



<b>Policy Name:</b>	<b>SEXUAL OFFENCES</b>		
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<b>Issued By:</b>	COMMUNITY POLICING BUREAU	<b>Approved By:</b>	SURREY POLICE BOARD
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**RELATED POLICIES**

AD 9.16 *ViCLAS*

OP 4.13 *Crime Scene Management*

OP 4.15 *Cyber and Technology Crimes*

OP 4.49.4 *Search Warrants and Production Orders*

OP 4.30.4 *Statements – Victims and Witnesses*

OP 4.34.8 *Major Case Management*

OP 4.52.1 *Vulnerable Persons – Trauma Informed Practices*

OP 4.52.4 *Vulnerable Persons – Victims of Crime*

OP 4.52.7 *Vulnerable Persons – Victims of Crime – Children*

OP 5.1 *Seized Property*

OP 5.1.2 *Digital Evidence Management*

OP 5.1.3 *Exhibits Requiring Forensic Examination*

OP 6.1.1 *Victim Services*

**1. PURPOSE**

1.1. To ensure Surrey Police Service (SPS) conducts detailed and evidence-based investigations of sexual assaults, sexual exploitation, sexual interference, serial sexually-motivated offences, and any other sexual offence.

- 1.2. To support sexual offence investigations through expertise, consultation, and evidence-based best practices which will assist in identifying and apprehending offenders who target, exploit, or victimize any person in a sexual manner, while ensuring accountability and transparency throughout the investigative process.
- 1.3. To emphasize the need to conduct sensitive investigations using a Victim-centered, trauma-informed approach, to minimize the additional trauma the Victim may experience during the investigative process.

## 2. SCOPE

- 2.1. This policy applies to all Members.

## 3. POLICY

- 3.1. All people regardless of age, gender, sexual orientation, ethnicity, race, or disability can be sexually offended against by a stranger, friend, family member, spouse or intimate partner of any sex, gender identity, gender expression or sexual orientation. All sexual offences will be thoroughly investigated regardless of whom the Victim or the suspect are and regardless of their relationship to one another.
- 3.2. Consent is required in all sexual activity regardless of previous agreement to sexual contact. Where consent was not obtained or where the Victim was unable to provide consent, the matter will be investigated as a sexual offence.
- 3.3. Members will ensure that everyone impacted by a sexual offence is treated with respect, dignity, and fairness and in a professional, bias-free manner, using a trauma-informed approach. Statements from Victims of sexual offences should be taken by Members with skill in both trauma-informed practices and interviewing vulnerable Victims or witnesses (see OP 4.30.4 *Statements – Victims and Witnesses*).
- 3.4. The Special Victims Unit (SVU) will be notified:
  - i. of all sexual related offences;
  - ii. incidents involving human trafficking for the purpose of exploiting persons or facilitating their exploitation for a sexual purpose;
  - iii. where the incident involves an offence under section 172.1 of the *Criminal Code* (Luring a Child); and
  - iv. where the incident involves an offence under section 172.22 of the *Criminal Code* (Agreement or Arrangement – Sexual Offence Against Child).
- 3.5. The Internet Child Exploitation Team will be notified where the incident involves an offence under section 163.1(2) and (3) of the *Criminal Code* (Making, Distributing, Importing, Exporting, Sale of

Child Pornography, Possession for the Purpose of Publication, Distributing, Importing, Exporting and Sale of Child Pornography).

3.6. The Child Protection Team at Sophie's Place will be notified where the Victim is 15 years old and younger or is older than 15 years but has cognitive or developmental delays.

#### 4. PROCEDURE

##### General

4.1. If the Victim of the sexual offence is under the age of 19 years, the assigned Member must consult OP 4.52.7 *Vulnerable Persons – Victims of Crime – Children*. If the offence involves child pornography, child luring, and/or other Internet-based offences, the Member must consult OP 4.15 *Cyber and Technology Crimes*.

4.2. A priority response will be assigned to non-historical sexual offences.

4.3. Members will accommodate Victims and witnesses involved in sexual offences who have special needs (e.g., interpretation needs, physical or other disabilities, cultural differences). Members will provide the appropriate supports and accommodations where practicable.

4.4. Members will ensure that a Supervisor is aware of all sexual offence reports, whether the incident is current or historical.

4.5. For non-historical sexual offence reports, the Supervisor will notify the Duty Officer who may call out Members of the Special Victims Unit (SVU).

4.6. Unless the SVU Supervisor determines otherwise, serious/violent or complex sexual offence investigations will:

- i. be conducted by Members assigned to the SVU; and
- ii. at the discretion of the SVU Supervisor or designate, the Major Case Management (MCM) model will be used and be led or overseen by an Accredited Team Commander.

4.7. A ViCLAS report is required for most sexual offences. See AD 9.16 *ViCLAS* for submission requirements, timelines, and exceptions.

##### Consent

4.8. The *Criminal Code* defines consent as "the voluntary agreement to engage in the sexual activity in question." Sexual activity is only lawful when consent is given, either through words or actions. Silence or passivity does not constitute consent. A person may only legally consent to sexual activity when of conscious mind and thought, and of the appropriate age to do so.

4.9. When an investigation involves a question of consent, the following factors must be considered when determining if consent to the sexual activity was provided:

- i. words or actions were expressed that indicated the individual did not want to or agree to engage in the sexual activity;
- ii. whether the ability to consent existed, e.g., if there was impairment by alcohol and/or drugs or if the Victim was unconscious, or if the Victim was of the appropriate age to lawfully consent to the activity;
- iii. if the Victim was induced to engage in the activity by a person in a position of trust, power or authority (e.g., a teacher, coach, or work supervisor);
- iv. if the Victim was coerced or physically forced to comply;
- v. if the Victim had a disability or mental impairment that prevented them from making an informed choice (note: Members must not assume that a person with a physical or mental disability is unable to consent to sexual activity); and
- vi. if the Victim originally agreed to the activity and then expressed by words or actions that they no longer agreed to continue.

4.10. The age of consent for sexual activity in Canada is 16 years, with the following exceptions:

- i. a person 16 or 17 years of age cannot consent to sexual activity if they are in a relationship of trust, authority, or dependency with the accused, or if the relationship is exploitative;
- ii. a person who is 14 or 15 years of age may consent to sexual activity with a partner who is less than five years older than them and there is no relationship of trust, authority, or dependency, or any other exploitation of the young person; and
- iii. a person who is 12 or 13 years old may consent to sexual activity with a partner who is less than two years older than them, and there is no relationship of trust, authority, or dependency or any other exploitation of the young person.

### **Investigator**

4.11. Where resources exist and where appropriate, a Member should be assigned to Victim care while other Members should be assigned to crime scene management and/or attempts to locate the suspect, or any other tasks as required, if applicable.

### **Jurisdiction**

4.12. Members must take steps to determine the offence location. If the offence occurred in another jurisdiction, the assigned Member must:

- i. take a Victim-Centered Approach throughout the interaction;
- ii. do not initially tell a Victim to contact the police of jurisdiction to report the Sexual Assault;
- iii. inform the Victim of the jurisdictional issue and discuss options to assist the Victim in proceeding with the report and further investigative steps;

- iv. depending on the Victim's preferred option, the circumstances of the case and the urgency related to initiating investigative steps, not delay the commencement of the investigation pending the resolution of questions concerning jurisdiction;
- v. document decisions and ensure appropriate entry of the report on PRIME, CPIC, and any other relevant police databases;
- vi. ensure the transfer of the investigation to the police of jurisdiction is not considered complete until the police of jurisdiction has confirmed its receipt of the report, responsibility for the investigation (including confirming communicating with the Victim moving forward), and has generated a file number;
- vii. seek Supervisor review and approval of the transfer and conclusion of the file;
- viii. as soon as practicable, ensure that the Victim receives an update, the contact information for the police of jurisdiction, the case file number, and other information about next steps for the investigation; and
- ix. ensure the file has been concluded using appropriate Uniform Crime Recording incident clearance status coding.

### **Victim Support**

4.13. Sexual offences may result in significant trauma to the Victim. Members who are responsible for contact with the Victim of a sexual offence should be trauma-informed, empathetic, and non-judgmental. In highly traumatic incidents, it may be more appropriate for a Member of SVU to deal directly with the Victim in the first instance.

4.14. Members must attend to the Victim's medical needs (e.g., engage the assistance of BC Ambulance Service (BCAS)) if they have injuries which require medical attention:

- i. the Victim may wish to be accompanied or taken to hospital by the Surrey Mobile Assault Response Team (SMART), rather than Police or BCAS. This service can be reached by calling 604-583-1295 to speak with a support worker; and
- ii. the Member will attend the hospital regardless of whether they transport the Victim there themselves.

4.15. If appropriate and if the Victim consents, a Member must arrange for a Sexual Assault Forensic Examination (SAFE) by a trained health professional. Request the Operational Communications Centre (OCC) to contact the hospital to advise that a SAFE is required. **Note:** a SAFE examination can provide valuable evidence even several days after the incident occurred. The Member must:

- i. with the Victim's consent, engage a Victim support worker to attend hospital;
- ii. with the Victim's medical release consent, secure evidence collected during the SAFE examination and store it in accordance with the instructions provided by the Forensic Nurse Examiner (FNE);
- iii. with the Victim's consent, photograph injuries or arrange for photo evidence to be collected at a future date and location. **Note:** if the injuries are significant, Lower Mainland District Integrated Forensic Identification Section (LMD IFIS) must be engaged for this task;

- iv. collect the Victim's clothing worn during or immediately after the offence after ensuring that the Victim has other clothing they can wear when they leave hospital;
- v. thoroughly document in their notebook and PRIME-BC General Occurrence report, visible injuries if photos cannot be obtained , as well as other evidence of trauma;
- vi. make note of evidence of significance identified by the FNE, (e.g., the presence of semen); and
- vii. ensure that the Victim has a safe means of being transported to the destination of their choice, within reason.

4.16. Trauma may adversely affect memory and recall, and therefore taking a statement immediately after an incident is not always ideal. However, it may be necessary to obtain some details of the incident if there is a risk to public or concern about the potential loss of evidence. If the Victim is able to provide information, Members should obtain a brief description of the offence, the location of the crime scene and suspect(s) description. The specific details of the incident can be gathered during an interview once the Victim has had adequate time to recover (48-72 hours recommended).

4.17. The initial interview with the Victim should:

- i. be audio-recorded;
- ii. be conducted at a location that affords privacy for the Victim;
- iii. be sensitive to the fact the Victim may have provided details to medical practitioners, family or Victim services and may be frustrated with the repetition;
- iv. obtain sufficient information so that perishable evidence may be secured and/or witnesses identified; and
- v. if the Victim does not feel able to provide a full statement at this time, a more fulsome statement can be taken later.

4.18. When practicable, a Member must obtain audio-or video-recorded statement using trauma-informed practices. If possible:

- i. provide an interviewer of the gender requested by the Victim, if such a request is made;
- ii. if the Victim requests to have a support person present with them during their statement, accommodate the request if feasible to do so; and
- iii. consider the operational procedures laid out in OP 4.30 *Interviews and Statements*, OP 4.52.1 *Trauma Informed Practices*, and OP 4.52.4 *Victims of Crime*.

4.19. The assigned Member must ensure that statements have been obtained from all witnesses, including the person to whom the first disclosure about the incident was made.

4.20. The assigned Member must consider Victim safety, develop Safety Plans as applicable, and document decisions appropriately in the file.

- 4.21. With the Victim's advance written consent, Members should refer the Victim to Victim Services using the procedures in OP 6.1.1 *Victim Services*.
- 4.22. The assigned Member must provide the Victim with their contact information and update the Victim regarding the status of the investigation. The Member must maintain a record of contacts with the Victim.
- 4.23. If the file is to be concluded without any charges being forwarded, the assigned Member must meet with the Victim in person if practicable to review the investigation and explain the no-charge decision. Determine if the Victim has support and make a referral to Victim Services, if requested and not already engaged.

### **Safety Planning**

- 4.24. Members assigned to work with the Victim will take steps to document safety planning with consideration to the following:
- i. release conditions that provide protection or safety for the Victim, witness(es), or the public prior to releasing the subject of complaint from custody;
  - ii. assessing safety needs and whether or not the Victim is reluctant to continue engaging with the investigative process;
  - iii. develop and implement a Safety Plan in collaboration with the Victim and Victim Services; and
  - iv. document any safety needs, the steps taken, frequency of follow up and other related decisions on the file.

### **Crime Scene and Evidence Management**

- 4.25. If a crime scene is identified:
- i. see OP 4.13 *Crime Scene Management* for evidence collecting and processing;
  - ii. identify and secure perishable evidence if it is at risk of destruction or contamination, taking into consideration lawful search and seizure requirements (see OP 4.49.4 *Search Warrants and Production Orders*);
  - iii. contact LMD IFIS for assistance in processing the crime scene;
  - iv. seize items and/or samples suitable for DNA processing and ensure they are stored in accordance with OP 5.1.3 *Exhibits Requiring Forensic Examination*;
  - v. if the offence(s) involved the use of an electronic device (e.g., photos or videos were taken, or electronic messages may provide evidence), attempt to locate and seize the electronic device for a Search Warrant (see OP 5.1.2 *Digital Evidence Management*). Consult the Digital Forensics Unit for further guidance;
  - vi. complete a Form 5.2 *Report to Justice* in accordance with the requirements in the *Criminal Code*; and
  - vii. if applicable, conduct a neighbourhood canvass for video and/or witnesses and thoroughly document the locations that were canvassed, including those where no evidence was obtained.

- 4.26. If evidence is to be submitted to the National Forensic Laboratory Service for forensic examination, including evidence collected during the FNE, clothing, etc., see OP 5.1.3 *Exhibits Requiring Forensic Examination* and follow the appropriate procedures. **Note:** if items are being submitted for DNA analysis, if the Victim engaged in consensual sexual activity in the days preceding the incident, a consent DNA sample from their partner(s) may be required for elimination.
- 4.27. Where applicable, the investigator will follow up with the FNE if the FNE's report is not received within a reasonable time. As with LMD IFIS, the FNE's report forms the FNE's evidence, and typically a separate statement from the FNE is not required.

### **Offender Management**

- 4.28. If known, the assigned Member must:
- i. provide the OCC with the suspect's description, vehicle if any, and last known direction of travel so that the information can be broadcast;
  - ii. consider requesting police K9 assistance when suspect is outstanding, if applicable; and
  - iii. consider the submission of a bulletin to the Real-Time Intelligence Centre (RTIC-BC), if appropriate.
- 4.29. If the suspect is located and reasonable grounds exist, consider whether an arrest should be made.
- 4.30. If applicable, where an arrest is made, the investigating Member consider contacting LMD IFIS to obtain a penile swab from the suspect, if reasonable to do so and with consideration of all the circumstances. The SVU Supervisor may be contacted to provide guidance. **Note:** the Supreme Court of Canada has ruled that obtaining a penile swab incidental to arrest, where reasonable grounds exist and if conducted in a reasonable manner, is not a breach of the *Canadian Charter of Rights and Freedoms*.
- 4.31. If the suspect is arrested and is to be released, ensure that the appropriate protective conditions are in place. Notify the Victim if the suspect is arrested and what their release conditions will be.
- 4.32. Consider obtaining a statement from the suspect (either custodial or non-custodial, depending on the circumstances). See OP 4.30.3 *Suspect Interviews*.

### **Historical Incidents**

- 4.33. Historical sexual offences, particularly those that happened months or years earlier, often rely primarily on statements and not on physical evidence. Before obtaining statements from Victims and witnesses of historical incidents, see OP 4.30.4 *Victim and Witness Interviews*. As these types of statements can result in significant trauma to a Victim, statements must be taken using trauma-informed practices.

- 4.34. While it may be difficult to obtain physical evidence related to historical incidents, consider what other evidence might exist which could corroborate information provided in the statements of Victims and witnesses. Examples include, medical records, school records, employment records, receipts, Ministry of Children and Family Development records, etc.
- 4.35. If the historical sexual offence occurred when the *Criminal Code* listed different offences and used different wording for those offences, contact the SPS General Counsel, Legal Services for access to older versions of the *Criminal Code*.

### **Supervisor**

- 4.36. Frontline Supervisors must review, in the first instance, all dispatched files involving an allegation of a sexual offence. The Supervisor must ensure that the investigation is appropriately prioritized and resourced.
- 4.37. For non-historical reports of sexual assault, the Frontline Supervisor will liaise with the SVU Supervisor and provide them with the details of the incident. The Supervisors will collaboratively determine who will have conduct of the investigation. If the file is to remain with the Frontline Policing Member, ensure they have adequate and effective supervision throughout the investigation.
- 4.38. If the allegation is serious/violent or complex, or involves a stranger attack or a child Victim, the Frontline Supervisor must notify the Duty Officer.
- 4.39. If the suspect is a police officer, whether of SPS or another police service, the Supervisor must immediately notify the Duty Officer and seek further direction.

### **SVU Supervisor**

- 4.40. When notified on a sexual offence report, the SVU Supervisor must consult the Frontline Supervisor or Primary Investigator to learn details of the incident and if needed, determine if SVU will assume conduct of the investigation, will assist with the investigation, or will provide guidance only.
- 4.41. If SVU will assume conduct of the file, assign an investigator and provide appropriate supervision.

### **Disclosure of Charges**

- 4.42. Section 486.4 of the *Criminal Code* authorizes judges and justices to make orders directing that any information that could identify the Victim or witness in a sexual offence shall not be published in any document or broadcast or transmitted in any way. After Crown Counsel has approved a criminal charge and the Information has been laid, SPS may want to publish the identity of a person charged with a sexual offence. However, SPS can publicly reveal the identity of the charged person but only if publication will not reveal the identities of Victims and witnesses.

4.43. Consult the SPS General Counsel, Legal Services before disclosing the identities of persons charged with sexual offences, if disclosure could reasonably be expected to reveal the identities of Victims and witnesses (examples: family incest investigations; sports and music coaches where there is a small number of potential Victims and witnesses).

#### **Case File Review**

4.44. The SVU Sexual Assault Investigations Review Team (SAIRT) will conduct annual reviews of files for which the incident clearance status was not “founded-cleared by charge” (i.e., the file was concluded “unfounded”, “founded-not cleared”, or “founded-cleared otherwise”) to identify any issues or concerns with the investigation and take action as appropriate.

4.45. The SAIRT consists of individuals with varied and pertinent subject matter expertise and develop a schedule for periodic reviews of concluded Sexual Assault investigations. The SAIRT determines cases subject to the review and includes a checklist to assist the review team in their assessment of, at a minimum, whether the investigation included:

- i. Victim-Centered Approaches and Trauma-Informed Practices, including trauma-informed interviewing practices;
- ii. an investigating Member with the appropriate training, skills, and interviewing knowledge,
- iii. active supervision;
- iv. compliance with law;
- v. compliance with SPS policies and BC Provincial Policing Standards;
- vi. that the file is scored correctly (including the correct clearance on the Uniform Crime Report); and
- vii. that the clearance was updated as appropriate as necessary or applicable.

4.46. The findings of the SAIRT reviews will inform SPS policies and procedures, training needs, or other means to improve investigations and any actions that must be taken if the review determines that further investigative steps or follow up may be required.

4.47. SPS will provide to the Surrey Police Board an annual report summarizing the outcomes of SAIRT case file reviews.

## APPENDIX A: DEFINITIONS

“Forensic Nurse Examiner (FNE)” means a professional nurse examiner who provides trauma-informed medical and forensic care to individuals who have experienced recent sexual assault and/or intentional relationship violence.

“LMD IFIS” means Lower Mainland Integrated Forensic Identification Services.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“PRIME-BC” means the Police Records Information Management Environment – British Columbia, the provincial police records management system.

“RTIC-BC” means the Real-Time Intelligence Centre – British Columbia.

“SAFE” means Sexual Assault Forensic Examination used to obtain potential DNA and other forensic evidence by a trained healthcare professional.

“Safety Plan” means documented steps taken to protect the Victim, including:

- i. release conditions that provide protection or safety for the Victim, witness(es), or the public prior to releasing the subject of complaint from custody;
- ii. assessing safety needs and whether or not the Victim is reluctant to continue engaging with the investigative process;
- iii. developing and implementing a Safety Plan in collaboration with the Victim and Victim Services; and
- iv. documenting any safety needs, the steps taken, frequency of follow up and other related decisions on the file.

“SAIRT” means the Special Victims Unit’s Sexual Assault Investigations Review Team.

“SPS” means Surrey Police Service.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

“SVU” means Special Victims Unit.

“Trauma Informed Practice” means understanding the prevalence and effects of trauma in all aspects of service delivery and prioritizing the individual’s sense of safety, choice, empowerment, and connection. It is grounded in an understanding of and responsiveness to the impact of trauma and emphasises physical, psychological, and emotional safety. Trauma Informed Practice means making sure that people feel safe around police and are not re-traumatized by their contact with police.

“ViCLAS” is the Violent Crime Linkage Analysis System, a database which links violent and predominantly sexual offences.

## **APPENDIX B: REFERENCES**

British Columbia Provincial Policing Standards – Section 5.2, *Major Case Management*

British Columbia Provincial Policing Standards - Standard 5.4 *Sexual Assault Investigations*

*Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*

*Criminal Code*, R.S.C. 1985, c. C-46