

## Sexual Assault Investigations

### 601.1 PURPOSE AND SCOPE

The St. Charles Police Department adopts the Investigations of Sexual Assault model policy established and published by the Minnesota Board of Peace Officer Standards and Training (MN POST) (Minn. Stat. § 626.8442).

[See attachment: Model Sexual Assault Investigation Policy 03-03-21.pdf](#)

[See attachment: Winona County Adult and Juvenile Sexual Assault Response Protocol \(2019\).pdf](#)

### 601.2 COPY OF SUMMARY

The Investigation Section supervisor shall ensure that the victim of a sexual assault who reports an incident to this department is provided with a copy of the written summary of the allegation. If the incident occurred outside the jurisdiction of the St. Charles Police Department, a copy of the written summary shall also be provided to the law enforcement agency where the incident occurred. If the St. Charles Police Department learns that both the victim and the accused are members of the Minnesota National Guard, the Department shall provide a copy of the summary to the Bureau of Criminal Apprehension (Minn. Stat. § 609.3459).

## Attachments

# **Model Sexual Assault Investigation Policy 03-03-21.pdf**

## **I. PURPOSE**

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

- a) To afford maximum protection and support to victims of sexual assault or abuse through a coordinated program of law enforcement and available victim services with an emphasis on a victim centered approach;
- b) To reaffirm peace officers' authority and responsibility to conducting thorough preliminary and follow up investigations and to make arrest decisions in accordance with established probable cause standards;
- c) To increase the opportunity for prosecution and victim services.

## **II. POLICY**

It is the policy of the \_\_\_\_\_ (law enforcement agency) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

All employees should take a professional, victim-centered approach to sexual assaults, protectively investigate these crimes, and coordinate with prosecution in a manner that helps restore the victim's dignity and autonomy. While doing so, it shall be this agency's goal to decrease the victim's distress, increase the victim's understanding of the criminal justice system and process, and promote public safety.

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

## **III. DEFINITIONS**

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

A. **Consent:** As defined by Minn. Stat. 609.341, which states:

- (1) 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.
- (2) A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute 609.341 cannot consent to a sexual act.

- (3) Corroboration of the victim's testimony is not required to show lack of consent.
- B. **Child or Minor:** a person under the age of 18.
- C. **Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.
- D. **Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.
- E. **Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:
- (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
- F. **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.
- G. **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 provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
- H. **Victim Centered:** A victim-centered approach 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 they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
- I. **Vulnerable Adult:** any person 18 years of age or older who:
- (1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;

- (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.

#### **IV. PROCEDURES**

##### **A. Communications Personnel Response/Additional Actions by Responding Officers**

Communications personnel and/or law enforcement officers should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- 1) Suggest that the victim not bathe, or clean him or herself if the assault took place recently.
- 2) Recommend that if a victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
- 3) Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing (per department policy).
- 4) Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.

##### **B. Initial Officer Response**

When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures. In addition, when interacting with victims, officers shall do the following:

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

- 2) The officer shall attempt to determine the location/jurisdiction where the assault took place.
- 3) Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- 4) Officers are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request the officer can offer to contact local victim advocate on behalf of the victim.
- 5) Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- 6) Ensure that the victim knows they can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- 7) Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- 8) Request preferred contact information for the victim for follow-up.

### C. Victim Interviews

This agency recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question and answer interviewing format with questioning nondirective as possible to elicit spontaneous responses.

In recognizing the need for non-traditional interviewing techniques for sexual assault victims, officers should consider the following:

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.

- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- Some victims do remember details vividly and might want to be interviewed immediately.
- During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
  - 1) Whether the suspect was known to the victim
  - 2) How long the victim knew the suspect
  - 3) The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
  - 4) The extent of their previous or current relationship
  - 5) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
  - 6) Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
  - 7) Relevant communication through social media, email, text messages, or any other forms of communication

**D. Special Considerations—Minors and Vulnerable Adults/Domestic Abuse Victims**

**1. Minors and Vulnerable Adults**

This agency recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. Members of this agency will be alert for victims who would be best served by the use of these specialized interview techniques. Officers, in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an officer determines that a victim requires the use of these specialized interview techniques, the officer should follow the guidance below.

- a. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
  - (1) Ensuring the safety of the victim;
  - (2) Ensuring the scene is safe;
  - (3) Safeguarding evidence where appropriate;
  - (4) Collecting any information necessary to identify the suspect; and
  - (5) Addressing the immediate medical needs of individuals at the scene



- b. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to 260E.22 can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota Statute Section 260E.06 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

- d. Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
  - e. The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.
2. Victims of Domestic Abuse  
Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

**E. Protecting Victim Rights**

- 1) Confidentiality: Officers should explain to victims 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. section 13.82, subd. 17(b)
- 2) Crime Victim Rights: Officers must provide the following information to the victim:
  - a. Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
  - b. If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3.
  - c. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
  - d. Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.
- 3) Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling the follow up.
- 4) Language access: All officers shall follow agency policy regarding limited English proficiency.

**F. Evidence Collection**

- 1) Considerations for Evidence Collection  
Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
  - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.

- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

**G. Sexual Assault Medical Forensic Examinations**

- 1) Prior to the sexual assault medical forensic examination the investigating officer should do the following:
  - a. Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.
  - b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
  - c. Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
  - d. Ask the victim for a signed release for access to medical records from the exam.
- 2) Officers should not be present during any part of the exam, including during the medical history.
- 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

**H. Contacting and Interviewing Suspects**

Prior to contacting the suspect, officers should consider the following:

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong

consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

- 3) When possible, an attempt would be made to interview the suspect in person.
- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
  - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
  - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

#### **I. Forensic Examination and/or the Collection of Evidence from the Suspect**

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

- 1) Prior to or immediately after the preliminary suspect interview, photograph any injuries.
- 2) Determine whether a sexual assault medical forensic examination should be conducted.
- 3) Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
- 4) During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
  - a. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
  - b. Collect biological and trace evidence from the suspect's body;
  - c. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
  - d. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
  - e. Document the suspect's relevant medical condition and injuries.

**J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

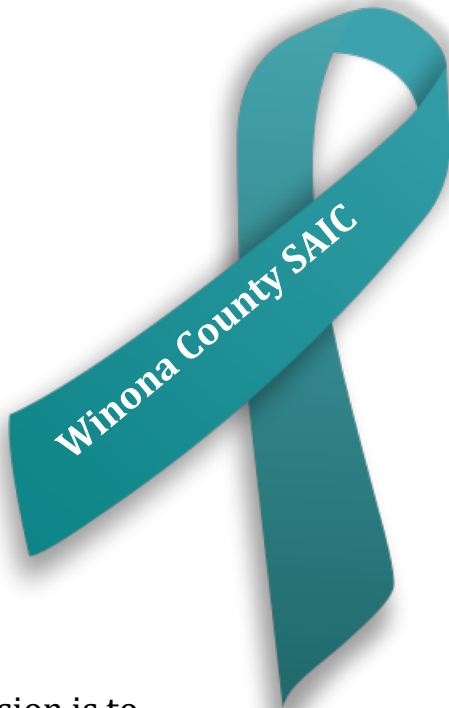
**K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions

**Winona County Adult and Juvenile Sexual  
Assault Response Protocol (2019).pdf**

# WINONA COUNTY ADULT AND JUVENILE SEXUAL ASSAULT RESPONSE PROTOCOL



“Our mission is to coordinate an effective interagency and community response to sexual assault, serving all victims/survivors and seeking justice.”

Created by: the Winona  
County Sexual Assault  
Interagency Council  
(SAIC)

**This protocol was created to help affect a more victim-centered approach toward sexual assault crimes, and does not afford a criminal defendant any additional rights or procedural protections beyond those that exist in law. The protocol contains general operating guidelines only. In some scenarios, various protocol steps may be added, omitted or amended as appropriate.**

**The authors of this document have written it as general operating guidelines to improve the response to victims/survivors of sexual assault. The guidelines contained herein are not intended to be used as a substantive or procedural remedy enforceable by law or by any party or person in litigation with the agencies and persons associated with these guidelines. These guidelines are also not intended to give a criminal defendant any additional rights or protection beyond those that exist by law. Rather, they are to help create a more victim-centered approach toward sexual assault crimes. The Protocol contains general operating guidelines only. In some scenarios, various Protocol steps may be added, omitted or amended as appropriate.**



**The agencies and their employees are not legally accountable for carrying out the responsibilities outlined in this protocol. The Council has developed the guidelines to define roles and responsibilities to improve its response to victims/survivors of sexual assault. Because not all situations are the same, some victims/survivors may require a response that varies from the documented procedures. No guideline can foresee all such circumstances. If the guidelines are not carried out exactly as outlined in this document, victims/survivors do not have the right to sue.**

**For more information please contact:**

**Sexual Assault Interagency Council (SAIC) Coordinator  
Winona County Attorney's Office  
171 West Third Street  
Winona, MN 55987  
507-457-6310  
WCAttorney@co.winona.mn.us**

## Winona County SAIC Members

### **Goodview Police Department**

4220 W. 5<sup>th</sup> Street  
Goodview, MN 55987  
507-452-1500

### **Lewiston Police Department**

P.O. box 129  
Lewiston, MN 55952  
507-523-2534

### **St. Charles Police Department**

830 Whitewater Ave  
St. Charles, MN 55972  
507-932-4500

### **Matty's Place**

601 Franklin Street  
Winona, MN 55987  
507-429-0655

### **MN Department of Corrections**

370 W. 2<sup>nd</sup> Street  
Winona, MN 55987  
507-452-2915

### **Semcac**

66 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-452-4307

### **Saint Mary's University of Minnesota**

700 Terrace Heights  
Winona, MN 55987  
507-457-1587

### **Winona County Attorney's Office**

171 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-457-6310

### **Winona County Community Services**

202 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-457-6200

### **Winona Health**

855 Mankato Ave.  
Winona, MN 55987  
507-454-3650

### **Winona County Sheriff's Office**

201 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-457-6368

**Winona Police  
Department**

201 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-457-6302

**Women's Resource  
Center**

100 Latsch Square,  
Suite 201  
Winona, MN 55987  
507-452-4440

**Winona State  
University**

Gender Based Violence  
Program  
175 W. Mark Street  
Winona, MN 55987  
507-457-5160

## **Cultural Considerations**

When working with victims/survivors of sexual assault, please keep the following considerations in mind. Winona County SAIC understands that each victim's/survivor's experience will be different depending on their cultural background. These considerations are meant to be used as a guide when working with individuals from diverse backgrounds. It is important that service providers are knowledgeable about the various groups represented in order to best serve all victims/survivors.

The following considerations are in no way a complete list, but can aide professionals to be as considerate as possible when working with victims/survivors from a wide range of backgrounds.

### **Common themes for diverse communities:**

There are many common themes that arise when working with a sexual assault victim/survivor from diverse communities. These include the following:

- Victims/survivors may feel they are betraying their race by handing the perpetrator over to a “white system” due to a history of discrimination.

- A victim/survivor may believe nothing will happen to the perpetrator if the perpetrator is white.
- Past experiences may leave the victim/survivor fearing the police more than they fear the perpetrator.
- Assure the victim/survivor that referred resources will be there to help and they are not in trouble.
- Victims/survivors may have faced racism from professionals before. Be understanding of why they may be reluctant to involve the legal or medical system. Providing an advocate can help with this process.
- Be aware that sexual assault may not be viewed as a crime in all cultures. You may need to explain how sexual assault is defined in the American system and how they have the right to report to the police and to be seen at the hospital.
- Understand the importance of family. It is very important to give the victim/survivor the power to decide if they want their family informed and/or present during questioning, medical examinations, etc.
- Always use certified interpreters if the victim/survivor wishes to speak in their native language. Using a family member can make the victim/survivor reluctant to disclose all the information. Don't ask children or family members to interpret.

- If the victim/survivor requires an interpreter, face the victim/survivor and not the interpreter.

There will also be different challenges when working with victims/survivors in specific cultures. Victims/survivors can have any background (including but not limited to gender, age, race, socioeconomic status, etc.) It is important to remember that each individual within a specific group will have different wishes. These lists are not meant to be comprehensive.

### **Hmong:**

- If a Hmong woman is raped, she is very unlikely to tell anyone. This is due to the fear that it will bring dishonor to her family. She will be fearful that she will be banished from her home and cause shame within her family.
- Assure female victims/survivors that the assault was not her fault, as sexual assaults in the community are viewed as the woman's fault or that she is promiscuous.
- Questions related to a Hmong woman's sexuality can be a sensitive issue. It would be wise to have a woman present when you speak with her.
- It is common for women to not provide eye contact. Keep this in mind, as it is not because they are lying or not understanding, but rather it is part of their culture.

- A young woman will fear that her marital status will be at risk if anyone knows that she was raped. The culture lays blame on the female victim/survivor, and this will make her fear that her future to be married in the culture will be jeopardized.
- Victims/survivors of sexual assault will face scrutiny within their clan. Because of this, it is very important to reassure victims/survivors that the information will be private and treated sensitively.
- Many older Hmong persons do not speak English well. They may rely on using family members as interpreters, but because of the vocabulary constraints and close relationships, the full interpretation may not be conveyed. Use professional interpreters when a language barrier exists.
- Something to keep in mind during a medical forensic exam: There is no word in the Hmong language for sexually transmitted infection (STI), they may need further explanation and reassurance as they may fear it is a deadly disease.

**Hispanic/Latino:**

- In the Hispanic/Latino culture, formality is viewed as respectful. Always use a courtesy title when addressing an individual (ex. Mr., Mrs., and Ms.).

- Much of the time a conversation will take place at a close distance. If you move away, they may step forward to close the distance.
- Women will most likely not shake hands when approached.
- When talking with a woman, do not put your hands on your hips or in your pockets. This is seen as threatening or that you are making a challenge.
- You should not make the “O.K.” sign with your fingers. It is considered vulgar.
- Hispanics/Latinos frequently use humor as a coping mechanism. This may be misunderstood as not accepting a serious situation, but it used as a way to cope.

### **Mexican:**

- Silence is seen as a sign of respect. Most of the time they will remain silent during a conversation.
- They like to stand close to others. Standing far away from them is seen as disrespectful. Be aware that they may move closer to you during a conversation.
- They do not give direct eye contact.
- It is inappropriate to use your entire hand when questioning a victim/survivor about height or stature of a person. Instead, use just your index finger.
- When talking with individuals from this background, avoid using words like



immigration, immigrant, illegal, or legal. They may stop listening and conversing for fear themselves or a family member will be deported.

- Try to avoid leaving female victims/survivors alone with a male (ex: doctor, officer), as they may not feel safe.
- When motioning for someone to follow you, use a gesture where the hand palm is down.
- In this culture, it is seen as rude to disagree. By asking open ended questions, versus yes or no questions, you can prevent the individual from nodding in agreement without actually understanding.

#### **Indochinese-American:**

- Most do not shake hands, but rather bow to show respect.
- When talking, they usually do not make direct eye contact.

#### **Cambodians:**

- Culturally, conflict is handled within the family; this may make victims/survivors apprehensive to involve law enforcement.
- The concepts of domestic violence and sexual assault do not exist in the Cambodian culture. Women are seen as their husband's property. When a husband beats his wife, it is considered discipline. When a husband rapes his wife, it is considered sex.

- Girls within the Cambodian culture are treated harshly. They are expected to stay home and work with their mothers. If they socialize with men, they are viewed as having unfit morals.
- A Cambodian girl's virginity is important to her identity and to her family's honor. Because of this, she may not report a sexual assault to anyone. Discussions of sex are considered embarrassing and forbidden.
- In order to prevent bringing shame to their family, victims/survivors will deny the assault occurred. Families will ostracize their daughter if the assault becomes known.
- Cambodians have a long history of being mistreated by law enforcement and government officials. As a result, they tend not to believe or trust government officials.

**Vietnamese:**

- Vietnamese do not believe in taking problems outside of their inner-circle. They handle problems within their family or group. This can cause victims/survivors to delay or not report an assault.
- Vietnamese believe that keeping the sexual assault a secret is more important than justice, as the reputation of the woman and family may be in jeopardy within the culture.

**Japanese:**

- Do not touch the heads of children or infants. Japanese believe that the “spirit” dwells in the head and touching it may bring bad luck or a bad omen.

**Somalian/East African:**

- Women do not shake hands.
- Women are to be covered from head to foot at all times.
- Somalis do not like to have photos being taken. They believe it’s immodest to have pictures of themselves.
- Due to a history of negative experiences, Somalis tend to not trust police or the court. In Somalia, court is usually not taken seriously due to the fact it is common to buy officials and judges.
- It is not proper in Somali culture for a woman to be alone in a room with a man.
- Family is more important to them than the individual so they may be reluctant to report to police if they were hurt by a family or clan member.
- Somali culture values relationships. Because of this they may prefer having another person from their culture present for support in any interaction.

### **Victims/survivors with a disability:**

- People with disabilities experience higher rates of sexual assault.
- Victims/survivors may fear they will not be believed if their perpetrator is non-disabled and thus perceived to be a more credible source.
- They may be dependent on the perpetrator for personal care, which may lead them to be more reluctant to report.
- Not all disabilities can be seen. Stay open to the possibility the victim/survivor may have a disability even if it is not apparent.

### **Lesbian, Gay, Bi-Sexual, Transgender, Queer (LGBTQ+) victims/survivors:**

- Do not make any gender identity or sexual orientation assumptions.
- Do not assume that a male or someone who expresses more masculine qualities is automatically the perpetrator.
- Victims/survivors who are lesbian, gay, bisexual, transgender and/or queer may fear a hostile response from service providers, the police and the courts due to homophobia, transphobia, and anti LGBTQ+ bias.
- A victim's/survivor's experience should never be minimized because they do not fall into the "mainstream" culture and society.
- LGBTQ+ victims/survivors may feel they are betraying their community, which is already vulnerable in a heteronormative society. Some

victims/survivors may fear bringing negative attention on their community.

- An understanding about the LGBTQ+ community is essential. Victims/survivors of sexual assault may fear they have to educate service providers.
- Victims/survivors may be concerned about being forced to “come out” if they tell their families, seek help or report an assault to the police.
- Victims/survivors may fear retaliation by their perpetrator if by reporting the assault they are “outing” the perpetrator.
- Be sensitive to the rigidity or exclusive language on forms, use of pronouns, lines of questioning, the nature of services provided, etc. It is important to ask the victim/survivor what their preferred pronoun is.
- Before providing referrals, consider whether or not they are LGBTQ+ friendly and safe.
- Avoid making assumptions by asking open ended questions.
- The term queer can mean different things to different people; it is an acceptable term to some and offensive to others. Be cautious when deciding whether or not to use this term.
- Many transgender victims/survivors have documents that have discrepancies between legal name, gender marker and gender presentation. If needed, get clarification from them privately.

- Transgender victims/survivors may be uncomfortable if they feel their medical provider is deciding their gender based on their genitals.
- A person who is transgender also has a sexual orientation and can be lesbian, gay or bi-sexual etc. Gender identity, not biology, will determine how a person identifies their sexual orientation.

**Project FINE:**

Project FINE provides professional interpreters and translators for individuals and businesses. Project FINE is located in the Winona County Office Building. Individuals who need interpreting or translating services should call 507-452-4110 (8am-4:30pm M-F) or 507-459-1190 (24/7). They offer interpreters in the following languages:

- |                         |             |             |
|-------------------------|-------------|-------------|
| -Arabic                 | -German     | -Russian    |
| -American Sign Language | -Hmong      | -Somali     |
| -Bosnian                | -Italian    | -Spanish    |
| -Bulgarian              | -Japanese   | -Swahili    |
| -Cambodian              | -Korean     | -Thai       |
| -Cantonese              | -Laotian    | -Tibetan    |
| -Dinka                  | -Mandarin   | -Vietnamese |
| -French                 | -Portuguese |             |

Information for this section was taken from the  
following sources:

Zdarzil, A (2000). MCAA Seminar, Grand  
Rapids, MN.  
Aurora Center  
Ramsey County Protocol

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

## **Law Enforcement: Adult Protocol**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

### **Dispatcher's Response to a Sexual Assault Call**

- Obtain and record caller's name, address, and phone number.
- Obtain location of suspect and/or victim/survivor, and jurisdiction of where crime was committed.
- Determine if the victim/survivor is in immediate physical danger. If so, ask if suspect is present and/or armed, get a name, address, phone number, and physical description. Determine appropriate response for all other emergencies.
- Dispatch patrol officer(s) according to department policy.
- Assess situation and if necessary keep caller(s) on the line until officer(s) arrive unless it is unsafe to do so.
- Save the audio recording of the call.



## **Patrol Officers**

- Safety of victim/survivor and officer(s) is the first priority.
- Provide aid to the injured. Locate and reassure victim/survivor.
- Secure any possible crime scene(s) to ensure that evidence is not lost, changed, or contaminated.
- Provide interpreter services, if needed, including language translation for non-English speakers and signing for hearing-impaired victims/survivors.
- Obtain necessary information on victim/survivor, suspect, and witnesses. (Home, work, cell phone numbers, full name, DOBs, and addresses).
- If the crime has just occurred, furnish other field units (through Dispatch) with descriptions, method and direction of flight, and other relevant information concerning wanted persons and/or vehicles, etc.
- Obtain a detailed audio recorded statement from the victim/survivor and witnesses.
  - Determine what crime was committed.
  - Where the assault took place and when.
  - Who was the suspect - get full name, DOB, phone number, etc.
  - Ask victim/survivor what they would like to see happen.

- Was there a struggle?
  - Did victim/survivor indicate behavior/actions were unwanted?
  - Did the victim/survivor tell anyone else of the incident? If so, who?
  - If it is a delayed report, determine the reason for the delay.
  - Document demeanor of the victim/survivor.
  - Were alcohol or drugs involved?
  - Identify any other possible witnesses.
- Photograph scene, injuries, and any items of evidentiary value.
  - Gather and collect any evidence at the scene(s).
  - All items collected should be placed into evidence.
  - Encourage victim/survivor to seek medical care. Determine if a medical forensic exam should be done. Remind them the medical forensic exam is at no cost to them. Arrange for victim/survivor to be taken to the hospital and bring new set of clothes for after the exam, if available. Obtain medical records from the victim/survivor, if applicable, and when filling out releases for medical records, add the County Attorney's Office along with the lead investigating agency. When obtaining the medical records ask the victim/survivor to sign the medical release.

- Upon completion of the medical forensic exam, collect the kit, clothing, and any other items from hospital staff. Document transfer of custody from hospital to police. Hospital will hold kit for up to 90 days.
- If “Date Rape” drugs are suspected, a urine kit needs to be completed while at the hospital. Symptoms are:
  - Report of intoxication in short span of time (5-15 minutes)
  - Cannot remember what happened.
  - Reports waking up but passing out a second time.
  - Rohypnol cannot be detected at 48 hours after ingestion.
  - GHB can last, at most, 12 hours after ingestion
- Explain resources available to victim/survivor. Offer WRC services and ask if they want an advocate called.
- Contact Supervisor. Supervisor will request an investigator and/or evidence tech to be paged out, if necessary. If investigator and evidence tech are not available, patrol can continue with the investigation.
- Write a detailed report using effective non-consensual language.

### **Supervisor/Officer in Charge**

- Assess situation, i.e., officer's findings, victim/survivor and witness statements, and scene review.
- Coordinate securing and processing the crime scene(s).
- WPD Only: Notify Sergeant of CID if an investigator/evidence technician and other support personnel are needed.
- Work with the WRC to address any safety concerns the victim/survivor may have, i.e., creating a safety plan, finding safe housing.
- Determine whether the victim/survivor is willing to cooperate with the investigation.
- Obtain all records on the suspect, including NCIC, POR, DOC, etc.
- Sign completed 9-1-1 form from dispatch to obtain recording of call if applicable.
- Coordinate efforts to arrest or interview the suspect.

### **Investigator/Officer in Charge/Evidence Tech**

- Keep victim/survivor informed about the status of the investigation.
- Minimize necessity of repetitious interviews whenever possible.
- Take appropriate steps to make victim/survivor comfortable with interviews. Consider using a victim/survivor friendly environment, such as Matty's Place.

- Determine whether victim/survivor is willing to cooperate with the investigation and prosecution of the offense.
  - Collaborate with Evidence Technician (if appropriate) to determine what evidence should be seized and what photos should be taken and if any of the following needs to be done:
    - Fingerprint scene if appropriate.
    - Sketch scene if appropriate.
    - Collect all pertinent evidence.
    - Photograph victim's/survivor's injuries if present at the scene.
    - Photograph suspect's injuries if appropriate.
    - Collect biological samples from appropriate people.
    - Blood to be done at the hospital.
  - Consider whether or not a controlled call may be appropriate.
  - Collect all appropriate evidence in the absence of an Evidence Technician.
  - Notify victim/survivor of services available, i.e. advocacy programs (WRC).
  - If not already completed, ask the victim/survivor to sign a medical release. Obtain medical records from the victim/survivor, if applicable, and when filling out releases for medical records, add the County Attorney's Office along with the lead investigating agency.

- Review all records and print out NCIC sheet on suspect.
- Obtain 9-1-1 recording, if applicable.
- Review entire case and draft search warrant(s) when necessary.
- Determine suspect(s) and coordinate interview(s).
- Determine if suspect will be arrested and/or referred to the County Attorney for charges.
- Notify victim/survivor if suspect is taken into custody.

### **Detention Personnel**

Make every reasonable effort to notify the victim/survivor of the suspect's release from custody as soon as the release date and time is known.

## Law Enforcement: Juvenile Protocol

*Winona County is committed to being victim/survivor centered. Please remember to reassure victim/survivor that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

### Patrol Officer's Role

- A. **Emergency Situations:** Patrol officers who become aware or receive a complaint of child sexual abuse should first determine the jurisdiction of any criminal acts, and if the situation constitutes an emergency, where immediate action is necessary to protect the child. An emergency situation would include, but is not limited to, a situation where, if action is not taken immediately, the child would possibly be exposed to further abuse, particularly when the offender is a caregiver of that child or other children. In this case, a patrol officer must determine if the child needs emergency shelter care and DHS (Winona County Community Services) must be notified as soon as possible.
  
- B. **Non-Emergency Situations:** In the case of a non-emergency complaint, the patrol officer should take the information only

from the person who is reporting it. If the victim/survivor is present, the interview of the reporter should be conducted out of the child's presence. The patrol officer **may conduct a limited interview of the child victim/survivor, using non-leading questions to obtain information deemed necessary to forward the report to the law enforcement investigator assigned to the case.** The patrol officer need not do a thorough interview of the child in this case, but generate a report as to the information received from the reporter/complainant. The reporter/complainant or victim/survivor must be notified at the time of the report that they will be further contacted at a future undetermined time by a **law enforcement** investigator and/or WCCS social worker assigned to a parallel assessment of the case. **The patrol officer shall also notify the shift supervisor of the complaint.**

- C. **Other Responsibilities:** If a report is generated by a patrol officer for Winona Police Department or Winona County Sheriff's Office, that officer or the shift supervisor will ensure that a copy of the report is **emailed** to WCCS by the end of their shift. All other agencies should fax to ensure secure dissemination of reports.



Photographs or visual images should be taken by the patrol officer taking the report, when appropriate. The photographs or their undeveloped media will be handled as evidence and noted in the patrol officer's law enforcement report.

**Assigned Investigator's/Lead Officer's Role:**

- A. **Initial Response:** The **law enforcement** investigator assigned to the case will first establish if the incident(s) occurred in the investigator's jurisdiction. If they have not, this information will be turned over to the assigned social worker at the soonest opportunity.

The **law enforcement** investigator will contact the assigned social worker and coordinate appointment for interviews or to determine how best to proceed. The **law enforcement** investigator may assist the social worker in setting up appointments for the purpose of interviewing the child victim/survivor of sexual abuse. Notify County Attorney's Office and someone will be present for the interview.

- B. **Interviews of Children:** Children who are victims/survivors of sexual abuse, other possible child victims/survivors or child witnesses to the sexual abuse of other children

must be videotaped and audio recorded when interviewed. **The interview shall be conducted using a nationally recognized forensic interviewing protocol as best practice. Whenever possible, the interview should be conducted at Matty's Place.**

The law enforcement investigator assigned to the case may assist in interviewing the victim/survivor, but the assigned forensic interviewer shall take the lead and conduct the interview. The law enforcement investigator's report should include a summary of what the victim/survivor disclosed in the interview.

- C. Physical Examinations:** When appropriate, the assigned law enforcement investigator may be present when children are examined by health care professionals at a health care facility. Investigators, when present at the health care facilities, should ensure that photographs are taken, visual images are captured, and/or digital recordings are made of a child's injuries or physical condition, whether done by themselves or hospital staff. **Whenever possible, the physical examination shall be conducted by a health care professional trained in child maltreatment assessment.**

**Call the Emergency Department at Winona Health prior to exam to ensure that a professional is available to conduct the exam. If not, they will refer to appropriate location.**

- D. **Offender Interviews:** Offender interviews may include the social worker assigned to the case, but only at the **law enforcement** investigator's discretion. These interviews will be conducted by the **law enforcement** investigator who will take the lead in the interview. In the case of a suspect being a caregiver, the social worker may need to interview that suspect/offender at the conclusion of the law enforcement interview. The interview should be audio recorded.
  
- E. **Evidence:** The **law enforcement** investigator shall collect evidence including, but not limited to, the videotape or audio tapes from any interview(s) and the drawings made at any interview(s) and hold these as evidence. In addition to the tapes and drawings, all other evidence will be itemized, properly stored in evidence, and recorded in the investigator's law enforcement report.
  
- F. **Search Warrants:** **Law enforcement** investigators or their designees will obtain search warrants when necessary to secure any

evidence that may exist at a crime scene or other location.

- G. **Reports and Assisting Prosecutors:** The **law enforcement** investigator will forward all information pertaining to an arrest or referral to the prosecutor via standard channels.

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

## **Advocacy: Adult Protocol**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victims/survivors wishes while working through this protocol.*

### **Initial Contact**

- Document name, address, and phone number of victim/survivor, if willing.
- Determine if victim/survivor is in immediate danger.
- Help identify and address the victim's/survivor's immediate concerns.
- Assure the victim/survivor that their confidentiality will be upheld unless the advocate has written permission to release information to specified response team partners.
- Inform victim/survivor that an advocate's privileged communication is lost when a third party is present during victim services interactions/conversations.
- Determine if emergency medical assistance is needed.

- Inform victim/survivor of medical exam- available at Winona Health Emergency Department or other hospital in the area, if a student (depending on availability of SANE-certified nurse practitioner at WSU). Inform victim/survivor of approximate 120-hour window for evidence collection, availability, Emergency Room process (see E.R. protocol).
- Inform victim/survivor to request a “sexual assault exam”.
- Inform the victim/survivor about approximately how long the evidentiary exam/ER visit will take (typically 2 to 4 hours).
- Inform victim/survivor of options for pregnancy and STI testing/treatment at ER, WSU or SEMCAC Family Planning Clinic, as applicable.
- If the victim/survivor agrees to the medical exam, advise the victim/survivor to either wear or bring along the clothes that were worn before/during/after the assault as there may be evidence on these items. If the victim/survivor does not want to wear those clothes to the hospital, advise them to place each item in a separate paper bag (NOT plastic) and bring along to the hospital.
- Caution victim/survivor against evidence destruction, and advise victim/survivor to not urinate or shower, if possible, and to refrain from drinking water.

- Arrange transportation to and from the hospital, if needed.
- Answer victim's/survivor's questions about law enforcement and the criminal justice response. Remind victim/survivor that it is his/her choice whether or not they wish to report and they can make that choice at any time.
- Inform victim/survivor that the criminal justice response process time varies, depending on circumstances, some unique to the case.
- Offer crisis support and referral services.
- Help develop a safety plan that includes options for protective orders, emergency safety provisions, and immediate needs.
- Give victims/survivors a rights and referral card, if they have not been given one.

### **Medical Examination**

- Provide victim/survivor with emotional support during the examination and answer any questions victim/survivor may have about exam process.
- Inform victim/survivor that some questions is recommended to achieve comprehensive evidence collection may feel uncomfortable or intrusive, and that sharing a complete account including all details and circumstances of the

assault assists providers in completing evidence collection.

- Inform victim/survivor that evidence collection and STI testing will be at no cost to them; it will be billed to the county in which the assault occurred; however other medical services may be billed to the victim/survivor.
- Provide support and referral services for secondary victims/survivors.
- Inform victims/survivors that the medical provider will keep evidence kit for at least 90 days and that it does not get processed or sent to the BCA unless the victim/survivor decides to report to the police. Remind them that it may be destroyed after 90 days.
- Inform victim/survivor that they have the right to refuse any part of the exam, testing or treatment offered.

### **Initial Interview with Law Enforcement**

- Accompany and provide emotional support.
- Offer WRC as comfortable space/place to conduct the interview.
- Prepare victim/survivor that some questions may be uncomfortable or difficult to answer, and that it's acceptable to ask for breaks in the



questioning. Encourage victim/survivors to attempt to provide detailed and accurate information to law enforcement.

- Answer any questions about process going forward or ask law enforcement on the victim/survivor's behalf.
- Ensure that victim knows that an immediate arrest of the assailant may not be made.

### **Crime Victims' Reparations**

- Notify victim/survivor of compensation may be available through Crime Victim's' Reparations for reported crimes.
- Assist victim/survivor with completing the application.
- Follow up on the application to ensure that it is processed in a timely manner.
- Utilize Winona County Victim Services as a resource for this process.

### **Investigation**

- Facilitate communication between law enforcement investigators and victim/survivor.
- Provide support for victim/survivor participation in the investigation.

### **Arrest**

- Be available to assist in notifying the victim/survivor when an arrest is made and to notify the victim/survivor of charging information.

### **Prosecution**

- Communicate with victim/survivor regarding status of court case.
- Accompany victim/survivor to court procedures (if they wish), and provide support and information.
- Monitor court proceedings and communicate with victim/survivor regarding results.
- Provide victim/survivor with information on preparing a Victim Impact Statement.
- Assist victim/survivor, at their request, with preparation of Victim Impact Statement.

### **Post-sentencing**

- Be available to assist victim/survivor in understanding the community notification process.
- Assist victim/survivor in registering offender with MNChoice or VINE (depending on sentence) if they wish.

### **Ongoing Victim Services**

- Provide continuing services, support, information, and referrals, including other community services and WRC support group.

### **If Victim/Survivor Chooses Not to Report to Law Enforcement**

- Inform victim/survivor of other options or services available, including general medical care, counseling, support group, and advocacy – including safety planning and civil remedies.
- Inform victim/survivor that they may report at a later time if they choose.
- Inform victim/survivor of the implications of a delayed report (may be a lack of evidence or more difficult to prosecute the case).
- Ensure that the victim/survivor feels supported in their decision.

## **Advocacy: Juvenile Protocol**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

### **If the victim/survivor seeks WRC services without adult present**

- If the victim/survivor is under the age of 18, inform them that you are a mandated reporter. Confidentiality cannot be guaranteed if they are talking about situations where the abuse occurred by someone in a position of authority.
- If the victim/survivor wishes to continue, get all of the information necessary to make a mandated report if applicable (see WCCS section for what details are needed).
- If the abuse or assault is not a mandated report, ensure the victim/survivor that their confidentiality will be upheld by advocates unless the advocate has written permission to release any information.
- Inform the victim/survivor of all of their options – reporting to law enforcement, going to ER for exam, restraining orders, etc. Let the victim/survivor know that adult (parental) involvement may be necessary or inevitable at some point during these processes.

- MN Statute 144.344 allows minors to seek medical treatment without parental consent in event of an emergency, which includes sexual assault. Minors are able to consent to medical forensic exam, contraceptive care, STI prophylactic care, pregnancy and STI testing.
- If the victim/survivor wishes to pursue a protective order, inform them that an adult over the age of 25 will need to file on their behalf.

### **If the victim/survivor is accompanied by an adult**

- Determine the relationship between the victim/survivor and the adult, and find out who the perpetrator is in relation to the victim/survivor.
- Inform all parties that you are a mandated reporter and that confidentiality cannot be guaranteed if they are talking about abuse committed by someone in a position of authority.
- If the parties wish to continue with advocacy services, obtain all necessary information to make a mandated report if applicable. (see WCCS section for what details are needed)
- Individually speak with the victim/survivor to determine their wishes in respect to the presence of accompanying adults during services. Inform the victim/survivor that the presence of a 3<sup>rd</sup> party voids confidentiality.

- Inform the parties of all options available to them.

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

## **Winona Health: Adult Protocol**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

### **Purpose:**

- Provide resources that meet the physical, emotional, and spiritual needs of each victim/survivor with an emphasis on the individual's right to maintain control of their life.
- Provide holistic nursing and medical treatment.
- Provide optimal and comprehensive care.
- To regard all victims/survivors with respect and to maintain their dignity.

### **Presentation to Hospital:**

- Winona Health will triage all victims/survivors presenting with reported or suspected sexual assault through the Emergency Department.
- Security measures will be available as needed.
- Victim/survivor is brought to an individual exam room for privacy and confidentiality. When available, SANE (Sexual Assault Nurse Examiner) will provide care. It may take up to 1 hour for SANE nurse to be present in ED.

- Call an advocate from Women’s Resource Center, at the victim’s/survivor’s request to respond to the emergency room. The WRC can be reached via the 24/7 line at 507-452-4453.
- Provide victim/survivor with an explanation of the Sexual Assault Exam and evidence collection process. Inform victim/survivor collection and retention of evidence is to be used for potential criminal prosecution.
- Winona Health Emergency Department will store Sexual Assault Kit, legal blood and urine, and any clothing collected as evidence in a locked refrigerator pursuant to chain of custody for minimum of 90 days with no guarantee to be held longer.
- Victim/survivor must sign Sexual Assault Exam Report to give consent for collection of evidence and retention.
- Victim’s/survivor’s family/friends may stay with the victim/survivor at their request during the exam.
- Document interview and exam findings on Sexual Assault Exam Report Sheet.
- Ask patient to confirm time of sexual assault.
  - <72 hours: complete Sexual Assault Exam Report, Sexual Assault kit, and collection of blood and urine.
  - >72 hours with no reported vaginal assault: complete Sexual Assault Exam Report and physical examination. No



sexual assault kit, blood, or urine will be collected.

- Up to 120 hours with reported vaginal assault: Sexual Assault Exam Report and Sexual Assault kit will be collected. No blood or urine will be collected.
- Examinations do not include STI (Sexually Transmitted Infection) screening. All victims/survivors will be provided with STI and pregnancy prophylactic medication. Immunization status will be reviewed and updated as needed. STI screening may be completed as necessary.
- If SANE is not available and/or injuries require it, an Emergency Room Provider will conduct the exam.
- Provide victim/survivor a change of clothing, as needed.
- Encourage the patient to report assault to police, and assist the patient with the report if patient so desires.
- Provide the victim /survivor with a current list of local referral agencies and phone numbers to assist them with support services and needs they may require in the future.
- Provide victim/survivor with written information on STI's, morning-after options, etc.
- Provide victim/survivor with a plan for follow-up care.

## **Winona Health Juvenile Protocol:**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

- Patient screened as an “emergent” patient.
- Patient brought into a private Emergency Department room.
- Safety of the child immediately assessed and safe, supportive adult will remain present with the child.
- Call will be placed to a SANE (pediatric trained SANE will be attempted first); if available may be requested at the bedside to support the patient, family, and assist the ED provider with cares as appropriate.
- A medical screening exam will be completed by an Emergency Department provider.
- Evidence collection may be appropriate if assault was very recent; however, if the assault was not recent a referral should be made to a Pediatrician.
- Emergency medical conditions will be treated.
- The medical professionals involved in the care will complete a child abuse report (follow WH Policy WH-205) as deemed appropriate for the circumstances.

- Referral will be made to Matty's Place for follow up interview; the interview should not take place in the Emergency Department.

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

### **Semcac Family Planning Clinic Protocol:**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

\*These protocols are general guidelines. Each situation will be individually assessed and changes may be made accordingly.

#### **If a patient plans to report assault to police (or is unsure, but wants evidence collected):**

- Offer patient emergency contraception.
- Refer to Winona Health or health care provider of choice for evidence collection.
- If not wearing clothing that was worn at time of assault, inform patient to bring that clothing with them to the hospital; it is needed for evidence collection.
- Call Winona Health Emergency Department or other healthcare provider. Inform them assault victim/survivor is coming in.
- Document what services were provided. Provide patient with documentation of services and advise them to share with Winona Health or healthcare provider.

- Have patient sign *Release Of Information Form* (ROIF) giving consent to give information regarding visit related to sexual assault to:
  - Winona Health or healthcare provider of choice
  - Law enforcement personnel and the prosecuting authority

**If patient does not plan to report assault:**

- Offer emergency contraception.
- Offer treatment medications for Chlamydia and Gonorrhea.
- Offer testing for STIs, encourage repeat testing in 2 weeks.
- Offer HIV test now and in 3-6 months.
- Refer to additional support services (i.e. Women’s Resource Center)
- Carefully document any physical findings for possible future reporting.
- Have patient sign *Release Of Information Form* (ROIF) giving consent to give information regarding visit related to sexual assault to:
  - Winona Health or healthcare provider of choice
  - Law enforcement personnel and the prosecuting authority

**If sexual assault occurred more than 72 hours ago, but less than 2 weeks ago:**

- Offer treatment medications for Chlamydia and Gonorrhea.

- Offer testing for STIs, encourage repeat testing in 2 weeks.
- Offer HIV test now and in 3-6 months.
- Refer to additional support services (i.e. Women's Resource Center).
- Discuss reporting assault to authorities.
- Carefully document any physical findings for possible future reporting.
- Have patient sign *Release Of Information Form* (ROIF) giving consent to give information regarding visit related to sexual assault to:
  - Winona Health or healthcare provider of choice
  - Law enforcement personnel and the prosecuting authority

**If assault occurred more than 2 weeks ago:**

- Offer testing for STIs, await results before treating with medication.
- Offer HIV test now and in 3-6 months.
- Refer to additional support services (i.e. Women's Resource Center).
- Discuss reporting assault to authorities.
- Carefully document any physical findings for possible future reporting.
- Have patient sign *Release Of Information Form* (ROIF) giving consent to give information regarding visit related to sexual assault to:

- Winona Health or healthcare provider of choice
- Law enforcement personnel and the prosecuting authority

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

### **County Attorney's Office: Adult Protocol**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victim/survivor that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

- If the County Attorney's Office is the first agency to receive a report of a sexual assault of an adult, staff shall take the caller's name and phone number and refer the caller to the appropriate law enforcement agency. The caller may also be referred to the Women's Resource Center.
- Staff shall follow-up with law enforcement and/or the Women's Resource Center within one day to ensure the victim/survivor contacted one or the other.

### **When transmittal and reports are sent to the County Attorney's Office**

- The assigned prosecutor will review reports provided by law enforcement officers and promptly make a decision regarding whether to charge, to request follow-up investigation, or to decline the case.



### **If charges will be filed**

- The assigned prosecutor should promptly draft the complaint. In drafting the complaint, the victim's/survivor's identity should be protected from the general public to the extent possible.

### **Follow-up investigation**

- Even if charges will be filed based upon the initial transmittal, the assigned prosecutor should inform law enforcement of any need for follow-up investigation. The file should be calendared for a date to follow-up with law enforcement.
- The prosecutor should seek all relevant evidence, which may or may not include the following:
  - DNA.
  - Controlled telephone calls.
  - All medical records and documentation of sexual assault examinations.
  - Prompt complaint evidence such as statements by the victim/survivor to other persons including excited utterances, diaries, journals, recorded statements, and Spreigl-type evidence.
  - 9-1-1 recordings.
  - Jail calls.
  - Diagrams and/or photographs and/or video recording of the crime scene.
  - Clothing of suspect and/or victim/survivor.

- Phone records of the suspect and/or victim/survivor.
- Financial records of suspect and/or victim/survivor.
- Electronic and non-electronic correspondence or communication of suspect and/or victim/survivor.
- Interviews of all witnesses that might tend to corroborate or falsify any relevant aspect of the victim/survivor and/or suspect's version of events. All interviews conducted by law enforcement and/or other applicable investigators should be recorded whenever possible.
- All visible injuries, however faint, observed by law enforcement should be described in detail by the initial responding officer as well as any investigating officer. All visible injuries should be photographed. Prosecutors should be aware it is often important for law enforcement to photograph injuries a day or two after the incident when such injuries may appear more prominent.
- Releases for any relevant medical records should be obtained. The release should be specific to the law enforcement agency and the Winona County Attorney's Office.

### **If charges will not be filed**

- Staff the case with at least one other prosecutor to see if that attorney concurs in the decision to decline charges.
- Offer to set up a time for the victim/survivor to speak with the prosecutor about the charging decision. Inform the victim/survivor a supportive person may be present during the meeting.
- Notify the victim/survivor of the methods and benefits of seeking an Order for Protection or a Harassment Restraining Order and that the victim/survivor may seek the order without paying a fee. The prosecutor may also recommend or refer the victim/survivor to other services, such as the Minnesota Crime Victim Reparations Board and the Women's Resource Center, where appropriate.
- During any meeting with victim/survivor, determine if the victim/survivor has more information regarding the assault.
- If so, re-evaluate the charging decision based on new information.
- If not, explain to the victim/survivor why the incident is not going to be charged at this time.

### **After Charging**

- If possible, information should be obtained about the victim's/survivor's desired conditions of release and any concerns the victim/survivor

has about the danger the suspect poses to the victim/survivor or to others.

### **First Appearance**

- At the first appearance, the prosecutor should request a no-contact condition and/or DANCO when appropriate.

### **Following First Appearance.**

- If not already done, the victim/survivor should be provided with victim rights information.
- The victim/survivor should be advised of the defendant's conditions of release.
- The victim/survivor should be encouraged to report any and all violations of the conditions of release to law enforcement officers. Inform the victim/survivor that any established violations of the conditions of release (or any defendant who harasses, threatens, injures, or otherwise attempts to intimidate or retaliate against the victim/survivor or witnesses) is important information and the prosecutor will review any received reports.
- The victim/survivor should be reminded to update any changes in contact information.
- Consider whether special motions (DNA testing) or notices (609, 807, Spreigl, or 7.03) should be filed.
- Consider whether expert testimony specifically related to sexual assault cases is appropriate

(lack of injuries, delayed reporting, submissive conduct, etc.)

- The prosecutor, or designee, shall consult with the victim/survivor to:
  - Seek the desires and opinions of the victim/survivor as to the outcome, plea negotiations, and the victim's/survivor's willingness to testify at trial.
  - Discuss the reasons why the victim/survivor must be a witness and may be subpoenaed.
  - Explain that the victim's/survivor's cooperation with the prosecution is beneficial to the case and, if possible, agree upon a course of action. Explain, however, that the prosecutor is not bound by the wishes of the victim/survivor and must make an independent determination.
  - Where appropriate, discuss the strengths and weaknesses of the case.
  - Explain the Sentencing Guidelines and possible outcomes.
  - Explain and discuss plea negotiations and the reasons for it.
  - Explain the victim's/survivor's rights under the statutes.
  - Explain the legal system and the roles of the various individuals involved.

- Recommend or refer the victim/survivor to other services and legal options where appropriate.
- Explain bail and conditions of release.

### **Scheduling Issues**

- Consider the needs of the victim/survivor when scheduling case-related activities.
- Consider the effect of defendant's requests for continuances on the victim/survivor and object when the effect on the victim/survivor is adverse.
- The prosecutor should be aware that the victim/survivor also has a right to request a speedy trial from the prosecutor under Rule 11.01 and Minnesota Statutes § 611A.033, subd. 1.
- Consider any effects of a scheduling objection, such as potential appellate issues.

### **Plea Discussions**

- Plea negotiations are the sole responsibility of the prosecutor.
- Specific factors the prosecutor should consider in either charge or disposition negotiations include, but are not limited to, the following:
  - Evidentiary strengths and weaknesses of the case.
  - Wishes of the victim/survivor, including their desire or aversion to testifying at trial.

- The defendant's criminal record.
- The defendant's treatment needs and amenability to treatment.
- The benefit of a supervised long-term probationary disposition including sex offender treatment, restitution, long-term No Contact Orders with the victim/survivor or other persons vs. the benefit of immediate commitment to the Commissioner of Corrections.
- Any Sentencing Guidelines departure factors.
- Safety of the victim/survivor and the community.
- All of the prosecutor's ethical obligations.
- Prior to the entry of a factual basis for a plea, the prosecutor shall make a reasonable and good faith effort to inform the victim of:
  - The contents of the plea agreement, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and
  - The right to be present at the sentencing hearing and at the hearing during which the plea is presented to the court and to express orally or in writing, at the victim's/survivor's option, any objection to the agreement or to the proposed disposition. If the

victim/survivor is not present when the court considers the recommendation, but has communicated objections to the prosecutor, the prosecutor shall make those objections known to the court.

### **Pre-trial**

- Keep the victim/survivor informed about court schedules (e.g., dates, times and places).
- Meet with the victim/survivor (with a third party present) to discuss their proposed testimony.
- Familiarize the victim/survivor with the courtroom and the people who will be in the courtroom, as well as appropriate courtroom attire and procedures.
- Seek to ensure that the victim's/survivor's right not to disclose their residence address or full identity is protected. (Minn. Stat. § 611A.035)
- File appropriate sexual assault specific motions in limine.

### **Trial**

- Provide safe and secure waiting areas for the victim/survivor and the victim's/survivor's family separate from the courtroom access used by the defendant and the defendant's witnesses or family during any court proceedings.
- Advise the victim/survivor and witnesses not to discuss the case in the waiting areas or



hallways with each other, and especially not when jurors are within earshot.

- Advise the victim/survivor that they will probably be unable to be present during the trial until after testifying and possibly not even after testifying.
- Explain sequestration to victim/survivor and witnesses.

### **If defendant is found guilty**

- Advise the victim/survivor of the outcome, as well as any change in custody status.

### **If defendant is found not guilty**

- The prosecutor should give the victim/survivor an opportunity to meet to discuss the trial, ask any questions about the process, and offer information on other services or resources available.
- Offer the victim/survivor an opportunity to meet with the Women's Resource Center.

### **Sentencing**

- Inform the victim/survivor of the sentencing date.
- Inform the victim/survivor that they have the opportunity to present a Victim Impact Statement as part of sentencing considerations.
- Support the victim/survivor's right to speak and/or provide a written statement and/or have the prosecutor (or designee) read the

victim impact statement at the sentencing hearing.

- Include any needs of the victim/survivor, as appropriate, as part of the prosecutor's sentencing recommendation (e.g., restitution, no-contact).

## County Attorney's Office: Juvenile Protocol

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

- If County Attorney's Office staff knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years, that staff member shall obtain all necessary information and make the necessary notifications as required by Minnesota Statutes section 626.556. This includes:
  - Immediately, meaning as soon as possible and in no event longer than 24 hours, report the information to the applicable law enforcement agency for the jurisdiction where the incident occurred or the applicable local welfare agency that is responsible for assessing and investigating the report (if the incident occurred in Winona County, it would be Winona County Community Services – child protection intake).
  - After any immediate oral report, a follow-up written report to the agency

must be submitted within 72 hours  
(exclusive of weekends or holidays).

**Forensic Interview of a Child Sexual Assault  
Victim/Survivor**

- The Winona County Attorney's Office seeks to limit the number of interviews of a child victim/survivor. Therefore, only a person trained to perform a forensic interview of a child, pursuant to an established interview protocol, should conduct any interview of the child. The forensic interview should be conducted as soon as possible after a disclosure.
- The County Attorney's Office will send an attorney trained in forensic interviewing techniques, subject to the availability of staff, to observe forensic interviews of children as part of a multi-disciplinary team.
- The forensic interview of a child sexual assault victim/survivor and/or a child witness in a child sexual assault case must be video recorded whenever possible. In addition to video recording, the interview should also be separately audio recorded by law enforcement.

**When transmittal and reports are sent to the  
County Attorney's Office**

- The assigned prosecutor will review reports provided by law enforcement officers and

promptly make a decision regarding whether to charge, to request follow-up investigation, or to decline the case.

- The prosecutor shall consult and, to the extent permissible, coordinate with any child protection attorney working on the matter.

### **If charges will be filed**

- The assigned prosecutor should promptly draft the complaint. In drafting the complaint, the child's identity should be protected from the general public to the extent possible.

### **Follow-up investigation**

- Even if charges will be filed based upon the initial transmittal, the assigned prosecutor should inform law enforcement of any need for any follow-up investigation. The file should be calendared for a date to follow-up with law enforcement.
- The prosecutor should seek all relevant evidence, which may or may not include the following:
  - DNA.
  - Controlled telephone calls.
  - All medical records and documentation of sexual assault examinations.
  - Prompt complaint evidence such as statements by the victim/survivor to other persons including excited

- utterances, diaries, journals, taped statements, and Spreigl-type evidence.
- 9-1-1 recordings.
  - Diagrams and/or photographs and/or video recording of the crime scene.
  - Clothing of suspect and/or victim/survivor.
  - Phone records of the suspect and/or victim/survivor.
  - Financial records of suspect and/or victim/survivor.
  - Electronic and non-electronic correspondence or communication of suspect and/or victim/survivor.
  - Interviews of all witnesses that might tend to corroborate or falsify any relevant aspect of the victim/survivor and/or suspect's version of events. All interviews conducted by law enforcement and/or other applicable investigators should be recorded whenever possible.
  - All visible injuries, however faint, observed by law enforcement should be described in detail by the initial responding officer as well as any investigating officer. All visible injuries should be photographed. Prosecutors should be aware it is often important for law enforcement to photograph injuries a day or two after the incident

when such injuries may appear more prominent.

- Releases for any relevant medical records should be obtained.
- In addition, the following child specific concepts for obtaining corroborating evidence should be considered.
  - Think at the child's level. Young children lack the vocabulary of an adult.
  - Motive evidence. For example, look for evidence of art, letters, or gifts the child has given to the suspect. This could establish the child has no reason to lie. Think of interviewing family or others about whether they think the victim/survivor would lie and why.
  - Sexual oddities.
  - Don't ignore fantastic statements. A child psychologist may explain why, during traumatic events, a child may send their mind to a comfort place.
  - Inspect, photograph, and video record the crime scene from the child's perspective. Look to corroborate the victim's/survivor's description.
  - Consider the possibility of other victims/survivors.
  - Look at school attendance records.
  - Obtain school photographs.

- Interview teachers or other independent adults about behavioral changes and/or the timing of such changes.
- Obtain photographs showing the victim/survivor and the suspect together, as well as, their respective sizes.

**If charges will not be filed**

- Staff the case with at least one other prosecutor to see if that attorney concurs in the decision to decline charges.
- Offer to set up a time for the victim/survivor<sup>1</sup> to speak with the prosecutor about the charging decision. Inform the victim/survivor that a supportive person may be present during the meeting.
- Notify the victim/survivor of the methods and benefits of seeking an Order for Protection or a Harassment Restraining Order and that the victim/survivor may seek the order without paying a fee. The prosecutor may also recommend or refer the victim/survivor to other services, such as child protection, the Minnesota Crime Victim Reparations Board and

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<sup>1</sup> For purposes of notifications and input as it relates to minor children, the term “victim/survivor” includes the family members, guardian, or custodian of a minor. The term “victim/survivor” would not include a person charged with or alleged to have committed a crime.



the Women's Resource Center, where appropriate.

- During any meeting with victim/survivor, determine if the victim/survivor has more information regarding the assault.
- If so, re-evaluate the charging decision based on new information.
- If not, explain to the victim/survivor why the incident is not going to be charged at this time.

### **After Charging**

- If possible, information should be obtained about the victim's/survivor's and/or the victim's/survivor's parent or guardian's desired conditions of release and any concerns they have about the danger the suspect poses to the victim/survivor or to others.

### **First Appearance**

- At the first appearance, the prosecutor should request a no-contact condition and/or DANCO when appropriate.
- The prosecutor may also request any appropriate restriction on contact with minors.

### **Following First Appearance**

- If not already done, the victim/survivor should be provided with victim rights information.
- The victim /survivor should be advised of the defendant's conditions of release.

- The victim/survivor should be encouraged to report any and all violations of the conditions of release to the prosecutor or law enforcement officers. Inform the victim/survivor that any established violations of the conditions of release (or any defendant who harasses, threatens, injures or otherwise attempts to intimidate or retaliate against the victim/survivor or witnesses) is important information and the prosecutor will review any received reports.
- Consider whether special motions (DNA testing) or notices (609, 807, Spreigl, or 7.03) should be filed. Also consider whether to file a motion to admit a victim's/survivor's out-of-court statement.
- Consider whether expert testimony related to sexual assault cases is appropriate (lack of injuries, delayed reporting, submissive conduct, etc.)
- Consider whether expert testimony related to child behavior, pediatric medicine and/or child psychology is appropriate. For example, think about Battered Child Syndrome Evidence, characteristics of sexually abused children evidence, characteristics of sexually abused adolescents evidence, sexual abuse in children does not require medical findings, experts to provide an opinion that victim/survivor was sexually abused, battered woman's syndrome expert testimony for explaining recantation,

and/or experts to provide opinion that young victim's/survivor's unusual knowledge of sexual abuse was the result of abuse by someone.

- The prosecutor, or designee, shall consult with the victim/survivor to:
  - Seek the desires and opinions of the victim/survivor as to the outcome, plea negotiations, and the victim's/survivor's willingness to testify at trial.
  - Discuss the reasons why the victim/survivor must be a witness and may be subpoenaed.
  - Explain that the victim's/survivor's cooperation with the prosecution is beneficial to the case and, if possible, agree upon a course of action. Explain, however, that the prosecutor is not bound by the wishes of the victim/survivor and must make an independent determination.
  - Where appropriate, discuss the strengths and weaknesses of the case.
  - Explain the Sentencing Guidelines and possible outcomes.
  - Explain and discuss plea negotiations and the reasons for it.
  - Explain the victim's/survivor's rights under the statutes.
  - Explain the legal system and the roles of the various individuals involved.

- Recommend or refer the victim/survivor to other services and legal options where appropriate.
- Explain bail and conditions of release.

### **Scheduling Issues**

- Consider the needs of the victim/survivor when scheduling case-related activities.
- Consider the effect of defendant's requests for continuances on the victim/survivor and object when the effect on the victim/survivor is adverse.
- The prosecutor should be aware that the victim/survivor also has a right to request a speedy trial from the prosecutor under Rule 11.01 and Minnesota Statutes § 611A.033, subd. 1.
- Consider any effects of a scheduling objection, such as potential appellate issues.

### **Plea Discussions**

- Plea negotiations are the sole responsibility of the prosecutor.
- Specific factors the prosecutor should consider in either charge or disposition negotiations include, but are not limited to, the following:
  - Evidentiary strengths and weaknesses of the case.
  - Wishes of the victim/survivor, including desire or aversion to testifying at trial.
  - The defendant's criminal record.

- The defendant's treatment needs and amenability to treatment.
- The benefit of a supervised long-term probationary disposition including sex offender treatment, restitution, long-term No Contact Orders with the victim/survivor or other persons vs. the benefit for immediate commitment to the Commissioner of Corrections.
- Any Sentencing Guidelines departure factors.
- Safety of the victim/survivor and the community.
- All of the prosecutor's ethical obligations.
- Prior to the entry of a factual basis for a plea, the prosecutor shall make a reasonable and good faith effort to inform the victim/survivor of:
  - The contents of the plea agreement, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and
  - The right to be present at the sentencing hearing and at the hearing during which the plea is presented to the court and to express orally or in writing, at the victim's/survivor's option, any objection to the agreement or to the proposed disposition. If the

victim/survivor is not present when the court considers the recommendation, but has communicated objections to the prosecutor, the prosecutor shall make those objections known to the court.

### **Pre-trial**

- Keep the victim/survivor informed about court schedules (e.g., dates, times and places).
- Initially, meet with the victim/survivor only to build rapport. Then meet with the victim/survivor (with a third party present) to discuss their proposed testimony. A record of any interview is required by Minn. Stat. § 626.561. That record should include, the date, time, place and duration of the interview, the identity of persons present at the interview, and a summary of the information obtained during the interview.
- Familiarize the victim/survivor with the courtroom and the people who will be in the courtroom, as well as appropriate courtroom attire and procedures.
- Seek to ensure that the victim's/survivor's right not to disclose their residence address or full identity is protected. (Minn. Stat. § 611A.035)
- Consider whether to file the following child specific pre-trial motions.
  - A court order requiring a “child friendly” oath.

- A court order requiring attorneys to ask questions a child witness can understand.
- A court order requiring the child's testimony is taken at a time of the day when the child is functioning at their best and that provides the child with developmentally appropriate recesses.
- A court order permitting the child to bring a comfort item to the stand.
- A court order allowing the child the presence of a support person.
- A court order prohibiting intimidating questioning.
- A court order modifying the courtroom to meet the child's needs.
- Asking the court to allow the child to be addressed by first name.
- Asking the court to allow the prosecutor to use leading questions. See the Committee Comment to MRE 611(c) and State v. Skiba.
- Asking the court to allow the use of anatomical dolls, diagrams or drawings.
- Consider whether to file the following additional motions:
  - Excluding spectators from the courtroom (beware of Sixth Amendment problems).

- Prohibiting the defense from mentioning the defendant's statements to law enforcement.
- Any other appropriate sexual assault specific motions in limine.

### **Trial**

- Provide waiting areas for the victim/survivor and the victim's/survivor's family separate from the courtroom access used by the defendant and the defendant's witnesses or family during any court proceedings.
- Advise the victim/survivor and witnesses not to discuss the case in the waiting areas or hallways with each other, and especially not when jurors are within earshot.
- Advise the victim/survivor they probably will not be able to be present in the courtroom until after testifying and possibly not even after testifying.
- Explain sequestration to victim/survivor and witnesses.

### **If defendant is found guilty**

- Advise the victim/survivor of the outcome, as well as any change in custody status.



### **If defendant is found not guilty**

- The prosecutor should give the victim/survivor an opportunity to meet with them to discuss the trial, ask any questions about the process, and offer information on other services or resources available.
- Offer the victim/survivor an opportunity to meet with the Women's Resource Center.

### **Sentencing**

- Inform the victim/survivor of the sentencing date.
- Inform the victim/survivor that they have the opportunity to present a Victim Impact Statement as part of sentencing considerations.
- Support the victim's/survivor's right to speak and/or provide a written statement and/or have the prosecutor (or designee) read the victim impact statement at the sentencing hearing.
- Include any needs of the victim/survivor, as appropriate, as part of the prosecutor's sentencing recommendation (e.g., restitution, no-contact).

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

### **Probation Protocol:**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victims/survivors wishes while working through this protocol.*

- If the Winona County Probation office is the first agency to receive a report of sexual assault of an adult, staff shall take the caller's name and phone number and refer the caller to the appropriate law enforcement agency. The caller may also be referred to the Women's Resource Center.
- Staff shall follow-up with law enforcement and/or the Women's Resource Center within one day to ensure the victim/survivor contacted one or the other.

### **Victim Rights Procedures**

- Winona County Victim Services will distribute the victim information packet and attachments to the probation office.
- The probation agent will make a good faith effort to contact the victim/survivor or the victim's/survivor's legal guardian in regard to pre-sentence investigations and supervision of the offender.

- When the victim's/survivor's whereabouts are unknown and/or the victim/survivor does not respond to phone calls or letters, Winona County Victim Services will be contacted for any victim input.
- Contact will be made in the victim's/survivor's primary language.
- The probation agent will ensure the victim's/survivor's personal information is kept confidential from the offender.
- As part of the pre-sentence investigation process, if contact can be established with the victim/survivor, the probation agent will provide the following to the victim/survivor or the victim's/survivor's legal guardian:
  - The probation agent's name and telephone number;
  - Explain to the victim/survivor their right to make an impact statement to the Court in regards to sentencing of the offender, their right to present their impact statement, or if they do not wish to appear before the Court that the statement can be presented to the Court in a confidential matter.
  - The status of any "no contact" orders that may exist.
  - Explanation of "no contact" orders and the responsibility of the

offender to comply with such orders.

- The status of restitution.
- Be a point of contact and information for victims/survivors.
  - If incarcerated, provide the whereabouts and possible release dates of the offender.
  - Provide information about VINE and MN Choice notification systems.
- Hold offenders accountable and enforce conditions of probation.

## University Protocol:

*Winona County is committed to being victim/survivor centered. Please remember to reassure victim/survivor that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

## **Options for Winona State University**

### **Victims/Survivors:**

- **If the victim/survivor is seeking confidential resources, contact:**
  - WSU 24/7 Gender-Based Violence Helpline 507-457-5610
  - WSU Health, Counseling, and Wellness Services 507-457-5160
  - Women's Resource Center 507-452-4453
- **If the victim/survivor is seeking to report and/or seeking *NON*-confidential resources, contact:**
  - In the event of an emergency, call 911
  - GBV Prevention and Intervention Coordinator 507-457-2225
  - Title IX Coordinator 507-457-5008
  - WSU Security 507-457-5555
  - Dean of Students 507-457-5300
  - Housing/Residence Life (including Resident Assistants) 507-457-5305

- **If the victim/survivor is seeking WSU medical (confidential) resources, contact:**
  - Go to WSU Health & Wellness Services for a sexual assault exam (if assault occurred within the last 120 hours) or for other relevant care such as STI and pregnancy prophylactic medication. Services are available during business hours.
    - Students may be referred to Winona Health or other healthcare agency.
  - Go to Winona Health Emergency Department for care.
    - See Winona Health protocol for further information.
  - Offer to contact a Women’s Resource Center advocate for support during the sexual assault exam.

**Options for Saint Mary’s University of Minnesota  
Victim/Survivors**

- **If the victim/survivor is seeking confidential resources, contact:**
  - Wellness Center -Student Health Services 507-457-1492
  - Wellness Center- Counseling Services 507-457-1481

- **If the victim/survivor is seeking to report and/or seeking non-confidential resources, contact:**
  - In the event of an emergency, call 911
  - Title IX Coordinator 507-457-1587
  - Campus Safety 507-457-1703
  - Dean of Students 507-457-1403
  - Housing/Residence Life (including Resident Assistants) 507-457-1409
  - Any other Campus Staff not listed as a confidential resource
  
- **If the victim/survivor is seeking SMUMN medical (confidential) resources:**
  - Go to SMUMN Student Health Services in the Wellness Center for medical attention, resources, referrals and pregnancy testing. Services are available during business hours.
  - Go to Winona Health Emergency Department for sexual assault exam (if assault happened within the last 120 hours). Exam is paid for by the county in which the assault took place.

SMUMN Health Services may offer to contact a Women's Resource Center advocate to provide support during the sexual assault exam at the Winona Health Emergency Department.

## **Considerations**

- **Physical Level:**
  - Will the victim/survivor consider seeking medical attention? If yes, the alternatives include a local hospital, clinic, health services, or a private physician.
  
- **Emotional Level:**
  - Will the victim/survivor consider seeking assistance from a mental health professional? If yes, alternatives include the University Counseling Center and agencies listed in the protocol.
  - Will the victim/survivor consider seeking assistance from an outside consultant to assist in decision making? If yes, call the Women's Resource Center.
  
- **Legal Level:**
  - Will the victim/survivor consider seeking a campus or criminal investigation? If yes, the options are:
    - Report to the Title IX Office to initiate a potential University investigation/disciplinary response. If the student has not already done so and wishes to also initiate a criminal investigation through the Title IX



Office will facilitate this for the student.

- File a report with the Hall Director and/or Dean of Students who will contact proper authorities to initiate a potential University investigation/disciplinary response.
- Contact Campus Security/Safety or the Winona Law Enforcement Center to initiate a potential criminal investigation. This may be facilitated by the Title IX Office.
- OR ALL.

**Security/Safety:**

- Ensure the safety of the victim/survivor.
- Inform the victim/survivor of all services available. (see “Options for Victims/Survivors”)
- Contact the Wellness Center. Seek medical assistance for the victim/survivor if requested/needed, and ensure the victim’s/survivor’s immediate needs are met.
- Protect the incident scene until the scene is turned over to law enforcement or until the victim/survivor chooses not to seek further investigation into the incident.

- Do not interview the victim/survivor. Document the information given freely by the victim/survivor.
- Contact the Director of Security/Safety immediately.

**Director of Security/Safety/Dean of Students:**

- Depending upon the victim/survivor choices:
  - Contact the police.
  - Transport or arrange for transportation to the hospital and/or WSU Health Services if applicable.
  - Assist and cooperate with local law enforcement in the investigation of the incident.
  - Contact the Women’s Resource Center and/or the Dean of Students.

**Counseling:**

- The primary concern is the emotional well-being and support of the student. Establish a plan for possible follow-up counseling services.
- Give options to the student and discuss what may be experienced with each option as well as advantages and disadvantages of the ones they are considering.
- Let the victim/survivor guide, as much as possible, what direction is taken.
- Support, encourage and assist in the decisions the victim/survivor makes.

- Make sure the student knows of their option to report assault to police, and assist them if desired.
- Provide the student with a current list of local referral agencies and phone numbers to assist them with support services and needs they may require in the future.

**Housing/Residence Life Staff:**

***If a staff member becomes aware of a sexual assault:***

- Inform victim/survivor of confidential resources and your duty to report.
- If the sexual assault has just occurred, make sure the victim/survivor is safe from further harm.
- Keep in mind the preferences of the victim/survivor. A victim/survivor of sexual assault makes their own decisions regarding further action.
- Inform the victim/survivor that Housing staff are required to report incidents of sexual violence to the Title IX Office and if the student does not wish to initiate a campus response, provide resource information.
- Inform the victim/survivor that the Hall Director or Dean of Students can help them with resources and options, including housing changes. Involve the Hall Director or Dean of Students if victim/survivor agrees.

- Consult with the Hall Director and/or Dean of Students and, if possible, follow the procedures outlined below.
  - Alert the Hall Director and/or Dean of Students to the fact that a sexual assault took place even if a victim/survivor insists on anonymity. The Hall Director and/or Dean of Students must file a report with Student Life and Development.
  - Respect the victim's/survivor's privacy.
  - Assure the victim/survivor that they remain in control of all decisions they make regarding the assault.
- LISTEN to the person and be supportive as they share their story. DO NOT push the victim/survivor to share information.
- Offer to contact an advocate, from the Women's Resource Center to talk about options and receive support.
- If victim/survivor wishes to report to Law Enforcement, follow University Protocol for contacting Law Enforcement but do so as soon as possible to avoid multiple disclosures by victim/survivor.
- Inform the victim/survivor of services available (see "Options for Victims/Survivors").
- Offer information about reporting (See Options for Victims/Survivors")

- Ask the student not to shower, clean or change clothes before making a decision regarding a medical forensic exam.
- Explain possible financial costs and resources for the medical forensic exam. It can be done in the Winona Health Emergency Department at no cost to the victim/survivor or at Health Services for Winona State Students. An advocate from the Women's Resource Center can accompany victim/survivor to get the exam done.
- Let the victim/survivor guide, as much as possible, what direction is taken.

\*\*If you are in the role described in this section, you are a mandated reporter for children and vulnerable adults. Please see the Mandated Reporting section of this document to determine whether the situation you are addressing mandates that you report to protective services.

## **Winona County Community Services Protocol:**

*Winona County is committed to being victim/survivor centered. Please remember to reassure victims/survivors that their assault was not their fault. Consider the victim's/survivor's wishes while working through this protocol.*

### **Access/Intake**

Intakes are received at Winona County Community Services (WCCS) during office hours: 7:30 a.m. to 4:30 p.m., Monday through Friday. Intakes come in via telephone, emails, fax, and walk-ins.

There are intake staff available to take calls during WCCS business hours. After business hours there is a message directing callers to make the report to local law enforcement. Intakes that are received on Friday are often screened on Monday morning, unless the report contains information that the victim/survivor is at immediate risk. Weekend intakes go to Law Enforcement and are responded to by Law Enforcement with occasional calls to WCCS staff at home.

Upon receipt of a child protection (CPS) or vulnerable adult (VA) report, the intake worker

must gather the following information (if available) from the reporter and document the report as an intake in SSIS computer system.

- A. Description of the allegations. This includes current and past maltreatment allegations, the circumstances of the maltreatment, and the frequency of the maltreatment or the intervention or services in place or recommended for the victim/survivor.
- B. The victim's/survivor's injury or condition as a result of the maltreatment and, if known, the services needed.
- C. Description of the victim's/survivor's current location, functioning, including special needs, if any, and current vulnerability.
- D. Description of any present danger threats, including a description of possible or likely emergency circumstances.
- E. Members of the household and their relationship to each other, the family's address and phone number, the adults' places of employment, and the victim's/survivor's school, day program or childcare, when applicable.
- F. How the family or victim/survivor may respond to intervention by the agency, including the parental/caregiver's protective capacities.

- G. The reporter's name, relationship to the family or victim/survivor, motivation, and source of information, if possible.
- H. The names and contact information of other people with information regarding the victim/survivor or victim's/survivor's family.
- I. Document the date and time the report is received by the agency.
- J. Intake calls that are considered an emergency by the intake worker and need immediate decision making and response are screened within an hour by intake worker sending out an alert for the need for an immediate screening of an intake. Examples of emergency intakes are allegations of sexual abuse or egregious harm to a victim/survivor. The screening of the report usually involves 2 available social workers including a child protection assessor and/or supervisor.
- K. The intake is entered immediately by an intake screener and the intake is appropriately responded to. All other intake calls are put into SSIS and screened the next working day in the morning.

### **Screening Process**

- A. A screening team, made up of 3 or more WCCS Family and Children's unit staff will



read the report and decide if the report is within WCCS jurisdiction, and/or law enforcement's jurisdiction, and/or another entity's jurisdiction (such as the State Department of Human Services). If the report is not within WCCS jurisdiction, the report will be forwarded to the appropriate agency.

- B. If the report is within WCCS, the screening team will decide if the report meets maltreatment criteria using Winona County child/VA maltreatment guidelines. The screening team will also decide if the report alleges egregious harm or sexual abuse to the victim/survivor that requires an investigative response. Other CP reports that meet maltreatment criteria but do not reach the level of egregious harm or sexual abuse are usually opened for family assessment response. Any report that meets criteria for assessment that involves a VA must be opened for an investigative response.
- C. If the report is opened for investigation, a WCCS investigator will be immediately assigned. The investigator shall begin an immediate investigation, coordinate with law enforcement and make efforts to see the victim/survivor and ensure the victim's/survivor's safety, usually within 24 hours. Information gathered must be

immediately analyzed by the assigned investigator to assess urgency and determine how quickly to respond. The timeframe for initial contact with members of the family, in person, by an investigator must be based on an analysis of the present danger criteria. Urgent cases, those suggesting a victim/survivor needs protection or medical attention, require an immediate response. At a minimum, all cases must include an initial face-to-face contact with the victim/survivor no later than five working days after the agency's initial receipt of the report. A timeframe for response within these parameters must be determined by or approved by a supervisor. Steps that may be taken include:

1. Check agency records to determine if there have been previous reports of maltreatment to the victim/survivor or other members of the family or facility.
2. Coordination with Law Enforcement. All CP reports must be faxed to the appropriate law enforcement agency within 12 hours. VA investigations that involve criminal allegations are sent to the law enforcement entity that has jurisdiction. The

assigned investigator shall coordinate the case with the assigned criminal investigator as needed. (See below)

3. Reports that come in after hours or on weekends are directed to the Law Enforcement Center.

### **Referral to Law Enforcement**

All maltreatment reports that are opened for CP investigation are forwarded to the law enforcement entity that has jurisdiction in the report. VA investigations that involve criminal allegations are sent to the law enforcement entity that has jurisdiction. Jurisdiction is where the maltreatment occurred. The WCCS investigator and law enforcement entity should determine if a joint investigation/assessment is to be conducted. Law enforcement is contacted immediately (usually by telephone) regarding reports that allege sexual abuse, egregious harm of a child/VA or allege that the child/VA is in immediate danger.

### **Roles and Responsibilities of WCCS and Law Enforcement**

It is the role of law enforcement to collect evidence related to possible criminal behavior and to assure the safety of both WCCS staff conducting the

investigation and others in the case that may need immediate protection.

During the investigation, the primary role of the WCCS investigator is to assess the safety of the victim/survivor, coordinate with law enforcement, and if warranted, take coordinated action to ensure the victim's/survivor's safety. Safety measures may include emergency placement by law enforcement, and/or a CHIPS petition (CP cases), and/or emergency guardianship (VA cases). If it is necessary to immediately remove a child from the home it is the responsibility of law enforcement to do so. WCCS staff will be available to consult about this decision.

Additional responsibilities of the WCCS investigator are to:

1. Introduce the agency as a provider of help.
2. Respond to immediate needs of the victim/survivor and their family (if applicable).
3. Identify the presence or absence of conditions in the home related to the risk of maltreatment. (CP cases)
4. Identify the presence or absence of behaviors, perceptions, and attitudes of family members related to the risk of maltreatment. (CP cases)

5. Assess whether the family needs services in order to change conditions related to the risk of maltreatment. (CP cases)

### **Other Agency Involvement**

In addition to law enforcement, it may be appropriate to involve other agencies during an investigation/assessment. Some examples are: domestic violence outreach staff, the pre-petition screening social workers, mental health crisis outreach workers, health department, city inspection, county nursing, and Project Fine.

### **Interview Protocol**

The investigative team of WCCS, law enforcement, and the County Attorney's Office will coordinate when to make initial contact with the victim/survivor. When investigating reports of maltreatments by a parent, all family members should be interviewed to ensure accurate and thorough information gathering. Each family member should be interviewed privately and in person, if possible. The order in which interviews take place should consider preserving information and minimizing the anxiety felt by the victim/survivor. Other family members should be interviewed regarding the allegations. Of particular importance are the interviews with a non-offending parent or caretaker and other children in

the home to determine if they have been witnesses to or victims of any abuse. The safety of the victim/survivor is of the utmost importance.

Interviews with collaterals may take place at any point in the investigation. Information from collaterals should be pursued if that information is important to making any of the decisions regarding the case. The date, time, and circumstances of each interview should be documented in the record. All investigations must include observation of or an interview with the victim/survivor. If possible, all investigations should include an interview with both parents (CP cases).

In criminal cases in which there is no WCCS jurisdiction, law enforcement can request a courtesy forensic interview by WCCS staff. If there is a trained WCCS staff person available a case may be opened and the WCCS staff will coordinate with law enforcement regarding the interview. The interview will usually be set up by Law Enforcement and contact made with a parent or other caregivers to determine the level of protectiveness and the need for any services.

### **Videotaped Interviews (Child Protection Cases)**

In sexual abuse cases whenever possible, a Digital Video Recorded (DVR) interview of the child victim(s) will be conducted. It may also be

necessary to videotape interviews of siblings or other child witnesses who may have information about the case.

Minnesota State 626.556; subd. 10 (j)

(j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(k) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as

nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

Videotaped interviews are conducted in collaboration with Law Enforcement. After the interview is completed, at the discretion of the law enforcement officer, the officer will take the DVR recording into evidence, and the WCCS worker will obtain a copy for WCCS records.

### **Medical Examination**

The WCCS worker may make arrangements for a child to have a medical exam by a physician by contacting the medical facility social worker.

The Medical Protocol should be followed (see Medical Protocol).

The worker may take the child victim/survivor for a medical examination with or without parental consent, however, if parental consent is not



obtained the child will be taken into Temporary Physical Custody and the parents immediately notified.

If the investigator believes it is appropriate and the parents choose, they may be present at the medical facility, but generally not in the exam room when they are the alleged perpetrator. Law enforcement may be present at the medical facility, but it is not necessary to be present in the exam room in order to conduct their investigation.

In some cases it is appropriate for the non-maltreating parent to take the child for the medical evaluation. **In these cases the Initial Assessment social worker shall contact the Emergency Department to make arrangements for the exam.**

In sexual abuse cases, a medical exam is needed whenever there is direct sexual contact, penetration, injury, or the child is experiencing discomfort. If there is an observable injury, photographs should be taken by medical staff.

### **Interviews of Siblings/Children in the Household (Child Protection Cases)**

Interview the child victim's/survivor's siblings if they share the same residence and it is a case of primary caregiver maltreatment, or if the siblings are witnesses to the abuse/neglect. If the child victim/survivor is taken into protective shelter

care, law enforcement or WCCS will assess the need to do the same for siblings if their safety is at risk.

In sexual abuse cases the same procedures stated previously regarding DVR interviews should be followed with siblings/children in the household. If the child is too young for an interview, contact should be made in order to observe and assess the child's well-being and any risk of maltreatment to the child.

### **Interviews of Other Witnesses (Child Protection/VA Cases)**

Other witnesses, extended family members, and collateral contacts will be interviewed by the Investigator/Assessment worker, law enforcement, or both, as determined through consultation with each other and/or the Winona County Attorney's Office.

### **Interviews of Parents/Alleged Perpetrators/Caregivers**

Law enforcement and the WCCS investigator will make a joint decision about who will take lead interviewing the non-maltreating parent (CP cases). Interview the victim's/survivor's caretakers (parent, guardian, legal custodian, or facility staff) in person (in primary caregiver cases). If possible, interview the non-maltreating parent first (CP cases). Although the law enforcement officer will

usually interview the suspect, the investigator/assessor will consult with the officer about interviewing the alleged perpetrator, which would include assessing the risk and safety of the victim/survivor.

Interview the perpetrator in person if the perpetrator has access to the victim/survivor and protection of the victim/survivor is questionable. The interview of the perpetrator may be conducted by telephone only if the perpetrator is a non-caregiver or if the perpetrator is unable or refuses to be interviewed in person.

During the first face-to-face contact with the perpetrator during which an interview takes place, the WCCS investigator will initiate the interview by introducing themselves and identifying the agency by which they are employed, explaining the purpose of the investigation, explaining the purpose of the interview, and advising the perpetrator of the allegations made against them. Notification of the allegations need not be in detail, but must be sufficient so that the perpetrator understands the role of WCCS and that the purpose of the interview is to gain more information about those allegations. Information will not be shared that could identify the intake reporter. At the time of the interview the investigators from WCCS and law enforcement will make decision about the

interview format. The perpetrator will be given a copy of the privacy notice.

If WCCS and law enforcement jointly interview/contact the perpetrator, the requirements still applies, even if law enforcement does the interviewing. In some cases, law enforcement may need to proceed in a less direct manner with the perpetrator. In these cases it may be necessary for law enforcement to conduct the first interview with the perpetrator to gather the evidence needed without the involvement or presence of WCCS.

Documentation that the perpetrator was advised of the allegations made against them and when this is done, it must be included in the case record.

In cases where there is no clear perpetrator, everyone who is being interviewed, other than the victim/survivor or collateral contact, shall be informed by the investigator of the investigation purpose, the purpose of the interview, and given a general explanation of the allegations.

### **Assessing Risk of Maltreatment and Safety**

Risk assessment is an integral part of the initial assessment of the family in a CP/VA investigation case. Risk must be assessed in every case,

regardless of whether or not maltreatment is substantiated.

During the course of the investigation, the investigator must consider whether the victim/survivor or any other children/vulnerable adults in the home are unsafe. If a victim/survivor is unsafe, the conditions rendering the victim/survivor unsafe must be identified and documented. A safety assessment must be completed. A safety plan must be immediately implemented to ensure safety of the victim/survivor. At this point in CP cases, it is necessary to determine if the child is an Indian child in accordance with the Indian Child Welfare Act. All requirements of the federal Indian Child Welfare Act must be followed for any child so identified.

In assessing victim/survivor safety in the home/facility, the behaviors of all adults/household members must be considered, regardless of their legal relationship to the victim/survivor. Safety for all children/vulnerable adults in the home must be assessed, not just safety for the victim/survivor reported as maltreated.

If a victim/survivor is assessed to be unsafe, immediate further assessment is needed to determine how the victim/survivor will be kept

safe. The least intrusive plan that can effectively keep the victim/survivor safe should be used. The following is a list of types of interventions to keep a victim/survivor safe, from the least to the most intrusive:

- A. Family-managed safety plan (this may include the use of persons from the family's own support network, professional services, or placement with or temporary care from a relative).
- B. An in-home safety plan with safety services provided by persons from the family's support network (extended family, friends, neighbors, religious community, etc).
- C. An in-home safety plan with safety services provided by formal community service providers.
- D. The perpetrator is willing to leave the home, an Order for Protection is filed on the behalf of the victim/survivor, or the perpetrator is arrested.
- E. Temporary out-of-home placement using a Voluntary Placement Agreement. (CP cases)
- F. Out-of-home placement or emergency guardianship is filed using the legal process.

Safety must be assessed and documented at completion of the investigation, even if a safety plan was put in place initially. A thorough safety assessment must still be conducted because of the

availability of additional information about the circumstances that may result in modification of the safety plan. The final safety plan with the benefit of additional understanding of the circumstances/conditions, may relax or increase the services put in place to provide for safety, or may confirm the services put in place through the initial protective plan.

Safety must be assessed in all cases, regardless of whether or not maltreatment is substantiated.

Safety must be assessed based on conditions that were or would be present without the implementation of any protective plan. Safety must also be assessed based upon conditions that are normally present in the home. For example, if an abusive parent is temporarily absent while the assessment is being conducted, the family must be assessed as though that parent were present.

The investigator must review the case and the protective plan with the supervisor the same day, if applicable, or the next workday.

If an agency decides to close a case following an initial assessment or case progress evaluation, the agency will:

- Provide the family and victim/survivor with information about resources if appropriate

to meet the family and victim's/survivor's service needs.

- Give thorough, easy to understand information on the resources available, how they might help the family and the victim/survivor, and how to access the services. These resources may include services in other counties, but agencies are not required to maintain current information on the services in other counties.
- Give sufficient information to help the family and the victim/survivor make their own choices (for example, information regarding faith-based status, payment structure, area of specialty of provider, flexible hours).
- Assist the family and the victim/survivor to access and connect with a chosen resource, if requested. Generally, this responsibility would not go beyond the family and victim's/survivor's first contact with the resource.
- When identifying service needs in the case closing documentation, clarify that these needs do not require WCCS intervention and that safety of the victim/survivor is being provided for.
- If there is an identified service need not related to WCCS responsibilities but no resource that meets that need, or the



resource is not accessible (e.g. waiting lists, available only as a court-ordered service, distance or location prohibitive), discuss this openly with the family and the victim/survivor.

- Extend an offer to the family to re-contact the agency if assistance is needed.
- Clearly document all of the above in the case record.

If an agency decided to discontinue the case as a WCCS case following an Initial Assessment but opened the case, at the family's request for other agency services that are not needed to control threats to the child's safety or manage risks related to child abuse or neglect, the agency has thereby referred the family to voluntary community services. This also must be documented in the closing narrative of the initial assessment.

### **Referral of Young Children to the Birth-to-3 Program (Child Protection Cases)**

In cases where a child less than three years of age has been substantiated as having been abused or neglected, the WCCS worker will explain the Birth-to-3 Program to the parents and make a referral to that program.

## **Completion of the Investigation**

The investigation must be completed within 45 days (CP cases) and 60 days (VA cases) after the agency's initial receipt of the report. In placement CP cases, referral to Winona County Attorney's Office will need to be made immediately to file a CHIPS petition and schedule a physical custody hearing within 72 hours. At the completion of the investigation, the records must contain:

- A. Documentation of all information gathered.
- B. Documentation of all decisions and basis for the decisions, including documentation of the risk assessment and safety assessment(s), which include supervisor signature.
- C. Documentation of any protective plan or safety plan, if applicable.
- D. Documentation of closure with the family and the victim/survivor, including discussion of the results of the investigation, decisions regarding ongoing service provision or referral and "Notice of Determination" letters.
- E. Consideration and documentation of how the family and the victim/survivor is likely to respond to intervention, if the family and the victim/survivor is being referred or opened for services.

- F. Notice to any person determined to have maltreated a child/VA, of that determination and of their rights to appeal that decision (“Notice of Determination” letter).
- G. Documentation of feedback to the mandated reporter or relative reporter, if applicable.
- H. Documentation of actions taken to comply with the Indian Child Welfare Act and to coordinate service delivery with tribal child welfare staff, if applicable.
- I. Documentation of referrals for court intervention and subsequent court action, if applicable.
- J. Completion of agency placement forms, if applicable.

### **Additional Practice Considerations**

Occasionally WCCS receives a report, which, upon investigation, is clearly wrong. This is different from a report that is found to be unsubstantiated. These are cases where there is no ambiguity. An example would be a child found to have Mongolian spots when interviewed. Under these circumstances, completing the interview protocol is not appropriate and may be unnecessarily intrusive. The investigation may consist of minimal interviews such as just with the victim/survivor and/or one parent. The fact that a parent and/or

victim/survivor deny the maltreatment is insufficient in itself to warrant a deviation from the interview protocol. Decisions to deviate from the interview protocol and the initial assessment must be made in conjunction with a supervisor and law enforcement if they are involved.

### **Custody Issues**

A child abuse or neglect report may allege maltreatment of a child who resides part-time with each of two divorced parents, or resides with one parent and has visitation with the other. In such circumstances, the investigation should focus on assessing the household within which the maltreatment is reported to have occurred. A report may not be dismissed or screened out because the family is simultaneously experiencing disputes regarding custody. If information gathered indicates possible maltreatment or risk in conjunction with the other parent, the scope of the investigation may be expanded to include both households. This may also be necessary to assess motivation in reporting when reports originate from a parent.

## **Mandated Reporting**

### **What is mandated reporting?**

Mandated reporting is a requirement of MN Statute 626.556 and 626.557. It means that any person who works with children or families is legally required, or mandated, to report suspected child abuse or neglect and is required to report suspected abuse by certain persons. Mandated reporters are also required to report abuse of vulnerable adults. Any mandated reporter who has reason to believe a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained.

### **Who are mandated reporters?**

- Educators – teachers, assistants, support staff, bus drivers, custodians
- Health Care Workers
- Mental Health Professionals
- Childcare workers
- Law Enforcement
- Other human service professionals

### **Definition of a vulnerable adult:**

A. Categorical Vulnerable Adult: A resident of a licensed facility, or receiving licensed services OR  
B. Functional Vulnerable Adult: Regardless of residence possesses a physical or mental infirmity or other physical, mental, or emotional

dysfunction: **A person would appear to fit the following functional criteria to be accepted for assessment:**

1. The infirmity or dysfunction impairs the individual's ability to provide food, clothing, shelter, healthcare, or supervision: and
2. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

**When should you report abuse or neglect?**

- Any time you know or have reason to believe a child or vulnerable adult is being neglected or abused by certain persons, you should file a report.

**What if I'm not sure that something meets the requirements for a report?**

- Call Human Services or Law Enforcement with all of the information you have. Those agencies will determine if the information meets statutory requirements for assessment.

**What information should I call in?**

- Your name, address, phone number, and relationship to the child/vulnerable adult and/or their family.
- Where the victim/survivor is now and whether the victim/survivor is in immediate danger.

- A description of what happened to the victim/survivor, including when and where it happened.
- A description of any injuries or the present condition of the victim/survivor.
- The names, address, phone number of the victim/survivor, parents or caregivers.
- The victim's/survivor's date of birth.
- Name and relationship of the offender.
- Names of any witnesses of the incident.
- Any additional information that might be helpful.

#### **What happens after an assessment is done?**

- As a mandated reporter, you are entitled to know both whether your report will be assessed and the final outcome of that assessment and should receive a letter notifying you of the outcome of your report.

#### **Should I tell anyone that I've made a report?**

- You have no legal obligation to do so. If you feel that you have an ethical responsibility to share this with anyone, please check this out with the social worker/intake worker first. Family dynamics, particularly in the area of sexual abuse, can interfere with the assessor's ability to get accurate information if they've been alerted to a report. This is very important.

### **Will my name be released?**

- No. State law prohibits the release of a reporter's name unless that person gives permission for their name to be released or unless the court specifically orders the reporter's name to be released.

### **Do I have to write a report?**

- Yes, you must file a written report within 72 hours of your call. You must make a verbal report of suspected abuse or neglect as soon as you have information and then you must file a written report.

### **What happens if I don't call in a report of known or suspected abuse or neglect?**

- MN law requires you to report known or suspected abuse of children. Failure to do so is a misdemeanor. You can be prosecuted if you fail to report.

### **What will child/adult protection do?**

- Human Services will determine if the report meets statutory requirements for an assessment. If the information meets criteria for assessment, it will be assigned either for a traditional assessment or family assessment. A child welfare check is also a possible response.



**What if the victim/survivor asks me not to make the report?**

- Individual wishes do not supersede the law. You have a legal obligation to make the report. If you need help explaining this to the victim/survivor please call Human Services.

**If I share the information with a supervisor or co-worker does that satisfy my mandate to report?**

- No. The law says the report is to be made to County Human Services or Law Enforcement.

**When you make a report, you will be asked the following:**

*The following are categories of maltreatment:*

1. **Physical abuse:** non-accidental injury, unreasonable punishment/confinement or threats/threatening behavior towards a child or vulnerable adult.

- Is there an injury? – describe it fully including marks, color marks, location of marks, size and shape of marks
- How did it happen?
- Who did it?
- When did it happen?
- Where did it happen?
- Did they witness the incident or injury?

2. **Neglect:** failure of the caretaker to provide the child/vulnerable adult with one of life's basic necessities which are – food, clothing, shelter, or medical care when the absence of that care would result in serious harm to the child/vulnerable adult's health; it also includes inadequate supervision; and failure to protect from danger.

- Who?
- What?
- Where?
- What is lacking?
- When did it happen?
- How long has this situation been in place or going on?
- How much have they seen or directly observed?

3. **Sexual Abuse:** any sexual exploitation involving children/vulnerable adult take the report regardless of ages given by reporter and team will assess the information

- Who?
- What?
- When?
- Where?
- How long?
- Have the reporter define what they mean by "sex" or "sexual abuse" or "having sex"?

**4. Mental Injury:** (aka – emotional and verbal abuse) child/vulnerable adult’s emotional stability or psychological development has been damaged and that damage affects the child/vulnerable adult’s ability to function within a normal range of performance and behavior.

- Who?
- What?
- When?
- How often?
- How long?
- Have reporter define what they mean by “emotional abuse,” “verbal abuse” or whatever term they use?
- If reporter is in a professional role, do they have documents to help support mental injury?

**5. Self-Neglect** (Vulnerable adult only): Self-neglect is the result of an adult’s inability, due to physical and/or mental impairments or diminished capacity, to perform essential self-care tasks including: providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, emotional well-being and general safety; and/or managing financial affairs.

**6. Financial Exploitation** (Vulnerable adult only):  
**Legal relationship** - In breach of fiduciary obligation recognized elsewhere in law:

- Engages in unauthorized expenditure of funds that results in or is likely to result in detriment to the VA.
- Intentionally fails to use financial resources of the vulnerable adult for food, clothing, shelter, healthcare, therapeutic conduct or supervision.

**No legal relationship** - In the absence of legal authority:

- Willfully uses, withholds or disposes the VA's funds or property.
- Obtains the performance of services for the wrongful profit or advantage to the detriment of the VA.
- Acquires possession or control of the VA's funds or property through undue influence, harassment, duress, deception, or fraud.
- Forces, compels, coerces, or entices the VA against his/her will to perform services for profit of another.
- Reporters need to clearly state what the concern is. Define the abuse through specific examples of which you have firsthand knowledge. \*\*If you don't have firsthand knowledge, encourage anyone with firsthand knowledge to report.
- Mandated reporters must give us their names, but their names will not be released.

**CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE  
("CSC 1")**

Elements Under Minnesota Law- Minn. Stat. 609.342  
Maximum Sentence: 30 years and/or \$40,000

**Subdivisions**

<b>Factors (below)</b>	<b>1 (a)</b>	<b>1(b)</b>	<b>1(c)</b>	<b>1(d)</b>	<b>1 (e)</b>
Sexual Penetration	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Sexual Contact	*		*	*	*
Victim under 13	<b>X*</b>		*	*	*
Victim 13 through 15		<b>X</b>			
Victim under 16					
Victim 16 through 17					
Actor > 24 months older					
Actor > 36 months older	<b>X</b>				
Actor >48 months older		<b>X</b>			
Fear great bodily harm			<b>X</b>		

Dangerous weapon				<b>X</b>	
Personal injury to victim					<b>X</b>
Force or coercion					<b>O</b>
Victim impaired					<b>O</b>
Accomplice					
Multiple acts					
Significant Relationship					
Position of Authority		<b>X</b>			
Age mistake no defense	<b>#</b>	<b>#</b>			
Consent no defense	<b>#</b>	<b>#</b>			
Severity Level (see note)	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>

NOTE: For any column to be applicable to a particular case, **all** Xs in the column must be present, and if any Os appear in the column, at least one of the Os must also be present. #’s are indicated where a mistake to the victim/survivor’s age or consent are not available as defenses.

NOTE: The \*'s indicated when there is bare skin sexual contact, not penetration, and the victim/survivor is less than 13 years of age. In any column with \*s, either penetration must be present, or both \*'s must be present see Minn. Stat. 609.341 subd. d (11) (c)

Mandatory Minimum Sentencing: Unless a longer sentence is otherwise required or made available by sentencing guidelines, the court must impose a sentence of 144 months on an offender convicted under CSC 1. Any deviation from this is a departure from the sentencing guidelines, see Minn. Stat. 609.342 subd. 2 (b)

PLEASE CONSULT THE STATUTE FOR DEFINITIONS OF TERMS.

CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE (“CSC  
2”)

Elements under Minnesota Law – Minn. Stat. 609.343  
Maximum Sentence: 25 years and/or \$35,000

**Subdivisions**

<b>Factors (below)</b>	<b>1 (a)</b>	<b>1 (b)</b>	<b>1(c)</b>	<b>1 (d)</b>	<b>1 (e)</b>	<b>1(f)</b>	<b>1(g)</b>	<b>1(h)</b>
Sexual Contact	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>
Victim under 13	<b>X</b>							
Victim 13 through 15		<b>X</b>						
Victim under 16							<b>X</b>	
Victim 16 through 17								
Actor >24 months older								



Actor >36 months older	X							
Actor >48 months older		X						
Fear great bodily harm			X					
Dangerous weapon				X		O		
Personal injury to victim					X			
Force or coercion					O	O		
Victim impaired					O			
Accomplice						X		
Multiple acts								
Significant relationship							X	X
Position of authority		X						

Age mistake no defense	#	#					#	#
Consent no defense	#	#					#	#
Severity Level	<b>D</b>	<b>D</b>	<b>B</b>	<b>B</b>	<b>B</b>	<b>B</b>	<b>D</b>	<b>B</b>

NOTE: For any column to be applicable to a particular case, all Xs in that column must be present, and if any Os appear in the column, at least one of the Os must also be present. #s indicate defenses not available for certain subdivisions.

PLEASE CONSULT THE STATUTE FOR DEFINITIONS OF TERMS.

CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE (“CSC 3”)

Elements under Minnesota Law- Minn. Stat. 609.344

Maximum Sentence: 15 years and/or \$30,000

**Subdivisions**

<b>Factors (below)</b>	<b>1 (a)</b>	<b>1(b)</b>	<b>1(c)</b>	<b>1(d)</b>	<b>1(e)</b>	<b>1(f)</b>	<b>1(g)</b>	<b>1(h)</b>	<b>1(i)</b>
Sexual penetration	X	X	X	X	X	X	X	X	X
Victim under 13	X								
Victim 13 through 15		X							

Victim 16 through 17					X	X	X			
Victim is a corrections client										
Victim= corrections										
Actor >24 months older		X								
Actor > 36 months older										
Actor > 48 months older					X					
Actor < 36 months older	X									
Fear great bodily harm										
Dangerous weapon										
Personal injury to victim								O		
Force or coercion			X					O		
Victim impaired				X						
Accomplice										
Multiple acts over time										
Therapeutic deception										
False medical purpose										
During therapy session									O	
Therapist-patient relation									O	

During spiritual meeting										
During period of meetings										
During/immediately before or after										
Unmarried parties										
Significant relationship						X	X			
Position of authority					X					
Actor is psychotherapist								X	X	
Actor is/purports clergy										
Actor = massage										
Complainant is patient								X		
Complainant is former patient										X
Emot. Dep. on therapist										X
Actor is corrections agnt.										
Actor transport vulnerable adlt.										
Age mistake no defense	#				#	#	#			
Consent no defense	#	#			#	#	#	#		

Severity Level	Juv/D	D/G	C	C	D	D	C	C	C	

NOTE: For any column to be applicable to a particular case, all Xs in that column must be present, and if any Os appear in that column, at least one of the Os must also be present. #s indicate when a defense is not available for a certain subdivision.

PLEASE CONSULT THE STATUTE FOR DEFINITIONS OF TERMS.

**CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE (“CSC 4”)**

Elements under Minnesota Law- Minn. Stat. 609.345  
 Maximum Sentence: 10 years and/or \$20,000

**Subdivisions**

<b>Factors (below)</b>	1 (a)	1(b)	1 (c)	1 (d)	1(e)	1(f)	1(g)	1(h)	1(i)	1(j)
Sexual contact	X	X	X	X	X	X	X	X	X	X
Victim under 13	X									
Victim 13 through 15		X								
Victim under 16										
Victim 16 through 17					X	X	X			
Victim is a corrections client										

Actor > 24 months older										
Actor >36 months older										
Actor >48 months older		<b>O</b>			<b>X</b>					
Actor < 36 months older	<b>X</b>									
Fear great bodily harm										
Dangerous weapon										
Personal injury to victim							<b>O</b>			
Force or coercion			<b>X</b>				<b>O</b>			
Victim impaired				<b>X</b>						
Accomplice										
Multiple acts over time							<b>O</b>			
Therapeutic deception										
False medical purpose										
During therapy session								<b>O</b>		
Therapist-patient relation								<b>O</b>		
During spiritual meeting										
During period of meetings										

During/immediately before or after										
Unmarried parties										
Significant relationship						X	X			
Position of authority		O			X					
Actor is psychotherapist								X	X	
Actor is/purports clergy										
Complainant is patient								X		
Complainant is former patient									X	
Emot. Dep. on therapist									X	
Actor is corrections agnt.										
Actor transports vulnerable adlt.										
Actor = massage										
Age mistake no defense	#				#	#	#			
Consent no defense	#	#			#	#	#	#		
Severity Level	Juv/F	F	E	E	F	F	E	E	E	



NOTE: For any column to be applicable to a particular case, **all** Xs in that column must be present, and if any Os appear in the column, at least one of the Os must also be present. #s indicate when certain defenses are not available with specified subdivisions.

PLEASE CONSULT THE STATUTE FOR DEFINITIONS OF TERMS.

CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE (“CSC 5”)

Elements under Minnesota Law- Minn. Stat. 609.3451  
Maximum Sentence 1 year and/or \$3,000

**Subdivisions**

<b>Factors (below)</b>	<b>1(1)</b>	<b>1(2)</b>	<b>3</b>
<b>Sexual contact*</b>	<b>X</b>		
<b>Masturbation or lewd exhibition of genitals</b>		<b>X</b>	
<b>Victim under 16</b>		<b>X</b>	
<b>Felony for repeat offenses 1(2)-Severity Level</b>			<b>F</b>

\*Sexual contact does not include the intentional touching of the clothing covering the immediate area of the buttocks.

Sexual contact does include the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

PLEASE CONSULT THE STATUTE FOR DEFINITIONS OF TERMS.