

1200 VIDEOTAPING OR AUDIO TAPING INTERVIEWS IN PUBLIC PLACES (PURSUANT TO RSA 169-C:38, V)

Chapter: **Child Protective Field Services**

Section: **CPS Family Assessments**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **08-03**

Effective Date: **May 2008**

Scheduled Review Date:

Approved:

Handwritten signature of Maggie Bishop in black ink.

Maggie Bishop, Director

Related Statute(s): **[RSA 169-C](#), and [RSA 170-G](#)**

Related Admin Rule(s):

Related Federal Regulation(s):

Related Form(s): **FORM 2218 and FORM 2257**

Bridges' Screen(s) and Attachment(s):

Purpose

To describe the process and requirements of assessing referrals of child abuse and neglect. The primary goal of the assessment process is to ensure the safety of the child(ren).

Definitions

"In its Entirety" means the interview is fully recorded and includes the introductions of participants, any explanations for interruptions, and closure of the interview with the child.

"Person Assisting the Child" means a teacher, guidance counselor, childcare worker, police officer, or other individual with whom the child is familiar.

"Public Place" means DHHS/DCYF offices, police stations, schools, childcare agencies, libraries, and other buildings that are accessible to the general public.

Policy

- I. The initial assessment of abuse and neglect strives to assess and secure the immediate safety of the child or children.
- II. While it is always preferable to obtain the parents' consent before seeing a child, there may be situations when notification or consent is inadvisable. Prior notification is not advisable or required when child sexual and/or severe physical abuse has occurred in the home and the person alleged to be responsible for the abuse or neglect is a member of the household, relative, or friend of the family who has continued access to the child or children. The Supervisor's prior approval is required in these situations.
- III. Supervisory approval and documentation is required if the CPSW believes there to be another legitimate reason not to notify the parent prior to interviewing. The CPSW must document in Bridges contact log the reasons for not notifying the parent prior to the interview.
- IV. Law enforcement must be consulted in all cases of sexual or severe physical injury. Joint interviews must be conducted to assure that the child is not interviewed more than absolutely necessary. RSA 169-C: 38 II.
- V. There may also be a benefit to using a multidisciplinary child protection team. A multidisciplinary child protection team members may include licensed physical and mental health practitioners,

educators, law enforcement, representatives from child advocacy centers and others as necessary to assist with the assessment of the report of abuse and/or neglect.

- VI. It is preferable to interview the child in a neutral setting that provides privacy and no outward or inward stimuli or cause for interruption. However, there may be no opportunity in an emergency situation to have all of these elements in place.
- VII. Taping Requirements
 - A. The recording equipment, including the camera, tripod, lights, or the tape recorder, must be in operating order.
 - B. A new tape must be used for each assessment.
 - C. If possible, one tape is to be used to record all interviews of the assessment. Space on the tape must be left between each interview.
 - D. Tapes must be labeled with the Bridges referral number and include each person's full name in the sequence the individuals are recorded, the date and location of each interview, and the name of the CPSW.
 - E. Whenever possible, the tape's counter number must be noted on the label to identify at what place on the tape each person is speaking.
- VIII. Prior to meeting with the child, the CPSW must ensure that:
 - A. As much knowledge about the child, family, and alleged incident as possible is known, specifically, the child's age, verbal skills, developmental level, and appropriate vocabulary for his or her age. If the allegation is sexual abuse, the CPSW must know if there have been any prior reports and what names of body parts the child used in any earlier interviews;
 - B. A determination is made as to the interview site;
 - C. Arrangements have been made with officials of the public building, office, or agency;
 - D. If the interview is to take place at the school, arrangements have been made with the principal or designee to assure that there is a non-threatening, private, quiet place to meet that is free from interruptions; and
 - E. Arrangements have been made to have a supportive person available to introduce the child to the CPSW.
- IX. Interviewing Requirements
 - A. It is preferable, if a joint investigation is not being conducted with law enforcement, that only the child and the CPSW are present in the interview. If the child's comfort depends on another person being present in the room during the interview, the CPSW must impress on the person the importance of not interfering with the interview. Any persons observing the interview must remain silent. Observers in the room must be seated out of the sight of the child, when possible. Observers must be advised that they may hear information that could elicit a non-verbal reaction, and it is essential they show no reaction at all as it could interrupt or influence the interview. Observers should also be informed that they might be asked to testify in court.

- B. Taping equipment must be set up and running prior to the child's introduction to the CPSW, so the interview is recorded in its entirety.
 - C. Video equipment is to be set up so the camera can record both the child and the CPSW, whenever possible.
- X. Meeting with the Child
- A. Taping equipment must be in working order and "on" when the person assisting the child introduces the child to the CPSW. The CPSW must document pertinent information such as the date, time, victim's name, CPSW name, location, interview date, etc.
 - B. The CPSW must explain his or her role and the need for the taping equipment.
 - C. The CPSW needs to try to put the child at ease and assure the child that he or she is not in trouble or responsible for what has happened or what has been reported.
 - D. Questions and discussions are to be in simple language appropriate for the child's age and/or developmental level. The CPSW must not assume to know what a child means by the use of a particular word. Always ask, if the meaning is not obvious. Make certain that words and concepts used are ones that the child understands.
 - E. The CPSW must show respect for the child's parents and other family members at all times and recognize and support the importance of the parents to the child.
 - F. Questions must be non-leading and open-ended. The child must not be pressed for answers or details. Drawings may be used to clarify what the child uses as names for body parts or to allow the child to describe alleged incidents.
 - G. The CPSW must be aware of his or her own reactions to a child's disclosure of abuse.
 - H. Alleged injuries must be observed and documented, in writing and by photo-documentation, pursuant to RSA 169-C: 33. If it is necessary for the child to remove his or her clothing, this procedure is to be requested in a non-threatening, comforting manner. A third party needs to witness the removal of clothing. It is preferable to have any and all injuries observed and documented by medical personnel, doctor or nurse, or school nurse, as well as the CPSW. Documentation may be made by the use of videotape and still camera.
 - I. The interview with the child in its entirety must include a discussion of what will happen next, how the information will be presented to the parents, when and how the CPSW will use the information, and who will see or hear the tape. The CPSW must avoid making any promises to the child.
 - J. When the child has been interviewed without parental consent, the CPSW must inform the child that the parent or guardian will be notified, if possible, the same day that the interview has taken place.
 - K. Any interruption in the interview must be discussed on the tape and the resumption must also be explained on tape. Off tape discussion must not be held between CPSW and the child.

- L. If the child or parent refuses to be taped, the CPSW must explore his or her reasons, e.g., the child may have been videotaped performing acts of a sexual nature, and discuss those reasons with the child. If the child still refuses to be videotaped, the CPSW must audiotape the interview. If both methods are refused, the CPSW must document the reasons the child refused to be taped. The interview must then be terminated. The CPSW must continue with the assessment, attempting to contact collaterals and witnesses and obtaining more information to determine the child's safety. Continuing with the assessment could include filing a petition in court.

XI. Needs of the Child

- A. The CPSW must always be aware of the child's physical needs and capabilities, such as, attention span, nutritional requirements, and body functions. For example, do not try and conduct the interview with a young child when they would usually nap or when it is time to eat.
- B. The child may be allowed to draw, play with a toy, or move about the room while the interview occurs.
- C. The CPSW must always keep in mind that this is a fact-finding interview not a therapeutic one, yet that does not mean the assessment interview needs to be a traumatic experience. Before ending an interview, the CPSW needs to bring the child back to a place of safety, e.g., talk about a subject regarding school, who is a favorite teacher, or what is planned for the rest of the day.

XII. Notification of Parents

- A. The CPSW must notify the parents or guardians of the alleged victim child about the interview and that the interview was audio or videotaped. The CPSW must explain to the parents or guardians that NH law, RSA 169-C: 38 IV allows the CPSW to interview the alleged child victim without the consent of the parents and requires the interview to be recorded.
- B. Some circumstances may warrant that the CPSW not immediately notify the parents about the interview. For example, the parents may be the alleged abusers or neglecters and there is concern for the safety of the child. If the parents are not notified as soon as practicable, then the CPSW must document the reasons in the narrative.
- C. At the initial contact with the individual subject to a child abuse and neglect assessment the CPSW must:
 - 1. Advise the individual of the complaints or allegations made against them in a manner that is consistent with state law which protects the identity of the person who made the referral (RSA 170-G:8-a); and
 - 2. Provide the individual(s) with a copy of the Family Rights Brochure (Form 2257) and the Assessment Brochure (Form 2218).
- D. The individual must sign both sections of Form 2257. The CPSW leaves the brochure with the individual and takes the signed tear off section, which is to be stapled to the case file inside cover. If the person refuses to sign the brochure the CPSW shall document in Bridges Contact Log their efforts to give the brochure to the individual and to have the individual sign it.

XIII. Access to, Copying and Removal of Videotapes

- A. Access to videotape shall be provided at the conclusion of the assessment and upon request to those who are entitled to view it under RSA 170-G: 8-a II (a). Upon receipt of an appropriate request, the District Office Supervisor or designee shall, in conjunction with the CPSW, make arrangements for the videotape to be viewed at the District Office during normal business hours. Except as required by court order, or as provided for below, videotapes shall not be copied.
- B. A copy of videotape in an unfounded case may be provided to the parent(s) of a child named in the case record, where the Commissioner or designee has determined that the potential harm to the child from providing the parent(s) with a copy of the videotape is outweighed by the need for disclosure. In assessing the potential harm to the child from providing a copy of the videotape to the parent(s), the Commissioner or designee shall consider the parent's assurances that they will protect the child from such harm. Those assurances should include, but are not limited to, the following:
 - 1. The parent(s) will not make additional copies of the videotape;
 - 2. The videotape will not be shown to the child;
 - 3. The videotape will be returned or destroyed at the end of a specified period; and,
 - 4. The videotape will not be shown to or viewed by others.
- C. A copy of videotape may be provided to law enforcement that is participating with the Division in a joint investigation regarding allegations of the abuse or neglect of a child.
- D. Only the CPSW assigned to the case, the CPSW's Supervisor or a DCYF attorney may remove videotapes from the District Office.

XIV. Storage of Tapes

- A. All tapes are to be stored in cabinets provided for video and audio storage. Cabinets must be locked, if possible.
- B. Video or audio equipment must be maintained in the District Office in a convenient, secure location in the storage cabinet that has been provided for the protection of the equipment.
- C. Video or audio equipment must not be left in a motor vehicle, because extreme temperatures can permanently damage the video and audio equipment.

XV. Reuse of Audio or Videotapes

- A. Audio or videotapes must never be reused. This would potentially compromise the tape by having the earlier interview possibly "bleed through" on the next interview. It would also pose a privacy protection issue by having confidential tapes available for further use.

XVI. Destruction of Used Tapes

- A. Once the time has passed for retaining the case record, depending on the disposition of the investigation, the audio or videotape must be destroyed. A tape eraser box is provided for tapes to be erased.
- B. Once erased, the tape cassettes must be broken and the tape cut to ensure the complete destruction of confidential information on the tape.