

Videotaping of Child Abuse and/or Neglect Victims

Rhode Island Department of Children, Youth and Families

Policy: 1100.0035

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DCYF recognizes that a victim of child abuse and neglect differs significantly in his/her ability to cope with the stress and trauma of repeated questioning and extensive courtroom testimony. This is especially true of a sexual abuse victim. The Department has, therefore, instituted a procedure through which interviews or statements of those children who otherwise would risk additional emotional harm, can be recorded on videotape. The twofold intent of the Department in videotaping a child is to avoid unnecessary and/or repetitive interviews and, when possible, to use the videotape in lieu of at least a portion of the child's direct testimony in Family Court. Although the victim of sexual abuse will be the primary focus, videotapes, as necessary, will be made of any victim of child abuse or neglect. To be most effective, videotapes should be recorded at the earliest possible point in the Department's intervention.

The process for videotaping a child witness is now coordinated through the Rhode Island Children's Advocacy Center. The DCYF Chief Legal Counsel has primary responsibility to determine the Department's involvement in the videotaping process. If a worker contemplates the necessity for preserving testimony of a child by use of videotape, a legal consult must be requested immediately. The protocol designed by the Rhode Island Children's Advocacy Center shall be followed.

Several 1984-1985 legislative amendments to the general laws of the state (RIGL 11-37-13.1, 11-37-13.2, 14-1-68, and 40-11-7.2) make it possible to introduce into evidence videotaped interviews or statements (in some instances closed circuit televised testimony is permitted) of victims of child abuse and neglect in select civil and criminal court proceedings. While each amendment deals with a particular civil or criminal court proceeding, two (2) deal specifically with proceedings in Family Court (RIGL 14-1-68 and 40-11-7.2). If all specified prerequisites have been met, including having the child available for cross examination, each amendment allows for the introduction into evidence of videotaped interviews or statements recorded by the Department, law enforcement officers, and hospitals. Whenever possible, all efforts shall be made to coordinate such videotaping through the Department. However, whether the videotape is filmed by the Department or by someone else, it shall be the decision of the DCYF Chief Legal Counsel whether or not to introduce it into evidence in a Family Court proceeding in which the Department is the petitioner.

RIGL 11-37-13.1 and 11-37-13.2 each allow for the videotaped or closed circuit televised testimony of a child victim of sexual assault, recorded within prescribed guidelines by the Office of the Attorney General or at the direction of a presiding justice, to be introduced into evidence at a Grand Jury or at some other criminal court proceeding against the accused perpetrator. At times, a child under the jurisdiction of the Department may be

~~asked or required to participate in such proceedings. While it is the overall intent of the Department to cooperate in such matters, the assigned Child Protective~~

~~Investigator/primary service worker must seek direction from the Chief Legal Counsel or his/her designee before allowing any child to be videotaped or otherwise recorded.~~

~~Related Procedure...~~

~~Videotaping of Child Abuse and/or Neglect Victims~~

Videotaping of Child Abuse and/or Neglect Victims

Procedure From Policy 1100.0035: Videotaping of Child Abuse and/or Neglect Victims

- A. Interviews or statements and videotapes of certain victims of child abuse or neglect shall be coordinated through the Rhode Island Children's Advocacy Center:
1. The Chief Legal Counsel has primary responsibility to determine the Department's involvement in the videotaping:
 - a. Although any victim of child abuse or neglect can be videotaped, victims of sexual abuse shall be the primary focus.
 - b. Emphasis will be placed on those children who would risk additional emotional harm if required to undergo repeated questioning and/or extensive courtroom testimony.
 - c. Other factors to consider include: the child's age, the child's present emotional state, the seriousness and/or extent of the alleged abuse or neglect, the child's ability to clearly relate the facts if pressured and the child's ability to clearly distinguish between lies and truth.
 2. The Interview Protocol for the Rhode Island Children's Advocacy Center provides that:
 - a. A team, meeting at the Rhode Island Children's Advocacy Center, consisting of a police investigator, a DCFY representative, a victim witness representative and a prosecutor, will be present to monitor the interview of the child.
 - b. Prior to the interview the team, outside the presence of the child, will exchange information and decide who should conduct the interview.
 - c. The caretaker of the child would then join the meeting and the person selected to conduct the interview will explain the nature of the interview and get additional disclosures, what child has been told about the interview, language to be used, and how to help the child through the process.
 - d. It is the policy of the Rhode Island Children's Advocacy Center that the caretaker may not be present during the interview.
 - e. The child will meet with the interviewer for rapport building, and the interviewer will decide whether the child will be able to disclose that day. If so, the interviewer will elicit a brief summary from the child. At that point, the prosecutor will decide whether the interview should be videotaped, and, if so, tell the child that the camera is being turned on.
- B. Before the video can be used in any court proceeding, the child's competency must be demonstrated, i.e. that child understands importance of telling truth and what this means.

- C. ~~Where possible, the videotape shall be used in lieu of all or at least a portion of the child's direct testimony in court. Two (2) 1984-1985 legislative amendments to the general laws of the state (RIGL 14-1-68 and 40-11-7.2) make it possible to introduce into evidence in Family Court proceedings videotaped interviews or statements of child abuse or neglect victims which were recorded by the Department, law enforcement officers, or hospitals:~~
1. ~~Before a videotape can be introduced into evidence in Family Court, the Court must determine the following:~~
 - a. ~~The statement is sworn to under oath by the child, and the significance of the oath is explained to the child.~~
 - b. ~~The recording is both visual and aural and is recorded on film or videotape or by other electronic means.~~
 - c. ~~The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered.~~
 - d. ~~Every voice on the recording is identified.~~
 - e. ~~The statement was not made in response to questioning calculated to lead the child to make a particular statement.~~
 - f. ~~The person conducting the interview of the child is available to testify at any court proceeding.~~
 - g. ~~The child shall be available to testify at any court proceeding.~~
 2. ~~The videotape may be admissible in any Family Court proceeding, even if statements contained within are objected to as hearsay, as long as the value of its contents outweighs any unfair prejudice against the parents, guardians, or others responsible for the child's welfare as determined by the presiding Family Court Judge.~~
- D. ~~Two legislative amendments (RIGL 11-37-13.1 and 11-37-13.2) allow for the videotaped or closed circuit televised testimony of a certain child victims of sexual assault, recorded within prescribed guidelines by the Office of the Attorney General or at the direction of a presiding justice, to be introduced into evidence at a Grand Jury or at some other criminal court proceeding against the accused perpetrator. If the child is under the jurisdiction of the Department, the following procedure shall be followed:~~
1. ~~The Department shall make every effort to comply with such requests when in the best interest of the child.~~
 2. ~~The assigned Child Protective Investigator/primary service worker shall immediately consult with the Chief Legal Counsel upon receipt of such requests.~~
 3. ~~It is the responsibility of the Chief Legal Counsel or his/her designee to decide on exactly how the Department will respond to each request.~~

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TITLE 214 - DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

CHAPTER XXX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

SUBCHAPTER XX - OLD REGULATIONS WHICH WERE NOT ASSIGNED

CHAPTER-SUBCHAP-PART

PART 1097 - VIDEOTAPING OF CHILD ABUSE AND/OR NEGLECTED VICTIMS

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Agency Signature

Agency Head Signature

Agency Signing Date

Department of State

Regulation Effective Date

Department of State Initials

Department of State Date