

CRIMINAL INVESTIGATIONS

05 - 05 Sexual Assault

New Amended Reviewed – No Amendments

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Rationale

Sexual Assault is a very invasive crime which is highly traumatic to the victim. It is important that the investigation be conducted in a timely and effective manner, balancing the needs of both the victim/complainant with the requirements of the investigation.

Governing Authorities

Federal Criminal Code
Canada Evidence Act
DNA Identification Act

Provincial Police Services Act,
- Adequacy and Effectiveness of Police Services Regulation (O.R. 3/99)
- Disclosure of Personal Information (O.R. 265/98)
- Violent Crime Linkage Analysis System Reports (O.R. 550/96)
Freedom of Information Act

Associated Policies or Procedures

Number	Name
01-01	Arrest
04-09	Interpreters
04-18	Crime and Disorder Management
04-21	Gathering/Preserving Evidence
04-24	Victim Impact Statements
04-31	Victim Services Program
04-32	Investigative Interview
05-04	Domestic Violence
05-06	Child Sexual Abuse
05-19	Violent Crime Linkage Analysis System (ViCLAS)
08-03	Communicable Diseases
08-07	Contamination/decontamination
09-01	Property - General
13-02	Complaint Intake
17-02	Major News Reports
17-04	Community Safety Notifications
17-07	CPIC Alert System

Forms

Number	Name	Authorization Level
TPS 100	Record of Arrest	Officer in Charge
TPS 101	Supplementary Record of Arrest	Officer in Charge
TPS 201	General Occurrence	Officer in Charge
TPS 205	Supplementary Report	Officer in Charge
TPS 210	Modus Operandi Sheet	Officer in Charge
TPS 240	FIS submission form	Submitting Officer
TPS 405	Property Receipt	Officer in Charge
CAO 142.1	Victim Impact Statement	Submitting Officer
CFS 069	Centre of Forensic Science submission form	Submitting Officer

Definitions

Divisional Investigator means an officer assigned to investigate occurrences at the divisional level but who is not accredited to investigate occurrences of sexual assault.

Sexual Assault Care Centre (SACC) means a medical care centre designated for the treatment and examination of victims of sexual assault. There are four SACC's serving the Toronto area

- Scarborough Hospital (Grace Division)
- Sunnybrook and Women's College Health Sciences Centre - Women's College Campus
- Hospital for Sick Children
- Trillium Health Centre – Mississauga

Sexual Assault means the offence as defined by the Criminal Code.

Sexual Assault Investigator means an officer who is accredited to investigate occurrences of sexual assault.

Sex Crimes Investigator means a sexual assault investigator assigned to the Sex Crimes Unit.

Unfounded means the conclusion made following a thorough police investigation that a matter is concluded because no violation of the law took place or was attempted.

Violent Crime Linkage Analysis System (ViCLAS) means the national database operated by the RCMP for the purpose of linking occurrences of designated offences across Canada.

PROCEDURE

Assignment of Investigators

The determination of whether or not the Sex Crimes Unit (SCU) will take charge of an investigation will be based on a risk assessment.

The Sex Crimes Unit shall be notified of any sexual assault where:

- there is ongoing risk to the community when the offender is unknown and the investigation to determine the identification of the offender is beyond the resources available at the divisional level
- the offence is of a particular heinous nature and includes one or more of the following criteria:
 - the occurrence involves an offence under section 272 or 273 of the Criminal Code (sexual assault with a weapon, sexual assault causing bodily harm, wounds, maims, disfigures or endangers life)
 - the offender is known to have been or is suspected of having been previously involved in another offence
 - any case involving multiple victims
 - any case involving multiple sexual acts, the use of restraints, bondage or wearing of a disguise by the offender
 - any case where the offender records the offence in any manner
 - when the offender removes or keeps any personal item from the victim
 - when the offender uses scripting by having the victim engage in prompted dialogue
 - when the offender uses a con or ruse, including dating services and the internet, to lure the victim
 - any sexual assault linked to another sexual assault within the same or any other jurisdiction
 - any criminal offence, by an unknown offender, where sexual assault appears to have been the motive
 - when in the commission of a sexual assault, the administration of a noxious substance or drug is used to incapacitate the victim

Furthermore, the Unit Commander of the SCU may, at his/her discretion, take charge of any sexual assault investigation.

A Sexual Assault Investigator shall be assigned as the lead investigator in all sexual assault cases except:

- where the victim/complainant is under sixteen (16) years of age, a child sexual abuse investigator shall conduct the investigation in compliance with Procedure 05-06
- when the incident arises out of a domestic situation as defined in Procedure 05-04, a Domestic Violence Investigator (DVI) shall be assigned as the lead investigator but shall work in conjunction with an accredited Sexual Assault Investigator
- in all cases where a sexual assault meets the threshold criteria as a Major Case under the Ontario Major Case Investigation guidelines, an accredited Major Case Manager should head the investigation. All sexual assault investigators must be aware of the requirements of the Major Case Management Manual.

Divisional Sexual Assault Investigators will be responsible for investigations that do not fall within the mandate of the SCU. Historical familial sexual assaults, and those where the suspect is known will generally be handled by the Divisional Sexual Assault Investigators.

NOTE: *Members of the SCU are on duty between 0700 to 2400 h. daily. After business hours, the on call SCU investigator can be contacted through the Duty Operations Centre - Duty Desk.*

Only the Officer in Charge (OIC) or Detective in charge of the investigation will notify the Duty Desk requesting the assistance of the SCU.

Victim Interview

All officers involved in a sexual assault investigation must be aware of the impact on the victim/complainant of repeatedly having to recount the occurrence. Officers will attempt to minimize the impact by interviewing the victim/complainant only when necessary for the purposes of the investigation.

In order to reduce the number of times the victim/complainant must discuss the incident, the first responding officer shall briefly interview the victim/complainant in relation to the details of the sexual assault, obtaining only basic information concerning the incident.

Only a Sexual Assault Investigator shall conduct detailed interviews with the victim/complainant.

Investigators may consider using the interview suite located at Sunnybrook and Women's College Health Sciences Centre, Women's College Campus. The key can be obtained from the Headquarters Duty Desk or the security office located in the emergency department of the hospital.

The investigator may wish to delay the interview based on careful consideration of the condition of the victim/complainant and the information and evidence that is already available. Where operationally possible every effort should be made to provide an interviewer of the victim/complainant's preferred gender.

SACC Facilities

Name of Facility	Location	Age of Victim/Complainant
Scarborough Hospital (Grace Division)	42 Division (3030 Birchmount Rd.)	12 years and older
Sunnybrook and Women's College Health Sciences Centre - Women's College Campus	52 Division (76 Grenville St.)	16 years and older
Hospital for Sick Children	52 Division (555 University Ave.)	under 16 years
Trillium Health Centre – Mississauga	Peel Region (Hwy 10/Queensway)	Any age

NOTE: Assistance may be obtained from the Peel Regional Police regarding liaison with the SACC located at the Trillium Health Centre.

ViCLAS

The Provincial ViCLAS Centre is responsible for submissions made by agencies within the Province of Ontario. All submissions for criteria offences investigated by the Toronto Police Service will be processed through the ViCLAS co-ordinator at SCU in compliance with Procedure 05-19.

Police Officer

1. Upon arrival at the scene of a sexual assault shall
 - request a supervisor attend the scene
 - interview the victim/complainant briefly and ascertain the basic details of the assault, a description of the suspect and any other relevant information, ensuring the interview is conducted in a tactful and sensitive manner
 - contact the Multilingual Community Interpreter Services (MCIS) when interpreting services are required for victims, and comply with Procedure 04-09 where MCIS is unable to assist

NOTE: Family members should not be used as translators, and intimate details of the sexual assault should not be obtained in the presence of family members. Defer intimate details of the assault until a translator is available.

- preserve the crime scene for physical and trace evidence and permit only those persons designated by the investigator to enter the crime scene until advised otherwise by the investigating officer or a supervisor
- comply with Procedure 04-21 in the gathering and preserving of evidence
- where a report is made within 72 hours of the incident, shall advise the victim/complainant of the importance of attending a hospital with a SACC for the purposes of personal safety and security as well as the gathering of potential forensic evidence
- where a report is made after 72 hours of the occurrence, encourage the victim/complainant to seek medical attention for the purpose of personal safety and security

NOTE: *The investigator may still consider encouraging the victim to attend a Sexual Assault Care Centre for the purposes of medical treatment and the gathering of potential forensic evidence.*

- request the victim/complainant to postpone voiding whenever possible until after the medical examination, but if voiding is necessary advise the victim to avoid wiping the genital area or to save the tissue for later submission with the sexual assault kit
- advise the victim/complainant that bathing and changing clothes is possible as soon as the medical examination is completed
- arrange for the victim/complainant to obtain a change of clothing
- ensure the victim/complainant is transported to one of the SACC, unless injuries sustained in the assault are life threatening

NOTE: *If transportation by ambulance is not necessary, consider the use of an unmarked vehicle when transporting the victim/complainant to a SACC.*

- accompany the victim/complainant to the treatment facility

NOTE: *Where operationally possible, wait for the victim/complainant until the completion of the medical examination at the SACC, in order to reduce the necessity for the victim to recount the occurrence.*

2. Upon receiving sufficient information shall

- advise the communications operator of relevant information for broadcast such as the description of the offender (if available), direction of travel, etc.
- generate a CPIC Alert Message in compliance with Procedure 17-07 where violence or injury has occurred, the suspect can be identified, or an accurate suspect description is available
- contact the divisional investigative office to determine
 - the availability of a divisional sexual assault investigator, and
 - if the occurrence meets the criteria for contacting the Sex Crimes Unit
- request additional assistance, as required

- when a victim attends a SACC to have an examination but chooses not to report the assault to police or proceed with charges, make provisions for the Sexual Assault Evidence Kit to be stored for six months at the hospital.

3. Details of the preliminary investigation shall be recorded in the memorandum book, including

- results of the preliminary interview of the victim/complainant including
 - description of the suspect
 - complaints of injury
 - any visible injuries
 - the physical and emotional condition of the victim/complainant
- results of the preliminary contact with the suspect including
 - all spontaneous statements
 - condition of clothing (normal, disheveled, bloodstained, torn etc)
 - signs of a violent struggle (injuries)
 - signs of drug or alcohol use

4. Where the suspect is apprehended shall

- comply with Procedure 01-01
- secure any evidence or weapons found on suspect
- refrain from unnecessary conversation with the suspect

5. If the suspect is not arrested shall

- in all cases, complete a detailed TPS 201, TPS 205 and TPS 210, leaving the 'motivation' box on the TPS 201 empty
- refrain from making any conclusions in the report on the validity or truth of the complaint
- comply with Procedure 17-02 at the direction of the assigned investigator

Supervisory Officer

6. Upon being notified of a sexual assault shall attend at the scene and provide guidance and assistance in the preliminary investigation, ensuring that all necessary action is taken.

Divisional Investigator

7. Upon being notified of a sexual assault shall determine if a Divisional Sexual Assault Investigator is available, and

- if available, advise of the circumstances
- if not available, conduct a preliminary investigation, consult with the Sex Crimes Unit and proceed as directed

Divisional Sexual Assault Investigator

8. Upon being notified of a sexual assault shall
- attend at the scene without delay and take charge of the investigation
 - upon determining that the assault meets the criteria, immediately notify a Sex Crimes Unit Investigator
 - request the attendance of an investigator from Forensic Identification Services (FIS)
 - ensure the complainant is afforded privacy and consideration
 - accompany the victim/complainant to the medical facility, or attend at the facility if the victim/complainant is already there

NOTE: *Sexual Assault Evidence Kits are stocked by SACC facilities. If the victim/complainant is treated at another facility, the SACC team from Sunnybrook and Women's College Health Sciences Centre will attend to the victim at that facility.*

- consult with the attending doctor or SACC nurse
- offer the victim/complainant the option of having a person of his/her choice or a member of Victim Services present for support

NOTE: *Where the victim/complainant has special needs (i.e. translation, sign language, physical and other disabilities, or cultural differences) the appropriate individual or agency should be contacted for assistance.*

- advise both the victim/complainant and any support person present that the latter
 - may be asked to leave if the victim/complainant so desires
 - must not interfere in the investigation
 - may be required to testify in court
- if the victim requests and when operationally possible, offer the victim the option of a male or female Sexual Assault Investigator for the purposes of the interview
- take possession of all forensic evidence collected by medical staff, including a copy of the Sexual Assault History Form, Forensic Evidence Form, and the General Examination Form
- if a Sex Crime Unit Investigator will not be attending, conduct a thorough interview with the victim/complainant/witness on videotape in compliance with Procedure 04-32

NOTE: *When deemed appropriate an investigator may consider administering a sworn statement.*

- ensure the victim has transportation from the hospital to their home, a place of safety or a police facility
- arrange for photographs of the victim at the appropriate time

NOTE: *FIS must be advised prior to the victim's attendance if a photographer of the same gender is required.*

9. Where any evidence is seized shall
 - ensure it is properly packaged and labeled in accordance with the appropriate property procedures in Chapter 9
 - include the job number on the TPS 240 when submitting the Sexual Assault Evidence Kit to FIS
 - when submitting property, the submitting officer will ensure that the name, rank, badge number and contact number for the case manager is clearly marked on the appropriate forms
 - comply with Procedures 08-03 and 08-07 when dealing with evidence that poses a bio-hazard

NOTE: *FIS is available to advise investigators on the handling, drying and storage of evidence that poses a biohazard.*

 - ensure property submitted to FIS is retrieved in a timely fashion, if necessary
 - ensure the results of the analysis by CFS are recorded on a TPS 205
 - ensure samples from the Sexual Assault Evidence Kit and other appropriate forensic evidence are not destroyed prior to the conclusion of the case and appeal period

NOTE: *Where no suspects are developed, it is the policy of the Centre of Forensic Sciences to hold exhibits for one year. After this period, if a request from the investigating officer is not received, the exhibits will be destroyed.*
10. Where it is determined that the victim recently had sexual intercourse, shall arrange to obtain blood and saliva samples from the partner for the purpose of comparisons.
11. Where a warning to an individual or a group of individuals or the community is deemed necessary, shall ensure that the release of information is in accordance with Procedures 17-02 and 17-04.
12. Complete a ViCLAS report as outlined in Procedure 05-19. Consider a ViCLAS submission for "Potential Sex Offender" occurrences where sufficient information has been obtained.
13. Where the complaint is believed to be unfounded, shall consult with the Detective Sergeant who may submit a report to the file concurring with that conclusion or require additional investigation to continue.
14. Consider the use of the Behavioural Assessment Section (BAS) where appropriate, in accordance with Procedure 17-04, Community Safety Notifications. Consideration should also be given to utilizing the Polygraph Section of the Sex Crimes Unit.
15. In order to ensure ongoing communication with the victim/complainant shall
 - provide the victim/complainant with the name, rank and badge number of the case manager
 - advise the victim/complainant to contact the Detective Sergeant in the absence of the case manager

- ensure consistent and regular contact is maintained with the victim/complainant throughout the investigative and legal process
- ensure the victim/complainant is advised in a timely manner of developments or changes of status including bail conditions, court dates or dispositions
- ensure the victim/complainant is aware of the court's expectations of a witness and the services available through victim/witness support agencies
- after the conclusion of the trial, invite the victim/complainant to complete a CAO 142.1 in compliance with Procedure 04-24

16. Ensure the Property and Evidence Management Unit is advised about any change of status of property marked as evidence from a sexual assault.
17. Wherever possible, the case manager will continue the investigation to its conclusion or will ensure an orderly transition for the victim between investigators due to transfer or reassignment.

Officer in Charge

18. Upon receiving information concerning a sexual assault shall request the attendance of a
 - Divisional Sexual Assault Investigator from the unit, or if unavailable
 - Divisional Sexual Assault Investigator from another unit, or if unavailable
 - Divisional Investigator from the unit or another unit

NOTE: Before contacting the Sex Crimes Unit or Duty Desk, shall ensure a preliminary investigation has been commenced by a Divisional Investigator.

19. When a victim/complainant of a sexual assault is interviewed in a police facility shall ensure reasonable privacy is afforded the person.
20. Upon receiving a TPS 100, TPS 101, or TPS 201, TPS 205 and TPS 210 for a sexual assault, or for any other occurrence that appears to be sexually motivated, shall
 - review the occurrence for completeness and appropriate language
 - return incomplete occurrences to the author for correction
 - sign approved occurrences/reports
 - ensure a copy of the occurrence/reports are forwarded to the SCU

Detective Sergeant

21. When in charge of a divisional detective office shall
 - ensure, wherever possible, sexual assault case managers who are transferred or assigned to different duties within the Service retain control of the investigations, including contact with the victim/complainant, until the conclusion of the case
 - ensure Divisional Investigators are deployed in a manner which maximizes their availability on each shift

- ensure the follow-up investigation of a sexual assault is thorough and undertaken promptly
- answer any victim/complainant inquiries when the case manager is unavailable
- consult with case managers regarding reports of sexual assault that are felt to be unfounded and determine if further investigation is required
- ensure a ViCLAS submission is completed as prescribed by Procedure 05-19

Sexual Crimes Unit Investigator

22. When notified of a sexual assault shall, in addition to complying with unit specific guidelines
 - respond to and take charge of the investigation as mandated
 - offer advice, assistance and follow-up investigation, as required
23. Liaise with the OIC or the Unit Commander to ensure adequate resources have been deployed.
24. Shall notify the Unit Commander – Sex Crimes Unit or designate of occurrences produced by divisional members that are incomplete or inappropriate in their content.