

THE MOUNT SINAI HOSPITAL, NEW YORK  STANDARD: POLICY AND PROCEDURE	SUBJECT NO.  GPP-513
DEPARTMENT: Administration  SUBJECT: Assault Policy and Procedures (Both Sexual Assault and Consensual Sexual Interaction Involving a Patient)	

Original date of issue 11/01/2006

Reviewed:		01/13	6/14				
Revised:	02/08/08	4/14					

**Purposes of the Policy**

This policy covers procedures to be followed when there is an allegation of physical assault, sexual assault, or any sexual interaction involving one or more patients and/or Mount Sinai personnel. The purposes include:

1. To assure patient and staff safety;
2. To provide appropriate and timely physical and psychological care for the victim of an assault;
3. To investigate allegations of assault (including sexual interaction and sexual assault) promptly and thoroughly in a manner designed to be fair to all concerned;
4. To protect the rights of accused employees, physicians, students or others affiliated with Mount Sinai during the investigative process; and
5. To assure that staff is prepared to deal with these situations appropriately.

**I. Procedures for Care of Victims of Assault**

A. If the alleged victim is a patient, or the allegation involves a claim of sexual interaction involving a patient(s), notify the patient(s) attending physician and Clinical Director, Nurse Manager or Administrator On Call promptly.

1. Perform a physical examination promptly, consulting with attending physician. In cases of allegations of sexual assault, this should include a gynecologic/genitalia exam PRIOR to bathing, washing or changing of clothing.

Consideration should be given to:

- a. using an evidence collection kit (sometimes referred to as “vitulo kit.”) Qualified physicians are in the departments of Ob/Gyn and Emergency Medicine.

- b. requesting HIV testing of alleged victim and assailant. Infection Control may be contacted for assistance.
  2. The patient's attending physician and Clinical Director, Nurse Manager or Administrator On Call should notify the patient's family if the patient wishes. Competent adults have a right to complete confidentiality. If a patient lacks capacity, notification must be made to the patient's legally authorized representative (proxy, guardian) or other surrogate.
  3. The alleged victim and family will be provided counseling and support as appropriate.
- B. If the ***alleged assailant is an employee or a member of the Hospital staff***, the employee or staff member shall be removed from patient care duty during the investigation. For notifications and assistance refer to paragraphs III A + B of this policy.
- C. If the ***alleged assailant is a patient***, contact the attending psychiatrist on call as well to perform a mental health assessment as soon as possible and provide the patient counseling and support as appropriate.
- D. If the ***alleged victim is a staff member***, he or she should be offered safe transportation to the Emergency Department for further care and treatment. Counseling and support will be provided in that setting. Additional counseling should be made available through the Employee Assistance Program. Family members should only be notified with the staff member's express consent.

In addition to caring for the victim of the assault, attention should be given to the safety of staff, other patients and family members in the area who may have witnessed the events. Reassurance that the situation is under control should be provided, as well as other interventions that might offer comfort.

## **II. Initial Notification and Investigation**

- A. Any employee or physician who witnesses or becomes aware of an alleged assault must immediately notify the Clinical Director or Nurse Manager. If the incident occurs during the evening or on the weekend, the Administrator On Call must be notified.
- B. The Clinical Director, Nurse Manager or Administrator on Call is responsible for the notifications found in sections II and III of this policy.
- C. Risk Management must be immediately notified at ext. 47987 or through the Risk management person on call. Risk Management will then conduct an initial evaluation of the allegation and direct the investigation thereafter. Risk Management may choose to conduct the investigation or delegate these responsibilities by issuing instructions to appropriate personnel. If the Clinical Director, Nurse Manager or Administrator on

Call is unable to contact Risk Management, then one of them shall direct the investigation. Risk Management must be notified as promptly as possible.

- D. If unable to contact Risk Management for oversight of an investigation in accordance with this policy, the Clinical Director, Nurse Manager or Administrator On Call is responsible for initiating an investigation according to the guidelines in section IV of this policy.
- E. The Director of Security or his designee should be notified in all cases where behavior on the unit is disruptive and/or when law enforcement (police, sheriff, etc.) or the media may be involved, including when family or a patient threaten to notify these entities. Security will assist in formulating and implementing decisions regarding police involvement and coordination.
- F. Security should also be called in cases where a situation with patient/family and/or staff seems to be escalating and control of the situation must be achieved.

### **III. Additional Internal Notifications**

- A. In the case of an **accused physician or medical student**, the Department Chair, the Dean of Graduate Medical Education or of Medical Education, as appropriate, shall be immediately notified to assist in the investigation as necessary and to determine the appropriate action consistent with the Hospital Staff Bylaws, House Staff Manual, and Faculty or Student Handbooks.
- B. In the case of an **accused non-physician employee**, the Clinical Director, Nurse Manager or Administrator On Call shall immediately consult with Labor Relations. The accused employee's supervisor shall be notified.
- C. The Department of Public Affairs shall be notified as appropriate.
- D. The Department of Social Work shall be notified to assess and coordinate counseling services for the patient or family of the affected party.
- E. These contacts should be recorded by the caller.

### **IV. Summary of Investigative Steps**

The following steps shall be followed:

- A. The alleged victim, in the presence of a witness, shall be interviewed and a detailed statement of the allegation taken and reduced to writing. If the victim is a patient, the details of the allegation and other observations made during the interview shall be documented in the medical record.

- B. Any witness to the alleged assault shall be immediately interviewed with a witness present and, if appropriate, a written account of the incident prepared. This includes other patients or visitors who may have relevant information.
- C. The accused shall immediately be interviewed regarding the allegations in the presence of a witness. A detailed statement of the accused's interview should be written and preserved as part investigation documentation.
  - 1. If the accused is a patient, the details of the allegation and other observations shall be documented in the medical record.
  - 2. If the accused is a physician or medical student, the interview will be conducted in conjunction with the Chair, Dean or Graduate Medical Education or Dean of Medical Education whenever feasible.
  - 3. If the accused is a non-physician staff member, the interview will be conducted in conjunction with Labor Relations whenever feasible.
- D. Any physical evidence (physical objects, clothing, photographs, vitullo kit) shall be carefully preserved. Security should be requested to assist with this process and will follow chain of custody procedures.
- E. A comprehensive investigation report shall be prepared, including a summary of the investigation, written account of all interviews, detailed chronology of events and any conclusions, as well as documentation that the steps in the process have been followed.
- F. Reports and statements should be promptly submitted to Risk Management immediately.

## **V. Reporting to Outside Agencies**

- A. At the outset, there shall be an evaluation by those conducting the investigation in conjunction with Risk Management regarding notification of the police, the New York State Department of Health, the New York State Office of Mental Hygiene and/or The Justice Center, as appropriate. If in an OMH facility, additional reporting obligations to family/surrogates may apply. (MHL 33.23, 33.25).
- B. In cases of alleged assault on a competent adult (patient or staff), the decision as to whether to notify the police rests entirely with the adult. If the request is made for the Hospital to contact the police, Security shall be notified to facilitate that request and coordinate.

- C. In cases of alleged assault on a minor or incompetent patient or other individual, the family or legally authorized agent should be consulted regarding their wishes about reporting to the police.