Adult Abuse

313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Fargo Police Department members as required by law.

313.1.1 DEFINITIONS

Definitions related to this policy include:

Adult abuse - Any offense or attempted offense involving violence, neglect or financial exploitation of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (N.D.C.C. § 50-25.2-03).

313.2 POLICY

The Fargo Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

313.3 MANDATORY NOTIFICATION

Members of the Fargo Police Department shall notify the North Dakota Department of Health and Human Services or other designated agency when they have knowledge that a vulnerable adult has been subjected to abuse or neglect, or when they observe a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect when the knowledge is derived from information received in their official capacity (N.D.C.C. § 50-25.2-03).

For purposes of this notification, a vulnerable adult is an adult (including a minor emancipated by marriage) with a substantial mental or functional impairment (N.D.C.C. § 50-25.2-01). Abuse is any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult (N.D.C.C. § 50-25.2-01).

Officers investigating any allegation of abuse or neglect of a vulnerable adult that requires immediate steps to protect the person, such as removing them from their environment, shall notify the North Dakota Department of Health and Human Services of the steps taken (N.D.C.C. § 50-25.2-05).

313.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows:

(a) Notification to the North Dakota Department of Health and Human Services or other designated agency should be made immediately, either orally or in writing (N.D.C.C. § 50-25.2-03).

(b) A member shall, if known, include all of the following in a notification (N.D.C.C. § 50-25.2-03):

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1. The name, age, and residence address of the alleged vulnerable adult.
2. The name and residence address of the caregiver, if any.
3. The nature and extent of the alleged abuse or neglect or the conditions and circumstances that would reasonably be expected to result in abuse or neglect.
4. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect.
5. Any other information that may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.

313.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to adult abuse investigations.

(c) Present all cases of alleged adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

313.5 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

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(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

313.6 PROTECTIVE CUSTODY

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for themselves, the officer should make reasonable attempts to contact the North Dakota Department of Health and Human Services or another designated agency. Generally, removal of an adult abuse victim from the victim's family, guardian, or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from the victim's family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to the North Dakota Department of Health and Human Services or another designated agency.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult abuse victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult (N.D.C.C. § 50-25.2-07).

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When

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practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

313.7.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without the adult's consent or the consent of a guardian unless one of the following applies:

(a) The adult cannot adequately provide for the adult's own care or protection and exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the adult need to be addressed immediately.
2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.

(b) A court order or warrant has been issued.

313.8 MEDICAL EXAMINATIONS

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult’s transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

313.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

313.9.1 SUPERVISOR RESPONSIBILITIES

The Investigation Division Supervisor should:

(a) Work with professionals from the appropriate agencies, including the North Dakota Department of Health and Human Services or another designated agency, other law enforcement agencies, medical service providers, and local prosecutors to develop community specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

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(b) Activate any available interagency response when an officer notifies the Investigation Division Supervisor that the officer has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social, and other conditions that may affect the adult.

313.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives there should:

(a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Investigation Division Supervisor so an interagency response can begin.

313.10 RELEASE OF REPORTS

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (N.D.C.C. § 50-25.2-12).

313.11 TRAINING

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

(c) Availability of therapy services for adults and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to adult abuse investigations.

(f) Availability of victim advocates or other support.

(g) Other training as may be provided by the North Dakota Department of Health and Human Services (N.D.C.C. § 50-25.2-13).

313.12 REVISION DATE 07/25/2024

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