



DEPARTMENT OF PUBLIC SAFETY OPERATING PROCEDURES MANUAL		
CHAPTER 236	SEXUAL ASSAULT OFFENSES	
	Effective: 5/10/2018	Commissioner Approval: 
	Authorities: AS 11.41.300(a)(C)(1); AS 11.41.410-432; AS 11.61.130; AS 11.41.360-365; AS 11.61.140; AS 18.68.010.040; AS 18.65.530; AS 18.65.850-870; AS 47.24.011-120; AS 12.45.045	
	Applicability: ALL DEPARTMENTAL EMPLOYEES	
	Special Instructions:	

236.100 INTRODUCTION

This chapter establishes policies and procedures for Department of Public Safety's response to and investigations of sexual assault offenses and collaboration with necessary and victim service providers.

236.300 DEPARTMENT STANDARDS

This chapter reflects the Department's zero tolerance approach to sexual violence in Alaska. The Department recognizes that sexual assault is a serious offense that will not be condoned or tolerated. Due to the serious nature of the crime, the trauma inflicted on the victim by the offender, and the profound impact on our communities, the Department considers these high priority cases. These standards and procedures will ensure that sexual assault cases are immediately and properly investigated.

This chapter establishes guidelines and investigative procedures to be followed when responding to incidents of sexual assault with the goal of providing a streamlined, victim-centered approach to investigations and through a coordinated response between law enforcement, medical providers and victim service providers.

Officers play a significant role in both the victim's willingness to cooperate in the investigation and ability to cope with the emotional and psychological after effects of the crime. The Department of Public Safety will ensure that sexual assault cases are handled from a non-judgmental perspective so as not to communicate in any way to a victim that the victim is to blame for the crime.

236.600 SEXUAL ASSAULT OFFENSES DESCRIBED

An offender commits the crime of sexual assault if the offender engages in or attempts to engage in sexual penetration or sexual contact of another person without consent or with another person who the offender knows to be mentally incapable, incapacitated or unaware that the sexual act is being committed.

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Alaska statute also specifically identifies offenses committed while victims are in custody of offenders who are employees of the Department of Corrections, Department of Health and Social Services and by those who are employed by a law enforcement agency.

There are four degrees of sexual assault defined in AS 11.41.410-427. Please refer to those statutes.

236.610 STALKING AND SEXUAL ASSAULT PROTECTIVE ORDERS

A. *Protective orders issued by the Alaska Court System.* Protective orders issued by the Alaska Court System in cases of stalking or sexual assault that is **not** a crime involving domestic violence under AS 18.65.850-870 can take three forms:

1. **Emergency Protective Order.** A protective order issued on the request of a police officer with the consent of the victim of stalking or sexual assault. Emergency protective orders expire after seventy-two (72) hours unless dissolved earlier by the court. An officer can obtain an emergency protective order in person or telephonically from a Judge or Magistrate. The officer must complete a CIV-755 form provided by the court. If the order is issued telephonically, the Judge and the officer will each fill out a CIV-755. The Judge will authorize the officer to sign the Judge's name to the order. After the order has been issued the officer will serve the petitioner and the respondent, file the order with the court by the end of the next day, and see that the protective order is entered into the registry of protective orders. [Ref AS 18.65.855(b)]
2. **Ex Parte Protective Order.** An ex parte protective order can be requested by a victim/petitioner and issued without the respondent being notified or present at a hearing. Ex parte protective orders expire after twenty (20) days, unless earlier dissolved by a Judge. [Ref AS 18.65.855(a)]
3. **Long Term Protective Order.** Issued after notice to the respondent and a hearing. Provisions of the order prohibiting the respondent from threatening to commit or committing stalking or sexual assault remain in effect for six (6) months unless earlier dissolved by the court. [Ref AS 18.65.850]

236.620 SEXUAL ASSAULT IN DOMESTIC VIOLENCE RELATIONSHIPS

It is recognized that sexual assault crimes often occur within the context of a relationship outlined in AS 18.66.990, which defines household members. If sexual assault is committed by one household member against another household member as defined in the statute, all mandates, policies, procedures and statutes stated in the DPS Domestic Violence chapter also apply. [[Ref OPM Chapter 212](#)]

236.630 COMMANDER RESPONSIBILITIES

A. *Commanders responsible for sexual assault response.* Commanders are responsible for assuring that sexual assault incidents occurring in areas under their jurisdiction are handled in accordance with statute, regulation, and department policy. Detachment and post SOPs may be established that take into account the availability of local resources and personnel to investigate and prosecute reported cases of sexual assault.

The responsibility of the commander, or designee, within the detachment area is to:

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procedures outlined in the sexual assault evidence collection kit (SA kit),

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

[REDACTED]

ensure that the victim has transportation (and lodging if outside of

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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H. *Victim Rights*

1. See OPM Chapter 228
2. Pursuant to AS 18.65.865- A peace officer shall provide a victim of sexual assault notification of their rights using the most current DVSA booklet.
3. Pursuant to AS 18.68.040-Sexual assault victims may not be required to pay for examinations. A law enforcement agency, health care facility, or other entity may not require a victim of sexual assault who is 16 years of age or older to pay directly or indirectly through health insurance or by any other means, for the costs of the examination [AS 18.68.040].

AST covers the cost of the forensic portion of the medical forensic exam if the exam was authorized by AST. This includes the cost of transportation to and from exams as well as the cost of the follow-up exam (including airfare and hotel as well).

4. The purpose of AS 12.61.100-150 is to protect victims and witnesses of crime from risk of harassment, intimidation, an unwarranted invasion of privacy by prohibiting the unnecessary disclosure of their address and telephone number.
5. The portion of the records of a court or a law enforcement agency that contains the name of a victim of a sexual offense or kidnapping shall be withheld from public inspection. In all records open to public inspection victim's initials shall be used. [AS 12.61.140]

Except with the consent of the court in which the case is or would be prosecuted and is not public record under AS 40.25.110-40.25.125.

6. Victim Rights-Alaska Constitution
 - a. To be treated with dignity, respect and fairness
 - b. Obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present
 - c. Timely disposition of the case

236.650 ANONYMOUS REPORT BY A VICTIM

A. *Anonymous reporting option.* A sexual assault is a traumatic event. Some victims may be extremely reluctant to cooperate with law enforcement and to participate in the standard reporting process in the immediate aftermath of a sexual assault. When victims express such a concern, they can be offered the opportunity to provide information about their sexual assault through an anonymous reporting procedure. **Due to mandatory reporting requirements under AS 47.17.020 and AS 47.24.010, the anonymous reporting option must not be offered to a person under the age of 18, or a vulnerable adult as defined under AS 47.24.900(16).**

236.660 MANDATORY REPORTING REQUIREMENTS

A. Law enforcement as mandatory reporters. Law Enforcement Officers are mandated to report to the proper agency when investigating crimes of sexual assault if the victim falls into one of the following categories.

1. The victim is a vulnerable adult. If the victim is an elder, under AS 47.24.010 the officer must make a report of harm within 24 hours to Adult Protective Services (APS).
 - a. When a victim of sexual assault is elderly (65 or older) or a vulnerable adult (a person 18 or older who has a physical or mental disability or impairment as defined by statute), or when the accused or the victim of sexual assault is the sole caretaker of a physically dependent elder or vulnerable adult and the person can no longer provide care (as, for example, when the victim is hospitalized or when the accused is arrested), the responding officer shall determine whether the elder or vulnerable adult is physically endangered, either as a result of the abuse, a preexisting medical condition, or the removal of a caretaker.
 - b. If the elder or vulnerable adult is physically endangered, the officer shall determine (by asking a mentally alert elder or vulnerable adult, or by asking

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the victim or accused) whether there is responsible friend or relative who can be contacted immediately to provide care. If there is no one available to care for the elder or vulnerable adult, the officer shall transport, or arrange for someone else to transport, the elder or disabled adult to a medical facility or other appropriate location.

In addition to providing the victim notification required by other provisions of this policy, if the victim is an elder, under AS 47.24.010 the officer must make a report of harm within 24 hours to Adult Protective Services.

2. The victim is a child. When the victim or witness of abuse is a minor child, the officer must immediately report the harm to the nearest Office of Children's Services (OCS). [Ref AS 47.17.020 and AS 47.10.011(8)(ii)]
 - a. If the victim is a minor child, officers shall follow policies outlines in OPM Chapter 235 (Child Abuse) and all applicable statutes.
 - b. If the accused is arrested and was the sole caretaker of a child, or the victim is the sole caretaker of a child and can no longer provide care (as, for example, when the victim is hospitalized), the officer shall determine (for example, by asking the victim or mature child) whether there is a responsible relative who can care for the child and, if so, shall contact that relative and await the relative's arrival.
 - c. If no responsible relative is available, the officer shall contact the OCS and will either remain at the residence until a social worker arrives or transport the child to a location designated by OCS.
 - d. If the officer is unable to contact OCS, the child shall be transported to a place of safety and the officer shall continue efforts to reach OCS.

236.670 EMPLOYEES AS VICTIMS OF SEXUAL ASSAULT

Law enforcement response to employee victim is the same as other victims. DPS employees who are the victims of sexual assault (victims of sexual assault or plaintiffs in a Sexual Assault/Stalking Protective Order) shall receive the same law response (e.g. investigation, evidence collection) as other similarly situated victims. Employee victims may request response from a supervisor if they prefer the responding officer not conduct the investigation.