigation; cautiously limiting scope in order to avoid the need for repetitive questioning by investigators.
- i. Record in the Supplemental Report Form and written narrative all observations of the crime scene, the demeanor of the victim and any physical injuries,
- j. Arrange to transport or escort the victim to First Step if willing for completion of a sexual assault evidence collection kit.

#### 4. Victim Interview:

Sexual assault investigations typically include both a preliminary and subsequent in-depth interview with the victim. The preliminary interview is intended to establish whether a crime has occurred and guide the collection of evidence. Further guidance on evidence collection and comprehensive follow-up interviews are found in the Sexual Assault Investigation Standard Operating Procedure (SOP).

Responding officers shall not ask the victim if he/she wants the assailant prosecuted.

In the initial response, the officer shall first establish the elements of the crime(s) and identify any and all witnesses, suspect(s), evidence, and crime scene(s).

- a. During the preliminary interview, the responding officer shall:
  - Obtain contact information for the victim, including temporary accommodations and information about the victim's preferred means of communication with investigators;
  - Explain the nature of the preliminary interview and the need for follow-up contacts,
  - Ask victims to explain what they remember and how they felt,
  - Revisit the possibility of a victim advocate and/or support person for victims who initially declined the offer,
  - Explain that other professionals such as forensic examiners, detectives, evidence technicians, and prosecutors may have additional questions.
- b. At the conclusion of the initial interview, the officer shall:

- Give the victim the Department's contact information,
- Advise the victim that a detective or supervisor will contact them the next business day to schedule a follow-up interview,
- Encourage the victim to contact the Department with any additional information or evidence,
- Remind the victim that visible evidence of injury may appear later, and to contact the investigators for additional photographs or other documentation,
- Provide written referral information for victim service organizations and inform victim of the next steps in the investigation,
- Provide transportation to First Step for the forensic exam, unless the victim declines such transportation,
- Brief the forensic examiner prior to the exam of facts known about the assault to enhance the examination, and
- Whenever possible, communicate with the forensic examiner at the conclusion of the forensic medical examination to determine if new information became available during the course of the examination.

#### 5. Evidence Collection

- a. Officers shall collect crime scene evidence of rape and/or sexual assault consistent with standard protocols or request assistance from crime scene technicians and detectives.
- b. Whenever possible, special attention should be given to collecting perishable evidence of drug and/or alcohol use by suspects or victims as soon as practical (i.e. – Urine samples or BAC readings) and alcohol use by witnesses. (i.e. – BAC readings.)
- b. Victims shall be advised and encouraged to seek the services of First Step for a forensic medical examination, including blood or urine samples when alcohol or drugs may have facilitated a sexual assault.
- c. Officers shall explain the process and benefit of a sexual assault forensic medical examination to the victim explaining the importance to investigative and apprehension efforts as well as for the victim's well being. Participating in a forensic exam does not obligate the victim to pursue a criminal complaint. Officers shall not coerce victims to go to the hospital or FirstStep.

#### 6. Information / Officer Advice

- a. In cases where a victim or third party reporter is only seeking information or advice about obtaining victim services then the officer shall provide copies of written materials and relay that to the dispatcher when clearing the call.

## 7. Documentation

- a. Officers will document every response to or investigation of a reported rape or sexual assault by completing a properly coded offense report.
- b. The primary responding officer will utilize the Adult Sex Crime Supplemental Report Form to document any information obtainable during the preliminary investigation;
- c. Officers shall as accurately as possible use the victim's own words in written reports and avoid using the language of consensual sex;
- d. Offense reports regardless of misdemeanor or felony sex crimes will be routed for assignment and/or review by the Detective Division.
- e. Blind Reporting - If a victim is not willing to provide sufficient information during the initial contact or does not wish to make a criminal complaint at the time, then an officer shall use an Adult Sex Crimes Supplemental Report Form to draft a record of the events with a short narrative including CFS # and whatever facts or information was learned. The completed form will be forwarded through their supervisor to the detective division for review and should not be done using electronic mail.
- f. Third Party Reporting - The blind reporting procedure shall be used for third party reporting where a victim is not identified or cannot be contacted.
- g. In instances where evidence is received by the MPD, a DR # must be obtained and report must be made to document chain of custody and whenever in conjunction with a blind report will list the victim as Jane or John Doe, as well as noting the existence of a blind report.

## 8. Supervisor Responsibility

- a. Supervisors shall:
  - (i) Respond to assist officers investigating all felony sex crimes
  - (ii) Exhibit sensitivity to victims and ensure that victims are dealt with properly by clarifying their expectations of line officers
  - (iii) Assist in locating resources to effectively investigate sexual assaults
  - (iv) Include victim services information regularly at roll call
  - (v) Create opportunities for ongoing training to improve the skills needed to properly investigate sexual assault
  - (vi) Work to increase interagency communication between law enforcement and prosecutors to ease the transition for victims moving from the investigation phase to prosecution
  - (vii) Recognize and reward officers for rendering effective victim services
  - (viii) Ensure proper review and routing of all sex crime offense reports within 48 hours of reporting.