ADULT SEXUAL ASSAULTS - INVESTIGATIONS

PREAMBLE:

Trauma Informed Sexual Assault Investigations strengthen the Omaha Police Department's response to victims of sexual assault by providing a belief-based response to the victim. Officers will be aware that trauma affects victims' memories, actions, and behavior. Decisions made by law enforcement are critical to ensuring a compassionate response to victims while conducting an effective investigation.

Nebraska Revised Statute (NRS) §28-902 was amended in 2018 to give victims of sexual assault, age 18 or older at the time of the assault, the option to report anonymously. An anonymous reporting procedure offers victims an opportunity to obtain medical attention and collection of evidence without providing details of the sexual assault. Regardless of the victim's decision, health care providers are mandatory reporters. Health care providers are still required to report to law enforcement physical injuries which appear to be the result of the commission of a criminal offense, including serious bodily injuries or any bodily injury where a deadly weapon was used to inflict such injury in connection with an actual or attempted sexual assault.

POLICY:

It is the policy of the Omaha Police Department (OPD) to fully investigate sexual assaults in conjunction with community partners (i.e., Project Harmony, hospitals, advocates, etc.) while protecting the well-being of the victim. Victims of sexual assault will be treated with compassion and dignity recognizing the incident is a traumatic event. OPD officers shall follow special techniques in the investigation of sexual assaults. Officers will adhere to the procedures in the OPD "Abuse/Neglect/Injury – Child" policy when investigating the sexual assault of a child.

DEFINITIONS:

Anonymous Reporting: A reporting protocol that allows the identity of the victim, his or her personal or identifying information, and the details of the sexual assault or attempted sexual assault to remain confidential and undisclosed by the health care provider, other than submission to law enforcement of any sexual assault evidence collection kit, unless and until the victim consents to the release of such information

Sexual Assault Nurse Examiner (SANE): A Registered Nurse who has received special training so that they can provide comprehensive care to sexual assault victims. In addition, they are able to conduct a forensic exam and may provide expert testimony if a case goes to trial.

Trauma Informed Sexual Assault Investigations: Belief-based method of investigating sexual assaults that is sensitive to victims' needs and the effects of trauma on victim behavior while avoiding re-traumatization of the victim. This form of investigation focuses on treating victims of trauma while employing the most effective methods to investigate crimes.

PROCEDURE:

I. Initial Response

A. In most cases, the initial response to a sexual assault victim is conducted by Uniform Patrol Bureau (UPB) officers. It is imperative that this initial encounter be done in a compassionate manner that recognizes the impact of trauma on the victim. Initial responding officers shall adhere to the following procedures:

1. Officers will establish if a sexual assault or other crime has been committed. Officers will:

a. Determine if the statutory elements occurred for the crime alleged.

b. Determine when the sexual assault occurred. Often times, victims report sexual assaults a significant time after the incident.

NOTE: Only minimal information about the details of the crime is needed at this time.

2. Officers will ensure the safety of the victim and provide any medical treatment if necessary.

   a. Victims should be encouraged to seek a sexual assault kit, which is provided at no cost to the victim, as soon as possible due to the rapid loss of evidence in these types of incidents.

3. Officers will identify any witnesses to the sexual assault.

4. If possible, officers will identify the suspect of the sexual assault.

   a. If the suspect is a public figure, such as a teacher, counselor, coach, pastor or other prominent person, officers will not attempt to make an arrest until an Adult Sexual Assault Squad (ASA) Supervisor has authorized such an arrest.

      EXCEPTION: This does not apply to crimes in progress or when a suspect is still present and the crime has just occurred.

   b. Officers SHALL NOT ask the victim if they want to prosecute the suspect.

5. Once the initial responding officer has determined a sexual assault has occurred the officer shall notify the appropriate CIB unit.

   a. On “B” and “C” Shift, officers shall notify the ASA directly.

   b. On “A” Shift, officers shall notify the “A” Shift Field Investigations Detective. Officers will not contact the On-Call ASA Detective directly. The “A” Shift Field Investigations Detective will evaluate the incident and notify the On-Call ASA Detective as appropriate.

6. Based on the incident details, such as whether the sexual assault was a felony or misdemeanor, ASA or a Field Investigations Detective may direct officers to safeguard the crime scene in accordance with the OPD “Crime Scenes” policy or may determine other personnel will be sent to the crime scene.

   a. If the crime scene is at a different location than the victim, the initial responding officer will request additional officers to secure the crime scene after advisement from the ASA.

   b. If consent to enter the crime scene cannot be obtained, officers will secure the scene until an ASA Detective can obtain a search warrant.

   c. Officers will secure a sexual assault crime scene in the same manner as a homicide crime scene as detailed in the OPD “Crime Scenes” policy.

   d. Initial responding officers will notify ASA or Field Investigations Detectives (when on “A” Shift) prior to contacting Forensic Investigations Unit (FIU) with details as to crime scene location and evidence that may need to be collected.

(1) Officers will be aware that sexual assault evidence, such as bodily fluids, may be present at the crime scene and take caution to preserve such evidence for collection by FIU employees.

(2) If a crime scene is to be processed, officers will request that FIU take photographs and process the crime scene as necessary.

7. If the report is being taken at a different location than the crime scene, officers will preserve and safeguard any evidence the victim may have with them (i.e., clothing, cell phone recordings and/or photographs, etc.).

8. Officers will advise the victim of the steps in the investigation (evidence collection, interviews with witnesses and suspects, etc.) and advise the victim that a follow-up interview will likely occur at some point in the future.

9. Officers will provide the victim with telephone numbers for the following resources (See Appendix A for the telephone numbers):

a. The Omaha/Douglas County Victim/Witness Assistance Division.

b. The Women's Center for Advancement.

c. The OPD Adult Sexual Assault Squad.

d. Any additional referrals for advocates as appropriate.

10. Officers will make certain that all appropriate tests are completed as advised by ASA.

a. DNA samples will only be collected after advisement by the ASA and will be collected in accordance with the OPD "Collection of DNA Reference Samples" policy.

b. If victim consents to sexual assault kit, trained medical personnel will administer the kit.

(1) Officers will complete appropriate reports as advised by ASA to document that a sexual assault kit was completed.

(2) Area hospitals will contact the OPD when the kit is completed and ready for transport and booking into evidence.

(3) Officers will provide the SANE with the RB#.

(4) Officers will obtain the sexual assault kit serial number from the SANE and include it in the narrative of their report and in the serial number field when booking the kit into property as evidence.

11. Officers will complete all applicable reports.

a. Officer's opinions or judgments regarding the validity of the victim's disclosures shall not be included in reports.

b. For non-cooperating victims, officers will:

(1) Collect all information;

– AND –

(2) Check the “No” box in the “Victim will Prosecute” section of the Incident Report (OPD Form 189).

II. Victim and/or Witness Immunity

A. During an investigation of a sexual assault, an officer may find that a victim and/or witness has committed an alcohol or drug offense that is eligible for arrest or prosecution. Under NRS §28-1701, a victim or a witness of a sexual assault SHALL NOT be arrested or prosecuted for committing an eligible alcohol or drug offense if:

1. They reported the sexual assault to law enforcement in good faith and/or requested emergency medical assistance for the victim of the sexual assault;

   – AND –

   The evidence supporting the arrest or prosecution of the victim or witness who committed the eligible alcohol or drug offense was obtained or discovered as a result of such person reporting the sexual assault to law enforcement and/or requesting medical assistance for the victim of the sexual assault;

– OR –

2. The evidence supporting the arrest or prosecution of the victim or witness who committed the eligible alcohol or drug offense was obtained or discovered as the result of the investigation or prosecution of the sexual assault;

   – AND –

   Such person cooperates with law enforcement in the investigation or prosecution of the sexual assault.

NOTE: The definition of an eligible alcohol or drug offense means a violation of NRS Sections 28-416 (3), 28-416 (13), 28-441, 53-180.02, or 53-180.05; or violation of any city or village ordinance similar to those sections; or attempt, conspiracy, solicitation, being an accessory to, aiding and abetting, aiding the consummation of, or compounding of a felony with any of the offenses mentioned in those sections as the underlying offense.

III. Anonymous Reporting

A. When a victim chooses anonymous reporting, the anonymity is between the victim and law enforcement. The medical provider/record is the one place that the victim’s name and the sexual assault kit’s serial number are both contained. Medical providers must have the victim’s consent to release their name.

1. Medical providers must have the victim’s consent to release their name unless the victim is suffering from a serious bodily injury or the victim had bodily injury where a deadly weapon was used to inflict such bodily injury.

2. Anonymous reporting is not an option for injuries that require mandatory reporting or for victims under the age of 18.

B. A SANE or other health care provider will collect a sexual assault kit.

1. The health care provider shall provide the victim with information detailing reporting options and the kit's serial number.

C. A SANE or other health care provider will contact the OPD when an anonymous kit has been completed and is ready for transport.

1. Officers will provide the SANE with the RB#.

2. The SANE will notate the kit's serial number and RB# in the victim's medical record.

D. An officer will transport and book the kit into evidence.

1. The officer shall complete an Information Report (OPD Form 42) with the SANE or health care provider information and details of recovering the kit. The kit's serial number shall be included in the narrative of the report.

NOTE: No details regarding the incident will be provided to the responding officer nor will they be documented in any report(s).

2. The Sexual Assault Kit's serial number shall be logged into SAFE when booking the kit into property as evidence. The serial number is the only means of tracking the kit in the future.

E. Victims may contact the OPD to participate in the investigation.

1. Victims who previously reported anonymously will be asked to provide a copy of their medical records or a release for their medical records in order for an investigation to be conducted.

IV. Investigator Response

A. On "A" Shift, Field Investigations Detectives shall evaluate all initial calls concerning sexual assaults to determine if the On-Call ASA detective should be contacted.

1. Field Investigations will adhere to the same procedures followed when responding to felony assaults or homicides with unit notification (ASA).

2. Investigator call-outs will occur at the discretion of the Unit Commander.

V. Actual or Imminent Breach of Personally Identifiable Information

A. Actual or imminent breach of personally identifiable information (PII) within the scope of any Office of Justice Program (OJP) grant-funded program or activity shall be reported to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach or the detection of an imminent breach.

1. PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

2. OPD employees shall make immediate notification of any actual or imminent breach by contacting the City of Omaha, Mayor's Office, Grant Manager (See Appendix A for phone number.).

REFERENCES:

I. Laws

A. Nebraska Revised Statutes (NRS): §28-416 (3), §28-416 (13), § 28-441, §28-902, §53-180.02, §53-180.05.

II. Previous OPD Orders

A. Previous General Orders: #58-17, 80-18, 4-19, 39-22, and 33-26.

III. Accreditation Standards

A. Relevant CALEA Accreditation Standards: 42.1.4, 42.2.1, 83.2.1, 83.2.2, and 83.2.7.

IV. Other

A. PPM Monthly Updates #06-2018 and 10-2019.