



CITY OF MADISON POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE



Sexual Assault Investigations

Eff. Date 10/05/2020

Purpose

To provide guidelines and expectations for the Madison Police Department response to Sexual Assault Investigations involving adult and child victims. Consistent with our MPD Core Values and Mission Statement, we strive to deliver the highest service possible while following a victim-centered, trauma-informed approach to the investigation of these crimes.

Sexual Assault allegations will be investigated in an unbiased manner, free of assumptions and stereotypes about victims. Personnel investigating sexual assault allegations will keep in mind that victims of these crimes may present with a wide range of potential reactions to sexual assault, some of which may not be in line with an officer's investigative objectives.

When investigating sexual assault allegations, officers should work to build rapport with the victim, use trauma-informed and victim-centered practices, treat the victim with respect and dignity, and document the victim's statement as provided by the victim, using exact quotes when possible.

Definitions

Victim-Centered: Placing the crime victim's priorities, needs, and interests at the center of the investigation. Ensuring that restoring victims' feelings of safety and security are a priority and safeguarding against practices that may inadvertently re-traumatize victims.

Trauma-Informed: Investigations are conducted with an understanding of the effects of trauma on survivors, including the many and varied emotional *and* physical responses victims may *or may not* have to a traumatic experience. Priority is placed on restoring the survivor's feelings of safety, choice, and control.

Procedure

INVESTIGATING CASES INVOLVING ADULT VICTIMS OF SEXUAL ASSAULT

1. Adult victims should be offered trauma-informed and culturally competent services and supports when possible
 - a. The initial responding officer shall advise the victim they may request to be interviewed by an officer of the gender of their choice. Should the victim request an officer of the gender opposite the initial officer, the officer shall immediately notify a supervisor and a reasonable attempt will be made to honor the victim's request.
 - i. Once follow up has been assigned to a Detective, the case will remain with the Detective regardless of gender.
 - b. If the victim has Limited English Proficiency (LEP), the initial responding officer shall take reasonable steps to provide free language assistance services to that victim in accordance with MPD's Language Access Services SOP.
 - i. Interviews of victims, particularly of sensitive crimes, should be done in the victim's primary language.
 - ii. Children or other family members or friends of the victim should not be used to interpret the victim's statement.
 - iii. Victim Advocates and Dane County Social Workers should not be used to interpret the victim's statement, as that may run contrary to their professional mission and ethos.
 - c. The initial responding officer shall, as soon as is practicable, offer to contact an advocate from the Rape Crisis Center to respond to support the victim throughout the reporting and evidence collection process.

- d. In the event of a fresh occurrence, where a public danger exists, the initial responding officer shall make a reasonable attempt to obtain suspect, officer safety, and other relevant information to relay to other officers as soon as possible.
- e. The officer conducting the victim interview shall:
 - i. Spend time building rapport with the victim, assuring their physical safety and getting them medical care as soon as practicable. Interview the victim using open ended, narrative inviting questions.
 - ii. Allow the victim to provide their statement with as little interruption as possible. The officer should utilize natural breaks in the victim's statement to ask follow-up questions, recognizing that victims may not provide statements in chronological order due to the effects of trauma.
 - iii. Notify the Officer in Charge (OIC) of the circumstances of the incident. The OIC will determine if the incident is a 1st or 2nd degree sexual assault or if additional investigative resources or advice is needed, and if so, will ensure that the On Call Detective Lieutenant (if after normal business day) or District Detective Lieutenant is notified of the circumstances. The exception to notification is an incident involving consensual sex between teenagers within 3 years of age.
 - iv. Ensure the collection of evidence from the victim and scene(s), (e.g., photos, clothing, biological items, etc.), and also medical forensic hospital exam evidence if the assault occurred no more than 120 hours prior to the time it is reported. Meriter Hospital's Forensic Nurse Examiner (FNE) program should be used for collection of biological evidence from the victim.
 1. Any time an officer is dispatched for a sexual assault and the victim is reporting; the Officer should stand by outside the room while the exam is being done, in case the nurse needs to communicate with the Officer, and to then take the evidence for processing.
 2. Please see the SOP on Searches, specifically the Strip Search section for further details on the collection of evidence from the suspect.
 3. An Investigator, at the request of the interviewing officer or a supervisor, shall process the scene(s) of a sexual assault for evidence, including photos.
 4. All sexual assault FNE kits shall be physically or electronically submitted to the Wisconsin State Crime Lab (WSCL). The submission form can found on the WSCL website: <https://www.doj.state.wi.us/dfs/evidence-submission-information>.

The form is titled DFS Transmittal and can be electronically submitted via email to the Forensic Case Manager, Division of Forensic Sciences for WSCL (presently mahnkeka@doj.state.wi.us). Please call WSCL Milwaukee at 414-382-7500 with any submission questions.

Electronic submissions are permissible when the complexities and/or facts of the case may require WSCL input prior to transport. If submitted electronically and WSCL will accept the kit for analysis, the kit will then be physically submitted.

If WSCL denies the FNE kit, whether physically or electronically submitted, WSCL will provide the submitter a letter of refusal stating why the FNE kit is not being accepted. This letter shall be scanned as an attachment into the case file and a report shall be completed by the submitter.

This SOP does not pertain to FNE kits collected in any other type of criminal investigation (e.g. strangulation).

5. Even if the assault occurred more than 120 hours prior to the time of the report, victims should be told of the existence of the Meriter FNE program, specifically that the victim can be tested for sexually transmitted infections and/or treated for other injuries.

INVESTIGATING CASES INVOLVING CHILD VICTIMS (SEXUAL AND PHYSICAL ABUSE AND NEGLECT)

1. Child victims should be offered trauma-informed and culturally competent services and supports when possible.
 - a. As with adult victims, if the child victim has Limited English Proficiency (LEP), the initial responding officer shall take reasonable steps to provide free language assistance services to that victim in accordance with MPD's Language Access Services SOP.
 - b. Family members, friends, Victim Advocates and Social Workers should not be used to interpret the child victim's statement.
2. The primary officer shall notify Dane County Human Services (DCHS) within 12 hours of the report of a sexual assault of a juvenile per state statute 48.981(1)(2)&(3).
3. The primary officer shall notify the parents or guardians, if appropriate, of the juvenile victim within 24 hours.
4. When investigating a sexual assault of a child under the age of 16, the investigating officer shall collect as much information as possible without interviewing the victim. The officer shall notify the OIC of the circumstances. The OIC shall contact the Special Victims Unit Lieutenant (if after normal business day) or Special Victims Unit Detective Sergeant prior to conducting a detailed interview or physical exam. The subsequent investigation will be at the direction of the SVU Lieutenant or Detective Sergeant assigned to the case.
5. When the investigating officer or detective for cases involving child victims determines that probable cause exists that the suspect has committed crimes in violation of the statutes listed below, the cases will routinely be referred to the district attorney for criminal prosecution:
 - a) Sexual intercourse or sexual contact under s. 940.225, 948.02, 948.025 or 948.085
 - b) Sexual exploitation of a child under s. 948.05
 - c) Permitting, allowing or encouraging a child to violate s. 944.30 (Prostitution)
 - d) Causing a child to view or listen to sexual activity s. 948.055
 - e) Causing a child to expose genitals or pubic area s. 948.10

INVESTIGATIONS INITIATED BY HUMAN SERVICES**Officer-in-Charge Information**

Child Protective Services (CPS) workers have been asked to make Dispatch the first point of contact for Madison Police Department (MPD) collaboration for the initial field investigation when responding to reports of child abuse and neglect. It is MPD's established procedure to respond with on-duty patrol officers in the initial response.

Responding Officer/Field Supervisor Considerations

1. Determine who will lead the interview (Officer or DCHS worker).
2. If CPS leads the interview, officer should take *detailed* notes of interview.
 - a) Officer should document the child victim's own words, in quotation marks, whenever possible.
 - b) Officer should document, in quotation marks, questions asked of the child by the DCHS worker.
3. Officer *can and should* ask questions pertaining to their investigation if those questions are not asked by CPS.
4. Officer must ensure they have explored the elements of alleged crime.
5. CPS is ultimately responsible for conducting a safety assessment for the child (making sure the child is safe).
6. Regardless of who leads the interview, officers shall complete a detailed report.
7. Note: If Children are alleged victims of abuse by a caregiver or unknown person, the children can be interviewed without parental consent at any location police are legally authorized to be present (see Wisconsin statute 48.981(3)(c)1.b.).

INVESTIGATIONS CONDUCTED WITHOUT CPS PRESENT

- A CPS worker will not respond out to the field to make contact with a child victim in every case. In order to assist CPS in determining whether or not a worker will respond to the field, the responding officer should attempt to obtain as much collateral information as possible from parties other than the child to inform CPS' decision to respond or not. Gathering this collateral information from other sources will also allow the officer to make an educated decision as to whether or not an interview of the child victim in the field is necessary should CPS not respond.
- The responding officer should collect collateral information from the reporting party, the non-offending parent (if possible), any third parties that may have pertinent information (teachers, counselors, friends, etc.), and any witnesses to the alleged abuse.
- After collecting this collateral information from sources other than the child, the officer should make phone contact with the on-call CPS worker and provide all collateral information gained from these sources. The responding officer should ask the CPS worker to share any other pertinent information CPS may have regarding the child victim or other involved parties. The responding officer should inquire with CPS if there are current open cases involving this child victim and/or the alleged offender, or if there were prior cases and/or screen-outs involving this child victim and/or the alleged offender. The responding officer should obtain any pertinent identification and contact information for the alleged offender and others involved in the present investigation.
- If, after this information sharing with the on-call CPS worker, the CPS worker indicates they will respond to the field, the responding officer shall wait to continue their investigation with the CPS worker. If the CPS worker responds, follow the considerations listed above. If the CPS worker advises they will not respond to the field, the responding officer must consider whether or not to interview the child.
- To assess the need to interview the child in the field, the responding officer must evaluate whether or not they have corroborated information of abuse, neglect, or that the child witnessed a serious crime (domestic violence, weapons offense, homicide) from their collateral information sources and their contact with CPS.
- If the responding officer has corroboration that the child is a victim of abuse or neglect, the officer must ensure the preservation and collection of pertinent evidence. The responding officer, in consultation with the OIC or the SVU Lieutenant/Detective Sergeant, should ensure that an FNE exam is done if circumstances warrant it. The responding officer must also ensure that photographs are taken that capture any visible injuries, whether they appear fresh or to have healed. The responding officer should ensure that any weapons or implements alleged to have been used to injure the child are seized as evidence.
- The responding officer should determine if the child is in need of immediate medical treatment and work with the non-offending parent or caregiver to obtain that treatment for the child. The officer should also make an assessment if the child is safe in its present placement situation.
- If the officer believes, based on their investigation, that the child victim is at risk of manipulation, threats, or pressure to recant their initial disclosure, or the officer can articulate that future access to the child victim may be limited by others, the officer may decide to interview the child in the field. If the officer determines an interview of the child in the field is necessary, the officer shall contact the OIC and provide them with the basis for this decision. The OIC shall contact the SVU Lieutenant for consultation and consideration of detective resources being called in.
- Should the responding officer interview the child in the field, the officer should not do a "truth/lie" assessment, nor should they use any body diagrams/drawings. The "truth/lie" assessment is only necessary for a recorded forensic interview, which a field interview is not. Body diagrams/drawings should only be used post-disclosure by a trained interviewer.

- The officer must use open ended questions that allow the child to answer in narrative form, in their own words. An officer should spend some time building rapport with the child prior to transitioning to the topic of concern. The officer can ask the child questions like: “Tell me all about it?” and “Do you know why I’m here to talk to you today?” The use of “tell me” questions will allow the officer to obtain the elements of the crime, identify potential evidence, determine jurisdiction, and identify any witnesses. If the “tell me” questions, coupled with collateral information have not given the timeframe of the incident, the responding officer should attempt to ascertain “when” from the child. The responding officer should attempt to determine timeframe using developmentally appropriate words and open ended questions.
- Officers should understand that a child’s ability to sequence events and provide timelines varies based on their developmental abilities, their chronological age, and whether or not they encoded that detail of the abuse. Officers should not ask a child to guess as to timelines of events. If the child provides information that the incident was not recent enough to raise evidentiary concerns (i.e. the need for an FNE, visible injuries, scene preservation), an estimate by the child is sufficient.
- Responding officers can refer to the purple First Responder Contact Without CPS reference card for guidance when out in the field. The above information is summarized in the below outline, which is located on that reference card.

FIRST RESPONDER CONTACT WITHOUT CPS REFERENCE CARD OUTLINE

1. Collateral Information Collection from Others.
 - a. Reporting Party.
 - b. Non-offending parent (if possible).
 - c. 3rd Parties with information (teachers, counselors, friends, etc.).
 - d. Witnesses.
2. CPS Contact.
 - a. Provide CPS information obtained from #1.
 - b. Determine other collaborative information from CPS.
 - i. Other open/prior cases with subjects.
 - ii. Identification/contact information for offender and others.
 - c. Will CPS come out?
 - i. Yes - wait to continue investigation with CPS.
 - ii. No - proceed to #3.
 - d. If CPS responds, determine who will lead the interview (Officer or DCHS worker).
 - i. If CPS leads the interview, officer should take *detailed* notes of interview.
 - ii. Officer *can and should* ask questions pertaining to their investigation if those questions are not asked by CPS.
 1. Officer must ensure they have explored the elements of alleged crime.
 - iii. CPS is ultimately responsible for conducting a safety assessment for the child (making sure the child is safe).
3. Factors to Determine if Officer Should Conduct Child Interview.
 - a. Do we have corroborated information of abuse, neglect, or that child witnessed (CRIME) obtained by #1 and #2? No need for officer to interview child.
 - i. Preserve/collect pertinent evidence.
 1. SANE exam/photos/weapons/implements/etc.
 2. Determine if child is in need of immediate medical treatment.
 3. Determine if the child is safe in its present placement.
 - b. Even if 3.a. is present, officer articulates need for immediate child interview (manipulation of child’s testimony, family dynamics/pressure, etc.).
4. Contact Sgt/OIC.
 - a. Provide information obtained from #1, #2, and #3.
 - b. Determine if on-call Det. Lt. will be contacted (and presumably a detective called in).

5. Officer Interview of the Child.
 - a. General guidelines.
 - i. Do NOT do truth/lie.
 - ii. Do NOT use body diagrams.
 - iii. Must use open-ended questions (i.e., "tell me all about it").
 1. "Tell me *what* happened?" (elements of crime).
 2. "Tell me *how* it happened?" (evidence - weapons, DNA).
 3. "Tell me *where* it happened?" (jurisdiction).
 4. "Tell me *who* else was there?" (witnesses).
 5. If the "tell me" questions, coupled with collateral information, have not given the "*when*," attempt to ascertain "*when*" from the child.
 - a. Developmentally appropriate words.
 - b. If not recent enough to raise evidentiary concerns, close is good enough.

See "Searches" SOP for guidance on suspect FNE exams.

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