



**MIDDLETON POLICE
DEPARTMENT**

DATE
December 6, 2012

POLICY
6.6.07

SUBJECT: **Child Abuse or Neglect**

REVIEWED
July 5, 2018

History: 2003, Updated 12/2012; 07/2015
[WILEAG \(5th Ed.\) Standards: 6.6.7](#)

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Purpose

The purpose of policy is to provide guidelines for reporting and investigating child abuse and neglect.

Policy

It is the policy of the Middleton Police Department to respond to and thoroughly investigate all reports of child abuse or neglect in compliance with [48.981\(2\)](#) and [48.981\(3\)\(b\)3](#) irrespective of the source or method of reporting.

Definitions

Abuse:

- Physical injury inflicted on a child by other than accidental means.
- Serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.
- [Sexual intercourse or sexual contact with a child \(948.02\)](#)
- [Sexual exploitation of a child \(948.05\)](#)
- Permitting, allowing or encouraging a child to engage in [prostitution \(944.30\)](#)
- [Causing a child to view or listen to sexual activity \(948.055\)](#)
- [Exposing genitals or pubic area to a child \(948.10\)](#)
- Exposing a Child to the manufacturing of Methamphetamine
- Failure of parent, guardian, or legal custodian to obtain necessary treatment for emotional damage.

Child, when used without further qualification, means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age.

Neglect means failure, refusal or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.

Physical Injury includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm. Great Bodily Harm means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

Privilege of Reasonable Parental Discipline applies only to persons responsible for a child's welfare and includes the child's parent, stepparent or court named guardian (it does not include a mother's live-in boyfriend). Reasonable parental discipline may involve only such force as a reasonable person believes is necessary. The force used must not be known to cause, or create a substantial risk of great bodily harm or death. Whether a reasonable person would have believed the amount of force used was necessary and not excessive must be determined from the standpoint of the actor at the time of the act. The standard is what a person of ordinary intelligence and prudence would have believed in the actor's position under the circumstances that existed at the time of the act.

Unborn Child means a human being from the time of fertilization to the time of birth.

Duty to Report Child Abuse or Neglect

Mandatory reporters are professionals who, in the ordinary course of their work and because they have regular contact with children, are required to report (or cause a report to be made) whenever abuse has been observed or is suspected, or when there is evidence of neglect. Under s. [48.981\(2\)](#), police officers, EMT's, first responders and school employees are among mandatory reporters. For Middleton Police Officers this professional duty extends to off-duty situations. Mandatory reporter shall immediately inform their local police or County Human Services of the facts, by phone or in person, whenever they have reasonable cause to suspect that a child has been abused or neglected, or threatened with abuse or neglect, or will be abused or neglected. If an officer has a personal relationship with a victim or suspect, the officer may report the matter directly or cause a report to be made by making a confidential report to an MIPD supervisor, even if the situation occurred outside of Middleton. A supervisor receiving such a report shall immediately inform the appropriate local police agency or County Human Service agency and cause any MIPD report to be coded as access restricted.

Confidentiality

All reports made under this section and records maintained shall remain confidential and the identity of the reporter may not be disclosed, except as provided for by [48.981\(7\)](#). Confidential healthcare records obtained by police from a healthcare provider without informed consent pursuant to [146.82\(2\)\(a\)11](#) may not be disclosed, except to the persons, for the purposes and under the conditions specified in s. [48.981\(7\)](#).

Receiving Reports of Child Abuse or Neglect

Officers receiving reports of child abuse or neglect shall immediately investigate to determine if there is reason to believe that the health or safety of the child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child. In addition, officers shall conduct a thorough investigation to determine if a crime occurred, identify and apprehend the offender, and file criminal charges if appropriate.

Notifications

After gathering preliminary facts, the investigating officers shall notify the Shift Commander of all reported cases of child abuse or neglect. The Investigative Services Commander shall be notified of all serious incidents of child abuse or neglect. The purpose for these notifications is to insure adequate resources are utilized (additional officers, evidence technician, investigators), a determination is made as to whether a Safe Harbor interview should be considered, and statutorily required notifications and coordination takes place.

Dane County Human Services shall be notified (261-KIDS, 261-5437) as soon as practical, and in any case within 12 hours, of the following:

- A. All reported cases of suspected or threatened child abuse or neglect.
- B. Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.
- C. Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.

Investigation

Initial Investigation

The initial investigation is the point in time when officers are most likely to obtain truthful statements from those involved. When cases occur within a family, over time family members may change their stories to protect a suspect, or evidence may be altered. Lengthy or repeated interviews of a child victim should be avoided if possible, especially if a Safe Harbor Interview is contemplated, nonetheless, a first-hand disclosure by the child to a law enforcement officer is essential.

The investigation shall include interviews of the complainant, victim, any other witnesses and the suspect, when available, and the gathering of physical evidence. Officers must be objective and proactive in their investigations of abuse and neglect. Questions concerning who, what, where, when, how, and why must be answered. Information relating to the following factors should be sought:

- A. Description of circumstances that led to the lodging of a complaint;
- B. The physical condition of the child;
- C. A description of any abusive or neglectful behavior;
- D. Evidence of parental disabilities such as alcoholism, drug abuse, mental illness, or other factors that demonstrate or suggest parental inability to care for the child;
- E. Description of suspicious injuries or conditions;
- F. The nature of any statements made by the child concerning parental maltreatment;
- G. Description of the living environment and conditions with respect to cleanliness, disarray, temperature extremes, odors, condition of rooms, beds, floor, closets, etc.;
- H. Any evidence of parental indifference or inattention to the child's physical or emotional needs;

- I. Inquire about the history of abusive. Dates are important to set the timeline for when abuse may have occurred;
- J. Obtain information about what services, if any, are being received by the child or family;
- K. If medical treatment is indicated, the officer should attempt to obtain a signed informed consent to obtain medical records from a parent. Failing that, Wisconsin State Statute [146.82\(2\)\(a\)11](#) authorizes the police or district attorney to obtain confidential healthcare records without informed consent for purposes of investigation or prosecution of threatened or suspected child abuse or neglect or suspected unborn child abuse. These confidential healthcare records may not be further disclosed, except to the persons, for the purposes and under the conditions specified in s. [48.981\(7\)](#).
- L. [48.981\(3\)\(c\)1.b](#) provides that social workers and law enforcement officers are authorized to observe or interview a child at any location without permission from the child's parents ... if necessary to determine if the child is in need of protection or services, except that the person making the investigation may enter a child's dwelling only with permission from the child's parent ... or after obtaining a court order. However, the federal court has since ruled ([Heck](#)) that this statute is unconstitutional as applied to private property. The power of social workers and law enforcement officers to investigate claims of child abuse on private property; and in particular, private or parochial schools, is more limited than in public schools or on public property. To conduct an investigation in a private or parochial school, or on other private property, social workers and law enforcement officers need a court order, probable cause to believe the child has been abused or is in imminent danger of being abused, emergency circumstances, or consent.

Physical Evidence

Collecting physical evidence to document abuse is very important for prosecuting these cases. In this regard, officers should be aware of the following:

- A. A medical assessment of the child should be considered, in consultation with supervisors and DCHS. The primary purposes of the medical examination are to assess potential injury and identify the need for treatment. Such an examination will also protect law enforcement against accusations that a child's injuries occurred after removal from the home. A secondary purpose of a medical examination is to determine the presence of any corroborating evidence of acute or chronic trauma. Statements made to doctors by the child during the medical examination may be admissible in court as exceptions to the hearsay rule.
- B. If a sexual assault occurred, the medical examination should be performed as soon as possible to maximize the possibility of recovering certain forensic evidence, such as blood, semen, saliva, and trace evidence. If the assault occurred more than 72 hours before, the probability of this type of evidence being recovered is reduced. However, since the investigator cannot be absolutely sure when the last encounter was, it is prudent to schedule the medical examination sooner rather than later. A SANE nurse and/or physician should conduct the examination.
- C. Photographs of victim injuries should be taken and preserved for evidentiary purposes. All injuries should be described in writing and diagrammed.
- D. If appropriate, x-rays should be taken, collected, and preserved.

- E. Photographs of home conditions bearing on the child's maltreatment should be taken. Whenever possible, investigators should complete a videotaped walk-through of the scene.
- F. Any instruments that were used in the physical attack should be identified and preserved, as well as any clothing that bears evidence such as blood or semen stains.
- G. Any other items that have bearing on the abuse or neglect, such as guns, knives, belts, drugs, poisons, or related items in possession of the suspected perpetrator, should be identified and collected.
- H. In sexual abuse cases, investigators should consider obtaining a court order for nude photographs of the suspect, as well as pubic hair samples, and DNA swabs of the suspect's mouth and genitals. This type of evidence can be crucial in a case where the suspect denies any sexual contact with the victim. The photographs may disclose abnormalities, birthmarks, or tattoos that could corroborate a victim's account or exonerate a suspect. The pubic hair and DNA samples could likewise corroborate.

Investigative Services Follow-Up

Investigative Services is responsible for all cases of child abuse or neglect that require follow-up and will be involved in the initial investigation when determined by the ISB Commander or Operations Officer.

DCHS Coordination

The police department and DCHS will coordinate the planning and execution of child abuse or neglect investigations. Coordination is required by s. [48.981\(3\)\(a\)\(4\)](#) for abuse, as defined in s. [48.02 \(1\) \(b\)](#) to [\(f\)](#) (sexual intercourse, contact or exploitation of a child, prostitution, causing a child to view or listen to sexual activity, and exposing genitals or pubic area to a child).

Referrals to the District Attorney

If the department determines that criminal action is necessary, the department shall refer the case to the district attorney for criminal prosecution. The following kinds of cases shall be routinely referred to the district attorney for prosecution:

- A. Where there is probable cause to believe that an individual has committed a crime related to child abuse or neglect including physical abuse of a child, sexual abuse of a child, sexual exploitation of a child, incest, sexual exploitation of a child, trafficking of a child, causing a child to view or listen to sexual activity, causing mental harm to a child, child enticement, use of a computer to facilitate a child sex crime, prostitution, exposing genitals, exposing a child to harmful material, child pornography, or sexual assault by school staff person or volunteer.
- B. Where there is probable cause that a person responsible for a child's welfare facilitates or fails to take action to prevent abuse or neglect of a child, or the threatened abuse or neglect of a child.
- C. The ISB Commander is responsible for determining whether there is sufficient evidence to submit a case to the District Attorney and may consult with the District Attorney's Office when making that determination.
- D. This section is not intended to override cases where the investigation determines that only lawful, reasonable, age-appropriate parental discipline occurred.

Protective Custody

The preferred means of removing a child from the home is by court order. However, in cases of abandonment, severe abuse, or neglect where the child is in imminent danger of death or serious bodily harm and time is of the essence, an officer shall, in compliance with state law, remove the child from the home for purposes of protective custody. The assistance of DCHS should be sought if available in a timely manner. Parental permission should also be sought but is not required in order to remove the child under emergency circumstances. The child shall be taken into custody if the investigating officer has reason to believe:

- A. There is a court order.
- B. The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary, or
- C. **the child is an expectant mother** and there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered due to the child expectant mother's habitual lack of self-control in the use of alcohol beverages, controlled substances, exhibited to a severe degree, unless the child expectant mother is taken into custody, or
- D. There is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered due to the **adult expectant mother's** habitual lack of self-control in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree, unless the adult expectant mother is taken into custody.

If the investigation officer has reason to take a child into custody under this section, the investigating officer shall take the child into custody and deliver the child to the intake worker under s. [48.20](#), as required by [48.981\(3\)\(b\)2](#). If the investigating officer has reason to take the adult expectant mother of an unborn child into custody, the investigating officer shall take the adult expectant mother into custody and deliver the adult expectant mother to the intake worker under s. [48.203](#), as required by [48.981\(3\)\(b\)2m](#).

Safe Harbor Interviews

Children involved in abuse or neglect situations which are likely to result in Juvenile Court or Criminal Court proceedings may be interviewed at Safe Harbor. Decisions about Safe Harbor use are jointly made by Human Service social workers and law enforcement officers.

Safe Harbor interviews are videotaped for future Court-related use. A trained social worker or police officer conducts the interview. Others (including a district attorney) participate from another room. (Parents do not participate in or witness the interview.) Safe Harbor interviews accomplish several goals. First, children are interviewed once only; the trauma of repeat interviews is avoided (as the first interview is recorded for parties to review). Second, all systems parties have input into the one interview; the interview is superior as a result. Finally, the interview is conducted in a neutral and user-friendly place.

Safe Harbor interviews should bring about fewer trials (as maltreaters will more frequently plead to charges), more successful prosecutions in instances when Court proceedings do take place, and fewer (or no) Court appearances for children when proceedings take place.

These guidelines are to assist law enforcement officers and social workers in identifying cases in which a Safe Harbor (SH) interview of a child is admissible as evidence and should be pursued. Like all guidelines, these capture some, but not all such cases. The easiest way to determine whether a SH interview should be pursued is to ask yourself, “Will the child have to testify?” If your answer to that question is “probably”, then a Safe Harbor interview is a good idea. Always confer with others before you rule out Safe Harbor as an option.

When A Safe Harbor Interview Is Strongly Indicated

- Cases of physical or sexual abuse in which the child victim has not attained the age of 12 years.
- Cases of physical or sexual abuse in which the child victim has not attained the age of 16 years, and the alleged perpetrator is a member of the child’s immediate or extended family, or is in a familial role.
- Cases of physical or sexual abuse in which the child victim is 12-15 years old, AND any of the following are present:
 - The child is developmentally delayed
 - The child’s mental or physical health is impaired
 - The child is traumatized by the event
 - The child has manifested behavioral or psychological changes caused by the abuse
 - The child is a reluctant reporter
 - The child lacks familial support
 - The child has had a close or long-term relationship with the alleged perpetrator
 - The child blames him/herself
 - The child has been threatened about reporting
 - Force or coercion was used during sexual assault
 - Drugs or alcohol were provided by perpetrator to induce compliance

When A Safe Harbor Interview Should Be Considered

- Any other crime with child victim who is not yet 16
- Cases of incest in which the child victim is 16 or older
- Serious crimes that a child witnessed
- Cases involving the cognitively disabled victim 16 or older
- A minimally verbal child victim of physical abuse

Department Procedures when safe harbor will be used

If you have a case that falls under the guidelines (supra) the following should be done:

- Limit your interview of the child to the very basic facts, if you can get these facts from a parent or guardian instead, do so. A disclosure is all we need.
- Contact Dane County Human Services. After 4:30 PM, the on call Social Worker can be reached by calling 261-KIDS, 261-5437.
- Contact the ISB Commander or Officer in Charge. The ISB Commander or OIC will determine if a Detective will respond to the scene. The ISB Commander or OIC will facilitate Safe Harbor Interview arrangements.
- Conduct necessary interviews of witnesses.
- Photograph and collect physical evidence at the scene. In cases of Sexual Assault, a SANE Exam should be done if evidence can still be found. With young children evidence can be found for a longer period of time than with adults. SANE nurses are on call through Meriter Hospital at (267-6000).
- Obtain as much suspect information as possible.
- Inform the parent or guardian that this matter will be reviewed for a possible Safe Harbor Interview. Arrangements will be made when it is determined that Safe Harbor can be used.

In cases where a child is either unable to speak or unwilling to speak about the incident, or if a more urgent response by Human Services or a Detective is needed, Safe Harbor may not be appropriate.