

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

CHILD MOLESTATION
SUBJECT

DATE: July 24, 2013

NO: D-7

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Child Molestation
Child Sexual Assault

I. POLICY

- A. Officers contacting victims of child sexual assault will make every effort to minimize the emotional stress of having to report the offense to the police, while maximizing the amount of information and evidence obtained for the purpose of follow-up investigation, apprehension and successful prosecution of the responsible person.
- B. If a determination is made that a case of child sexual assault or child molestation exists, a Family Crimes Supervisor Shall be notified, if additional expertise is necessary.
 - 1. During the hours when Investigations Division personnel are off-duty, the Watch Commander or Patrol Sergeant shall evaluate the circumstances of the offense and assign Field Services personnel to investigate, unless the case indicates the need for specific expertise and/or the investigative time needed makes it impractical to use Field Services personnel.
 - a. The Watch Commander or designee will contact the Family Crimes Sergeant.
 - b. If unable to contact the Family Crimes Sergeant, the Investigations Section Lieutenant will be called.
- C. **All Welfare & Institution Code section 300 bookings will require a supervisor to respond to the call for approval in cases where no warrant has been issued. Supervisors shall use the following criteria for approving the booking of children under 300 W&I:**
 - 1. **The juvenile(s) is considered to be in imminent physical danger; and**
 - 2. **The situation does not allow sufficient time to obtain a warrant.**

II. LAWS

- A. Officers shall become familiar with Sections 261, 285, 285, 288, 288a, 289, 293, 647.6, 11166, and 11169 of the Penal Code (PC) and Sections 300 and 305 of the Welfare and Institutions Code (W&I).
 - 1. Section 305 W&I gives law enforcement the authority to take into temporary custody any child who comes within Sections 300(d) and 300(j) W&I, as it relates to sexually abused children and their siblings.
 - 2. Sections 11166 and 11169 PC relate to reported child abuse/child sexual assault to the Department of Justice (DOJ), District Attorney's Office, and Child Protective Services (CPS).
 - a. It shall be the Family Crimes Sergeant's responsibility to act on any 11166 PC report received.
 - b. All cases of suspected or actual child sexual assault shall be documented on a Crime Report. However, if the evidence or elements of the crime are not present,

they shall be documented on a Significant Incident Report. At no time shall they be cleared with only a memo entry into the call history ("HAN").

- c. Crimes reports on actual or suspected child sexual assault cases shall be routed to the Family Crimes Unit for review.
- d. The Family Crimes Unit shall insure compliance with the reporting mandates under Section 11166 PC. A phone report shall be made as soon as practical followed by a report in writing within 36 hours.

III. INVESTIGATION

- A. When dispatched to contact a child sexual assault victim, the officer should prepare mentally prior to arriving at the scene. After arriving, the officer should:
 - 1. Evaluate the victim's physical condition to determine if immediate medical care is required due to the assault.
 - 2. Be patient and understanding since the victim will probably be highly emotional.
 - 3. Attempt to obtain a rational account of the elements of the crime. Since most child molestation/sexual assaults are a one-on-one confrontation, the victim is usually the only person who can tell you what occurred. The responsible is usually known to the victim and the victim may be afraid to say what occurred.
 - 4. Determine if in fact a crime has occurred. If a crime has occurred, CPS shall be notified by the Family Crimes Unit as soon as possible. CPS has a worker available to respond 24 hours a day, if needed.
 - 5. As delicately as possible and without asking leading questions, ask the victim what specific sex acts occurred so that all applicable offenses can be identified.
 - 6. Officers shall notify a Patrol Sergeant of the incident as soon as possible.
 - a. The Watch Commander shall also be notified.
- B. Items to be considered when investigating a child molestation/sexual assault case:
 - 1. Age of victim.
 - 2. What the child told another party (parent, friend, counselor, teacher, or other trusted adult) about the incident.
 - 3. Child wears torn, stained, or bloody underclothing.
 - 4. Child complains of pain to genitals or anus.
 - 5. Reporting party notices sexual acting out.
 - 6. Knowledge of previous reported incidents.
 - 7. Statement of parents, relatives, etc.
- C. Persons who should be interviewed during the investigation:
 - 1. Reporting party.
 - 2. Victim, if possible.
 - 3. Parents or guardians.
 - 4. Suspect, if other than parent or guardian.
 - 5. Persons who can contribute to the history of the child or family (physician, neighbors, relatives, schools officials, minister, babysitter, CPS, etc.).

6. Paramedics/ambulance personnel.
- D. Secure the crime scene and have an Evidence Identification Technician (EIT) respond.
1. Physical evidence is very important to corroborate the victim's statements when the suspect is apprehended.
 2. Have the victim point out places or items the suspect may have touched or moved so the EIT can process for latent prints or bodily fluids.
 3. Ask if there are items of the victim's the suspect may have in his/her possession or if the suspect left any article at the crime scene.
 4. Brief the EIT about the crime and any evidence that should be collected such as bedding, clothing, or cushions where the sex acts occurred.
 5. Photos should be taken of the scene.
- E. The Family Crimes Unit Sergeant, or his/her designee, shall be notified by the Watch Commander of all felony child sexual assaults whenever a suspect is in custody or further investigation is deemed immediately necessary. If an investigator is needed, the Family Crimes Unit Sergeant will advise which investigator is to be assigned.
1. If unable to contact the Family crimes Unit Sergeant, the Investigations Section Lieutenant will be called.
- F. Removal of the child from the home.
1. A child removed from the home as a sexual assault victim will be taken to the San Joaquin General Hospital, Emergency Receiving, or the Child Advocacy Center (CAC) if available, if the last incident of abuse occurred within the previous 72 hours, prior to placement in Mary Graham Children's Shelter.
 2. All inquiries by parents or guardians regarding the investigation shall be referred to the Family Crimes Unit or the Watch Commander during non-business hours. Any inquiries to regain custody shall be referred to CPS.
 3. A decision to remove a child from the home will be based upon the best interest and safety of the child. It may also include removing at risk siblings.
- G. San Joaquin General Hospital Examinations.
1. To expedite victim registration and the examination at the hospital, the investigating officer will call the receiving desk at the Emergency Room in advance and advise of the impending arrival, type of case, name of the patient, date of birth, address, etc.
 - a. If the investigating officer is unable to make the advance call, the officer, immediately upon arrival at the Emergency Receiving Station, should contact the charge nurse to expedite the process.
 - b. The hospital personnel will not begin the examination until the officer signs the authorization for the medical examination. This form is provided by hospital personnel.
 2. Hospital personnel define assaults as acute or prior. An assault which has occurred within the previous three days (72 hours), is an acute assault. An assault which has occurred greater than 72 hours is a prior assault.
 - a. Acute assault cases will be seen in the Emergency Receiving Station at the General Hospital. Upon arrival, the officer should thoroughly complete the form provided by hospital staff.
 - b. When a prior assault victim is also to be placed into protective custody, the child may be taken directly to Mary Graham Children's Shelter and have the sexual assault examination as part of the intake examination on the next medical intake/clinic day at the CAC. The need for a sexual assault examination should

be noted on the admissions sheet by the admitting officer, accompanied by the officer's completed form. Mary Graham staff will schedule the examination.

- c. When a prior assault victim is not to be placed into protective custody, the Family Crimes Unit will schedule the medical examination at the CAC.
3. Permission to conduct an intrusive examination is required from either the victim (12 years of age or older), the victim's parent/guardian, or the investigating police officer.
- a. There will be times when the suspect is known and the parent does not believe the victim. Under these circumstances, the investigating officer should sign the authorization for the medical examination.
 - b. Examination permission may be granted to the hospital by telephone and the authorization should be signed as soon as the investigating officer arrives at the Emergency Receiving Station at San Joaquin General Hospital.
 - c. Authorization to Release or Receive Medical Information Form should be signed so all medical records pertaining to the case can be received.
 - d. When feasible (and they are not a suspect), the victim's parent/guardian should meet or accompany the victim at the hospital.
4. During the medical examination of a sexually assaulted victim, the officer or examining nurse should collect each item of the victim's clothing and place each article in an individual paper bag. **DO NOT PLACE ALL CLOTHING IN ONE BAG.** There are a sufficient number of evidence bags contained in the sexual assault kit.
- a. The hospital nurse should have the victim undress on a clean sheet of paper. Fold the sheet of paper so as to protect any items of evidence which may be dropped onto it. The sheet of paper should also be placed in an individual evidence bag.
 - b. All paper bags or envelopes (evidence containers) must be marked "Stockton Police Department" and list the Departmental Report (DR) number. The sexual assault kit is handled in the same manner.
 - c. The sexual assault kit will be processed by the hospital staff and placed in a locked refrigerator in the Emergency Room area. A Community Service Officer (CSO) will be dispatched in a timely manner to retrieve the Sexual Assault Kit from the hospital and book it into evidence.
 - (1) Per the rape kit instructions and per the DOJ request, the victim's/suspect's underpants are to be retained in the rape kit itself. (This is frequently an important item of evidence and is best preserved by freezing with the kit.)
 - (2) Due to air drying requirements, the kits cannot be sealed until approximately one hour after being obtained. Officers will not be able to pick up the white copy of the triplicate medical examination form until the kit is sealed, due to chain of evidence sign-off requirements.
 - (3) If officers are at the hospital at the time the kit is sealed, they should obtain the white (law enforcement) copy of the exam report. It should not be attached to the crime report, but forwarded to the Family Crimes Unit for follow-up.
 - (4) If officers are not at the hospital at the time the kit is sealed, medical staff will place the white copy in an envelope attached to the outside of the kit. Medical staff will also place the pink copy, which is for the DOJ lab, in an envelope marked DOJ. The pink (DOJ) copy is to remain with the assault kit.
 - (5) Any officer or CSO booking an assault kit in evidence will forward both the white and pink copies to the Family Crimes Unit by placing them in the Investigations Box at Headquarters.

- d. The investigating officer will obtain a verbal account of the injuries from the doctor who examines the child. This information will be stated in the crime report.
 - e. If the victim does not receive an examination in a reasonable time, the officer may contact the Watch Commander who may contact the Emergency Receiving Station supervisory nurse.
- H. Medical Records.
 - 1. This information is confidential and disseminated on a need to know basis to law enforcement officials, physicians, and CPS.
 - 2. A signed medical release form should be obtained from the parent/guardian.
- I. Abuse Registry (Detailed files maintained in Sacramento on repeat offenders).
 - 1. DOJ maintains an abuse registry and will respond on a 24 hour basis to inquiries regarding victims or suspects.
- J. Release of juvenile information as it relates to child sexual assault cases.
 - 1. The Records Section is the central repository for this information. Access to information relating to child sexual assault is limited by the San Joaquin County Superior Court Judge.
 - a. All law enforcement requests for release of information regarding child sexual assault or a copy of the report must be requested through the Records Section.
 - b. All non-law enforcement requests for release of information regarding child sexual assault or a copy of the report must be made by petition through the Juvenile Justice Center.
- K. Confidentiality of Sexual Assault Victim's Identity.
 - 1. Pursuant to Section 293(a) PC, officers must inform a sexual assault victim that his/her name, address, and phone number will become a matter of record unless, he/she requests that it not become a matter of record, pursuant to Section 6254 of the Government Code.
 - 2. Officers must include in their report that they informed the victim of this Penal Code section and they must file a Victim Confidentiality Form, which indicates the victim's response, and attach the form to the crime report.
 - a. This form must be completed whether or not the victim requests confidentiality.
 - 3. If the victim is too young to understand the meaning of 293(a) PC, inform his/her parent or guardian and record the response as above.
 - 4. If the victim and/or guardian is unable or unavailable to sign, verbal authorization can be given by them to complete the form.