

Departmental Instruction



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GUIDELINES

REPORTING ALLEGATIONS OF PHYSICAL OR SEXUAL ASSAULT TO THE POLICE

If the client is in the care of the Department of Community Services, that is, they reside in a CSV Training Centre, a Government managed residential program or Government managed residential unit **ALL** allegations of physical and sexual assault **MUST** be reported to the Police. This will be the procedure even if the client does not consent to the matter being reported. The client may choose not to pursue the matter upon questioning by the Police.

If the client is not in the care of the department and is able to make an informed decision then an allegation of physical or sexual assault will not be reported to the Police against their express wishes.

1. REPORTING THE ALLEGATION

1.1 *Reporting the Allegation to the Police*

- 1.1.1 The responsibility for reporting allegations to the Police lies with the worker who is first made aware of the allegation.
- 1.1.2 The call to the Police may be made by any individual however the original worker must be available to assist the Police with any investigation and provide further information.
- 1.1.3 During the course of any conversation in which a client indicates any allegations of physical or sexual assault, whether the client be the offender or victim, the worker must warn the client that the allegations will be reported to the Police.

1.1.4 The worker may become aware of an incident if:

- * a client states that a criminal incident has occurred
- * the staff member is a witness to an incident
- * the staff member suspects an incident has occurred eg. the client may be distressed with bruising, clothes may have been ripped etc.
- * the staff member has been the victim of a criminal action by a client.

1.2 **Reporting Internally**

1.2.1 After reporting the allegations to the Police a verbal report must be given to the immediate supervisor and Manager or Officer in Charge.

1.2.2 All incidents involving reports to the Police reports are Category 1 Incidents.

1.2.3 The Manager or Officer in Charge will complete a Serious Incident Report (**Departmental Instruction DI/91/1**) Category 1 and notify the Regional Director and forward the report.

1.2.4 The Regional Director will advise the appropriate General Manger by phone and forward a copy of the Serious Incident Report and briefing.

1.2.5 A copy of the Serious Incident Report must be attached to the Incident Report File located in Training Centre Administration Offices and Regional Teams and be cross referenced to the client file. The Serious Incident Report must include the following details:

- * the nature of the allegation
- * time and date allegations were made
- * who made the initial allegations and how
- * details of the allegations, including names of any witnesses
- * time, date, name of Police officer, and station where report was made
- * the report must be dated, (with time) and signed by the person who has written the report and by the Regional Director.

1.2.6 Other information must also be recorded on to the client file including:-

- * whether or not the client wished to talk to the police
- * the clients physical and emotional condition
- * the action taken with regard to the clients condition ie was a Doctor called, time, date, name, report written and attached to clients file
- * whether or not the client wished to notify the parents.
- * time and date of notification to the parents/guardian, and the name of the person who notified the parents/guardians.

2. THE CLIENT IS THE ALLEGED VICTIM

2.1 *Informing the Client*

2.1.1 The following information must be provided to the client to assist the client to make informed decisions.

- * The matter will be or already has been reported to the Police.
- * The client can choose whether or not they wish to also report the matter to the Police.
- * The Police will want to interview the client and take a statement. It is the client's choice whether or not to talk to the Police. If the client chooses to participate in an interview, as either a witness, victim or alleged offender, he/she will be able to have an Independent Third Person (ITP) present during the interview.
- * That the Police will investigate the incident.
- * The Police will decide whether or not to proceed with charging.
- * If the matter is taken to court, the client will most likely be required to take the stand and to tell the court exactly what happened.
- * That part of the court process will include the counsel for the defence asking the client questions regarding the incident.

2.1.2 Staff should consider having an advocate present during these initial steps to assist the client make a decision and to ensure the client does not feel pressured to act in a particular way.

2.2 Seek Appropriate Medical Assistance

- 2.2.1 Assist the client and the Police by requesting that the Police contact the Office of Forensic Medicine (03) 667 1911 to provide a Forensic Physician. The Forensic Physician is available 24 hours, and free of charge to examine clients. This special unit has expertise in assessing the causative factors relating to physical and sexual injuries. However it is essential that they be informed as soon as possible. Only the Police can contact this service.
- 2.2.2 The client should be referred to the appropriate counselling service for support and post trauma counselling if this is felt to be in the best interest of the client and the client consents. ***The Centre Against Sexual Assault (CASA House) 344 2210, Monash Medical Centre 550 2289, see Attachment 1 for places to help sexual assault victims.***

2.3 Other Actions

- 2.3.1 Ensure that the Police take photographs of any physical injuries. This is part of the investigation process. The Police may need the workers assistance to explain this procedure to the client.
- 2.3.2 Seek advice from the ***CSV Legislation and Legal Service 4126520*** on Crimes Compensation. The incident must have been reported to the Police before Crimes Compensation application will be accepted.

3. THE CLIENT REPORTING TO THE POLICE

3.1 The Client Does Not Want to Talk to the Police

- 3.1.1 The Manager and an immediate supervisor must be notified of the report to the Police and the client's wish not to participate.
- 3.1.2 The Manager should arrange an advocate or contact one of the sexual assault centres (CASA) to provide independent support and counselling for the client.

3.2 The Client is Unable to Communicate with the Police

- 3.2.1 Arrange for an advocate from the ***Office of the Public Advocate (03 660 1444)*** for the client prior to the Police

Interview. Clients who are unable to communicate are particularly vulnerable within the Criminal Justice System. It is essential that all precautions are taken to protect the client and his/her interests.

3.2.2 In order to ensure fundamental rights such as a medical examination or Police involvement, if the client is unable to communicate in an accepted communication method and they are over 18 years old, it will be necessary to apply for a Guardianship order. ***The Guardianship and Administration Board is available on a 24 hour basis on 03 660 1444.*** If the client already has an appointed guardian ensure they have been notified.

3.3 ***The Client uses an Alternative form of Communication***

3.3.1 Many forms of alternative communication such as the use of symbols, signs or facilitated communication are not generally accepted in the Criminal Justice System. To ensure that fundamental rights such as a medical examination or Police are accessible, it will be necessary to apply for a Guardianship order for clients who are over 18 years of age. ***The Guardianship and Administration Board is available on a 24 hour basis on 03 660 1444.*** If the client already has an appointed guardian ensure they have been notified of the Police report.

3.3.2 Arrange for a person who is familiar with and able to use the communication technique of the clients choice and who is independent of the allegations is present along with an advocate from the Office of the Public Advocate to assist the client decide whether or not they wish to speak with the Police. The Office of the Public Advocate can also assist in locating an independent communication assistant.

3.3.3 Ensure the communication assistant is available to assist the client during the Police interview and will be available to provide future assistance.

3.3.4 It would be in the best long term interests of the client for the communication assistant to be independent of the enquiry and not a member of staff, or a have any prior knowledge of the client.

4. NOTIFICATION TO RELATIVES AND GUARDIANS

4.1 *The Client is Under 18 Years*

- 4.1.1 The Manager must ensure the parent/guardian is contacted and explain the allegation, the standard procedure of reporting allegations to the Police, the clients choice of whether or not they are going to talk to the Police, and any further action that has been taken by staff as soon as possible after the report.
- 4.1.2 The parent/guardian should be asked if they want to participate in the interview procedures and further action they want taken.

4.2 *The Client is a Ward*

- 4.2.1 The Manager or person delegated to be the contact must contact the client's allocated case manager and explain the allegation, the standard procedure of reporting allegations to the Police, the clients choice of whether or not they are going to talk to the Police, and any further action that has been taken by staff as soon as possible after the report.
- 4.2.2 The caseworker should be asked if they want to participate in the interview procedures and further action they want taken.

4.3 *Notification to Parents/Close Family Members When the Client is Over 18 Years*

- 4.3.1 It is the clients's decision whether or not they wish to inform their parents/close family members of the allegations.
- 4.3.2 If the client chooses to notify parents/close family members every attempt should be made to assist the client to make contact.
- 4.3.3 If the client is unable to make an informed decision regarding contact and the client does not have an appointed guardian, the Manager or delegate will make the decision on behalf of the client in his/her best interest.

4.4 ***The Client Has a Guardian***

- 4.4.1 The Manager (or person delegated to contact the guardian e.g the case worker) must ensure the guardian is contacted as soon as possible after the report to the Police, to explain the allegation, the standard procedure of reporting allegations to the Police, the clients choice of whether or not they are going to talk to the Police, and any further action that has been taken by staff.
- 4.4.2 The guardian should be asked if they want to participate in the interview procedures and further action they want taken.

5. **THE CLIENT AND THE ALLEGED PERPETRATOR RESIDE IN THE SAME HOUSE, UNIT OR RESIDENTIAL FACILITY.**

- 5.1 After reporting to the Police every attempt must be made to prevent any further contact between the alleged victim and the alleged perpetrator. The alleged victim must feel safe.
- 5.2 Great care and thought must be given to the relocation of either the alleged victim or the alleged perpetrator. In principle, the alleged perpetrator should be moved from the facility while an investigation is undertaken. However circumstances will differ and it may be more positive to move the alleged victim. In deciding who must be moved consideration must be given to the length of time the alleged victim has been residing in the facility, how he/she feels about the facility and whether or not the he/she wants to remain or move from the facility. All actions must be taken in the best interests of the alleged victim.

6. **THE CLIENT IS THE ALLEGED PERPETRATOR**

- 6.1 Assist the Police to arrange for an Independent Third Person to be present when the client is interviewed by the Police. The names and phone numbers of trained Independent Third Persons living in the area are available from D24 or Police Regional Headquarters.
- 6.2 For serious indicatable offences such as rape or murder the ***Office of the Public Advocate (03) 660-1444*** should also be contacted.

- 6.3 Contact the case worker who will ensure the client has legal representation and is assisted during the hearing. If the client is pleading guilty he/she is able to have a Justice Plan prepared that will recommend services to reduce the likelihood of re-offending.

7. THE ALLEGED PERPETRATOR IS A STAFF MEMBER

- 7.1 After reporting to the Police, the Manager must be notified immediately. The Manager must then notify the Regional Director, who will prepare a briefing for the General Manager.
- 7.2 Refer to Section 16 in the Discipline Procedures Manual, April 1991 for further information on action to be taken in this situation. The rights and care of the client are the paramount concern in any matter.
- 7.3 The General Manager will determine the action to be taken while the Police investigate the matter.
- 7.4 Refer to The Discipline Procedures Manual regarding the notification to the staff member of the pending investigation and the procedures of an investigation.

8. A STAFF MEMBER IS THE ALLEGED VICTIM OF A PHYSICAL OR SEXUAL ASSAULT BY A CLIENT

- 8.1 The Manager must be notified immediately and must report the incident to the Police.
- 8.2 It is the alleged victim's choice to talk with the Police.
- 8.3 The Manager must investigate the incident and follow incident reporting procedures.
- 8.4 The Manager must ensure that the staff member has access to medical attention, debriefing services and that a safe working environment is maintained. It is essential that the alleged victim is given maximum support and assistance.
- 8.5 After a serious and traumatic incident there will be high level of stress felt by all connected with the incident. Support is available through the **CSV Debriefing Service**. The CSV Regional Director is responsible for authorising the use of the service. When the service has been authorised contact the Clinical Director of the

Service by pager. He will advise on the necessity or otherwise of activating the Service. ***Call Telecom Pager Operator 016 030, give the number of the pager, 016 388410, then give your own telephone.*** The Director will return the call as soon as he is able, however there may be a delay of up to two hours.

SUMMARY:

1. Report allegations of physical or sexual assault to the Police.
2. Seek appropriate medical assistance.
3. Report to Management via the Incident reporting Procedures.



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