

INVESTIGATION AND MANAGEMENT OF

ADULT SEXUAL ASSAULT

POLICY & STANDARD OPERATING PROCEDURES



NSW Police
www.police.nsw.gov.au

Contents



MINISTER'S MESSAGE

COMMISSIONER'S MESSAGE

NSW POLICE POLICY STATEMENT

STANDARD OPERATING PROCEDURES

Sexual Assault In Context

SECTION 1 - POLICE ROLES AND RESPONSIBILITIES

- **Initial Complaint to Police ... 3**
 - Role of the Initial Response Officer ... 3
 - Historical Sexual Assault ... 3
 - Role of the Duty Officer ... 4
 - Role of the Investigations Manager ... 5
 - Role of the Criminal Investigator ... 6

SECTION 2 – VICTIM CARE

- **Specialist Support Services ... 9**
 - NSW Health ... 9
 - NSW Rape Crisis Centre ... 10
- **Confidentiality ... 10**
- **Transport of Victims ... 11**
- **Information on Arrest ... 11**
- **Provision of Information on Legal Action ... 11**
- **Considerations for Bail ... 12**
- **Apprehended Violence Orders ... 12**
- **Victim Follow up ... 13**
- **Victims Compensation ... 13**
- **Victims Register ... 14**
- **Victim Impact Statements ... 14**

Contents



SECTION 3 - VICTIMS WITH SPECIFIC NEEDS

- People from Culturally and Linguistically Diverse Backgrounds ... 19
- Aboriginal People ... 20
- People with Disabilities ... 20
- Sexual Assault Within residential facilities ... 21
- Victims who are deaf or hearing impaired ... 21
- Sexuality and Gender ... 21
- Mental Health ... 22
- Sex Workers ... 22
- Police Employees ... 22
- Victims of Domestic Violence ... 23
- Victims aged 16 to 18 years ... 23
- Victims who are affected by alcohol and or drugs ... 24

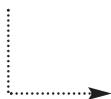
SECTION 4 – INTERAGENCY RESPONSES

- Interagency Procedures ... 27
- Working with NSW Health ... 27
- Referral to Sexual Assault Services ... 27
- Preliminary meeting at the Sexual Assault Service ... 28
- Crisis Counselling Interview ... 28
- Medical Examination ... 28

SECTION 5 – WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

- Police Prosecutions ... 33
- ODPP Prosecutions ... 33
- Screening Brief ... 34
- Communicating Changes ... 35
- Completion of Trial ... 36
- Appeals to the Court of Criminal Appeal ... 36
- Witness Assistance Service ... 36

Contents



SECTION 6 – INVESTIGATION PROCEDURES

- **Role of Criminal Investigator ... 41**
- **Interviewing Victims ... 41**
 - Statement Taking ... 41
 - When & Where to conduct the interview ... 42
 - Support person present during the interview ... 42
 - Electronic Recording of victims interviews ... 42
 - Copy of statement to victim ... 43
- **Interviewing the Suspect ... 43**
- **Outstanding warrants ... 44**
- **Discontinuance of police action ... 44**
- **Access to health records ... 45**
- **Police brief to ODPP ... 45**
- **Service of Brief ... 45**
- **Medical Officer's Statement ... 45**
- **Certificates (under S282 Criminal Procedure Act) tendered as evidence ... 46**

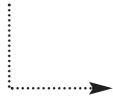
SECTION 7 – INFORMATION & INTELLEGENGE GATHERING

- **Interviewing the Victim ... 49**
- **Identification Services ... 49**
- **COPS ... 50**
- **Intelligence Unit – Child protection & Sex Crimes Squad ... 50**
- **Criminal Investigative Analysis ... 51**
- **Media Management ... 51**
- **Operational debriefing ... 51**
- **Support to Police ... 52**
- **Hypnosis/EMDR ... 52**

SECTION 8 – MANAGEMENT OF PHYSICAL EVIDENCE

- **Preventing cross examination of forensic evidence ...56**
- **Prioritising Exhibits ... 56**
- **Trace Evidence recovery from victim ... 57**
- **Crimes (Forensic Procedures) Act 2000 ... 57**
- **Sexual Assault Investigation Kit (SAIK) delivery to Division of Analytical Laboratories ... 59**
- **Storage and retention of exhibits ... 59**

Contents



SECTION 9 – INVESTIGATIVE SUPPORT FOR POLICE

- Child Protection and Sex Crimes Squad ... 63
- Forensic Services ... 64
- Crime Management Faculty ... 64
- Education Services ... 64

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MINISTER'S MESSAGE

Sexual assault is a serious crime of violence. The levels of sexual assault in our community are unacceptable and NSW Police must work in collaboration with other government and non government agencies to reduce these alarming figures.

The NSW government is committed to reducing all forms of violence, including sexual assault through crime prevention, support for victims and access to an efficient and effective criminal justice system.

The NSW government has worked hard to improve the management of sexual assault victims in NSW. The introduction of the NSW Strategy to Reduce Violence Against Women in 1997 has assisted in the expansion of community awareness and educative campaigns about sexual assault and violence in NSW.

Police play an integral role in not only investigating sexual assault but in supporting victims of sexual violence through the criminal justice system. Increased public awareness about sex crimes will result in increased reporting to police as public confidence in the system increases.

I am confident that these revised policy and standard operating procedures will only assist and improve police responses to sexual assault.



CARL SCULLY
Minister for Police

COMMISSIONER'S MESSAGE

The NSW Police Policy and Standard Operating Procedures for the Investigation and Management of Adult Sexual Assault was first released in 1999. NSW Police has continued to focus on the rights and needs of victims of sexual assault and the requirement of all officers to respond with the highest level of compassion and professionalism.

The Corporate Spokesperson/Adult Sexual Assault established a Review Committee in 2002 and following extensive consultation with Operational Police the document has been revised.

NSW Police works closely with other agencies when responding to victims. The NSW Police, Health and Office of the Director of Public Prosecutions Guidelines for Responding to Adult Victims of Sexual Assault sets out the process of interagency collaboration.

On a daily basis police across NSW are responding to complaints by adult victims of sexual assault. However, research indicates that most victims of sexual assault will never report to the police. NSW Police must maintain a commitment to supporting victims and quality investigations. This will ensure public confidence in reporting sexual assault.

It is crucial that police respond to victims of sexual assault in a sensitive and non judgemental way. General Duties Police play an integral role in initial response to victims of sexual assault, whilst criminal investigators are responsible for investigating allegations of sexual assault.

The establishment of a permanent specialist investigative response to adult sexual assault within State Crime Command has boosted the NSW Police capacity to respond to victims of sexual assault. The Child Protection and Sex Crimes Squad has the capacity to respond to serious and serial sexual assault as well as support Local Area Command investigations.

There have been significant improvements in the ways that NSW Police manages sexual assault. Victim care is our priority, high profile media coverage of sexual assault cases has lead to increased community awareness of police support of sexual assault victims. This, combined with improvements in the legal system, will assist to reduce the trauma experienced by victims of sexual assault in the criminal justice system.



K.E MORONEY AO APM
Commissioner of Police

NSW POLICE ADULT SEXUAL ASSAULT POLICY STATEMENT

Sexual assault is a serious crime. There are few crimes as serious and which have the same debilitating and long lasting effects on the victim and the community. The NSW Police Policy and Standard Operating Procedures sets out the roles and responsibilities of police in responding to adult victims of sexual assault.

This policy on adult sexual assault applies equally to adult victims of sexual assault and adult victims of child sexual assault. All NSW Police Officers will respond to victims with the highest level of sensitivity and professionalism.

Sexual assault is a complex crime that requires a coordinated interagency response to victims. Police must remain committed to achieving the best quality outcomes for all victims of sexual assault. The response requires a commitment to working closely with other departments such as NSW Health and the Office of the Director of Public Prosecutions.

NSW Police has a responsibility to develop and implement strategies for detecting, intervening and preventing adult sexual assault. In carrying out this role, the highest level of professional intervention and investigation will be implemented.

Principles for responding to adult victims of sexual assault:

- victims are treated with dignity and respect;
- victims are informed of their choices;
- victims safety, physical and emotional needs are of primary concern;
- assault details are disclosed only when essential.

NSW Police will:

1. provide a prompt and professional response in investigating allegations of sexual assault and in the preparation of briefs;
2. be visible in the detection and investigation of crimes of sexual; violence and raise community awareness about crimes of sexual violence;

NSW POLICE ADULT SEXUAL ASSAULT POLICY STATEMENT

3. encourage reporting of all allegations of sexual assault;
4. ensure victims are referred to professional support including counselling and medical services to assist in their recovery; and
5. prioritise the investigation of all reports equally regardless of the recency of the assault.

STANDARD OPERATING PROCEDURES

SEXUAL ASSAULT IN CONTEXT

In 2001, there were 16,744 victims of sexual assault who reported to police in Australia, an increase of 7% from 2000 (ABS, recorded crime 2001). Research indicates that sexual assault is grossly under reported to Police and that most sexual assault goes unreported to any authorities. A national study conducted by the Australian Bureau of Statistics revealed that only 9.8% of women report to the police. (ABS, Women's Safety Australia, Cat no 4128.0, ABS, Canberra, p 31). Personal factors most often will affect a victim's willingness to report the sexual assault. Victims most often cite shame, embarrassment and fear of not being believed as the reasons why they do not report.

Research into the experiences of women in court as victims of sexual assault, Heroines of Fortitude (1996) revealed that only 11% of complainants first report the sexual assault to the police. Victims who attend police stations to report an assault may feel uncertain about the process and whether they will want to proceed. Many victims may withdraw a complaint after making an initial report. Of those victims that do report to the police even fewer will progress to trial.

Sexual assault is an act of power and control committed by one person against another without consent. Sexual assault is a humiliating, degrading and often terrifying experience that may have long term effects on its victims. These effects occur regardless of a person's age, gender, class, culture, ability or sexuality.

Victims of sexual assault experience a range of feelings including shock, fear, guilt, shame, depression and an inability to trust others. The social stigma attached to the sexual assault can heighten these feelings and increase the trauma experienced by victims, especially if they receive an uncaring, negative response from those to whom they report the assault.

Historically sexual assault has been a crime associated with women. Traditionally female police officers have been tasked with responding to victims of sexual assault. International research indicates that it is not the gender of the Police Officer responding to the complaint but rather the manner in which the Officer responds that is integral in establishing trust with the victim. Despite common belief, men may become victims of sexual assault as children, young people and adults.

STANDARD OPERATING PROCEDURES

Interagency Work

The response to adult sexual assault is complex, involving agencies from both the health and criminal justice systems. A coordinated approach to victims of sexual assault requires police to work in close partnership with NSW Health and the Office of the Director of Public Prosecutions. The roles and responsibilities of these agencies are contained in the *NSW Police, Health and Office of the Director of Public Prosecutions Guidelines for Responding to Adult Sexual Assault*.

Many non-government agencies also work to provide support to sexual assault victims. These include Aboriginal and multicultural organisations, rape crisis services and victim support groups. The responses provided by these key agencies may also help determine victim willingness to report the crime to the authorities.

Section 1



POLICE ROLES AND RESPONSIBILITIES

INITIAL COMPLAINT TO POLICE

- Role of the Initial Response Officer
- Historical Sexual Assault
- Role of the Duty Officer
- Role of the Investigations Manager
- Role of the Criminal Investigator

Section 1

POLICE ROLES & RESPONSIBILITIES

NSW Police officers have an important role in responding to adults who report crimes of sexual assault. Although these roles vary, the response that a victim receives at each point of contact is crucial.

Without an appropriate initial response many victims will not proceed with a complaint. The first point of contact that a victim has with a NSW Police officer may have a lasting effect on them.

INITIAL COMPLAINT TO POLICE

There is no easy way to predict when a victim will choose to make a complaint regarding a sexual assault to the police. Police must remember that deciding to report, for most victims, will be an incredibly difficult decision and one that often requires a long period of time to make. Some victims choose to report immediately after the assault whilst others may wait days, months and even years. For this reason, all reports must be taken seriously and treated with a sensitive and professional approach.

Role of the Initial Response Officer

The initial response officer will:

- Respond to the victim in a respectful and supportive manner;
- Record in the official notebook details including:
 1. The victim's personal details.
 2. The exact words used by the victim to report the sexual assault and any conversation they have had with anyone else about the incident.
 3. The time of the sexual assault. This will assist in establishing whether immediate specialist medical attention is required.
 4. The location of the crime scene.
 5. The identity of the offender. For many victims the identity of the offender is known. If known, and circumstances demand it, obtain and circulate a description of the offender.
- Immediately notify the Duty Officer;
- Assess the victim's immediate safety;

Section 1

POLICE ROLES & RESPONSIBILITIES

- Assess if urgent medical attention is required;
- Ensure that the victim is provided with a private space away from the general public and work activities at the Local Area Command;
- Ensure that victims who may be affected by alcohol/drugs are responded to immediately;
- Keep the victim informed of what is happening and;
- Create an event on COPS.
- Arrange a support person where necessary.

Historical Sexual Assault

Delay in complaint is common in sexual assault. There are many reasons why victims do not report immediately to the police. The reporting of historical complaints must be taken seriously as these reports can be used by police to obtain valuable information about children currently at risk of harm.

The above principles for responding to victims apply equally for historical complaints. The Duty Officer will determine whether the on call detectives should attend. If detectives are not called the victim will be provided with a victim's card including the following details:

- Event Number.
- Appointment time with detectives.
- Name of Officer.

Role of the Duty Officer

The Duty Officer will ensure that:

- The victim:
 - * is advised that an investigation will be carried out by detectives.
 - * is advised of the services provided by the Sexual Assault Service.
 - * is advised that transportation can be provided to the Sexual Assault Service.
 - * is not required to repeat the details of the assault to multiple police officers.

Section 1

POLICE ROLES & RESPONSIBILITIES

- The Investigations Manager has been notified.
- That an assessment is conducted to determine the need to call out the Detectives.
- VKG has been contacted and arrange for crime scene to attend.
- S/he attends the crime scene and ensures its preservation.

Role of the Investigations Manager

The Investigations Manager will:

- Appoint a Criminal Investigator to be the officer in charge of the case.
- Ensure equity in allocation of sexual assault cases to Criminal Investigators.
- Ensure quality of all investigations.

Role of the Criminal Investigator

The criminal investigator will:

- Liaise with the initial response officer and duty officer;
- Ensure the victim of sexual assault is informed of;
 - * the availability and purpose of a forensic medical examination;
 - * the role of counsellors within sexual assault services and the availability of counselling;
 - * the police role and the need for detailed statements and the use of statements in later proceedings;
 - * the expected length of time the statement taking may require;
 - * their right to have a support person (who is not a likely to be a witness) present during the interview;
 - * the likelihood of having to recount details of the police statement if the matter goes to court;
 - * the interviewing of suspects, the use of bail and apprehended violence orders; and
 - * the court process and what is required of witnesses.

Section 1

POLICE ROLES & RESPONSIBILITIES

- Liaise with Crime Scene Investigators.
- Conduct a full and proper investigation of the offence.
- Establish a working relationship with the relevant government and non government Sexual Assault Services to maximise the resources available when conducting a criminal investigation.

Section 2



VICTIM CARE

SPECIALIST SUPPORT SERVICES

- NSW Health
- NSW Rape Crisis Centre

CONFIDENTIALITY

TRANSPORT OF VICTIMS

INFORMATION ON ARREST

CONSIDERATIONS FOR BAIL

APPREHENDED VIOLENCE ORDERS

VICTIM FOLLOW UP

VICTIMS COMPENSATION

VICTIMS REGISTER

VICTIM IMPACT STATEMENTS

Section 2

VICTIM CARE

The NSW Police Victim Support Policy and Procedures outlines the roles and responsibilities of Police when responding to victims of crime. These principles apply equally to victims of sexual assault. All Police officers must comply with the NSW Governments *Charter of Victims Rights*. The Charter provides recognition for the rights of victims and establishes standards for their fair treatment in the criminal justice system.

NSW Police has an obligation to ensure that sexual assault victims receive the highest level of professional intervention and investigation. Victim care is the highest priority in sexual assault investigations.

SPECIALIST SUPPORT SERVICES

It is essential that police respond empathically to victim's of sexual assault. However, police should not involve themselves in the victim's long-term psychological well-being.

The Criminal Investigator will inform victim's of the availability of specialist services (such as NSW Health Sexual Assault Services) and how these services can assist victims in their recovery. With the consent of the victim the Investigator should make referrals to the Sexual Assault Services as soon as possible.

NSW Health Sexual Assault Services

In NSW there are 55 NSW Health funded Sexual Assault Services. These services are available 24/hours a day. They can be contacted through the local hospital.

When making a referral to the sexual assault service the following information is required:

- The victim's personal details including name, date of birth and address.
- Date of the last sexual assault.
- The need for an urgent forensic medical examination.
- Brief history of the assault.

Section 2

VICTIM CARE

NSW Rape Crisis Centre

NSW RCC is a free statewide telephone counselling service for adult victims of sexual assault. The service provides access to specially trained counsellors on one number, twenty-four hours a day.

If a victim attends the police station and is:

- Uncertain about the options available to them;
- Uncertain about what they want to do;
- Unable to access the local NSW Health Sexual Assault Service; and or
- Distressed.

NSW Police officers will:

- Advise the victim of the availability of the specialist counselling and support provided by NSW RCC.
- With the victims consent telephone the NSW RCC.
- Provide the victim, wherever possible with access to a telephone in a quiet and private space to speak with the counsellor.

The NSW RCC can be contacted on:

Sydney (02) 9819 6565

Tollfree 1800 424 017

TTY (02) 9181 4349

www.nswrapecrisis.com.au

CONFIDENTIALITY

All officers have a statutory obligation under the *Victims Rights Act 1996* to abide by the *Charter of Victims Rights*.

Criminal investigators will maintain strict confidentiality during the investigation of any adult sexual assault matter and during any subsequent proceedings.

Section 2

VICTIM CARE

TRANSPORT OF VICTIMS

If the victim presents to the local police station it is the responsibility of the Duty Officer to ensure that the victim is advised of the availability and benefits of specialist Sexual Assault Service intervention.

In situations where the victim requires immediate attention from the Sexual Assault Service, and they wish to attend the service, the Duty Officer will ensure the nearest service is notified. (NOTE: this may not necessarily be located at the nearest hospital).

If the victim requires urgent medical attention or forensic medical examination it is the responsibility of police to transport the victim to the Sexual Assault Service. In some situations Police may consider an ambulance to transport the victim. Where ever possible victims will be transported in unmarked police vehicles with police in plain clothes.

In circumstances where the victim presents to a Health Service where a Sexual Assault Service is not located it is the responsibility of the Health Service to transport the victim to the nearest sexual assault service.

INFORMATION ON ARREST

Information released by police about the arrest of any person or about subsequent court proceedings must not lead to the identification of any adult victim of sexual assault or any witness or alleged offender.

PROVISION OF INFORMATION ON LEGAL ACTION

NSW Police Officers must advise the victim that charges have been laid and inform her/him of the defendant's conditions of bail and the first remand date, in accordance with Charter of Victims Rights (Victims Rights Act 1996)

Section 2

VICTIM CARE

CONSIDERATIONS FOR BAIL

The Charter of Victim's Rights grants victims the following:

- The right to have their need or perceived need for protection put before an authority by the prosecutor in any bail application by the accused;
- The right to be informed of bail conditions;
- When making a bail application, the bail authority should take into account the apprehension experienced by the victim of sexual assault. Concerns should be discussed with the victim in order to maximise both their protection and sense of safety;
- Subject to the provisions of the Bail Act (Part V, Division 1) which specifies the criteria to be considered in the bail application, the bail authority should consider giving conditional bail which prevents the person charged from contacting the victim, either directly or indirectly, or being in the vicinity of the victim's home or work.

APPREHENDED VIOLENCE ORDERS

As well as laying charges, police may also apply for an Apprehended Violence Order (AVO). It may be appropriate to apply for an AVO where there is insufficient evidence to proceed with criminal charges.

If the AVO application is made before a suspect has been interviewed about the sexual assault, it should contain enough information to satisfy the court that the victim has a reasonable fear for her/his safety but must not contain any details of the substantive sexual assault allegations.

Victims should be advised, when an application for AVO is made by police, as s/he will be required to attend court and that her/his name and address will be disclosed to the court.

Part 15A of the Crimes Act 1900 provides for both Apprehended Domestic Violence Orders and Apprehended Personal Violence Orders, depending on the nature of the relationship between the victim and the suspect. The Domestic Violence Liaison Officer (DVLO) may be able to assist with information regarding AVO's.

Section 2

VICTIM CARE

NB: Where the victim has an intellectual/cognitive disability or mental illness and a guardian has been appointed, this person is also able to apply for an AVO of behalf of the victim. A person does not have to in fact fear the commission of a personal violence offence if they are appreciably below average intellectual functioning.

VICTIM FOLLOW-UP

The Criminal Investigator is responsible for ensuring that the victim is informed of the status of the case and progress of the investigation. This includes charging, bail conditions and subsequent remand dates. In addition, police should encourage victims to seek support or counselling from a sexual assault service.

Victims must be provided with a Victim Card which has been completed with the name of the OIC, the name of the LAC, telephone and fax number, time and date of the report and the COPS Event number.

VICTIMS COMPENSATION

Victims of sexual assault may be eligible for counselling as well as victims compensation from the Victims Compensation Tribunal. Victims must be provided with information regarding access to compensation as victims of violent crime.

Police can refer victims to the Victims of Crime Bureau, should they require information regarding victim's compensation.

The bureau can be contacted on:

Sydney	(02) 9374 3000
Tollfree	1800 633 063
TTY	(02) 9374 3175
www.lawlink.nsw.gov.au/voc	

Section 2

VICTIM CARE

VICTIMS REGISTER

Under the Charter of Victims Rights, victims of crime are given the right to information about the offender's status. Victims of crime, including sexual assault have a right to receive information about an offender who is an adult or a young person in custody or who is a forensic patient.

In situations where the offender is serving a custodial sentence, victims must be informed of the Victims Register. Each department that has responsibility for offenders in custody has a Victims Register. In NSW there are three registers:

1. Department of Corrective Services

Victims Register: (02) 9289 1374

2. Department of Juvenile Justice

Victims Register: (02) 9219 9400

3. NSW Health

Forensic Patients Victims Register: (02) 9391 9302

VICTIM IMPACT STATEMENTS (VIS)

A victim impact statement is a written statement by a primary victim of crime. In the case of a primary victim, the statement relates to the personal harm suffered as a direct result of an offence. The personal harm suffered relates only to actual physical bodily harm, mental illness or nervous shock.

Legislation allows a victim impact statement to be received and considered in the Supreme Court and District Court, and in certain specified more serious cases, in the Local Court. A victim impact statement may be received by a court in relation to an offence that involves:

- Actual or threatened violence (including sexual assault); or
- The death of, or any actual physical bodily harm, to any person.

Section 2

VICTIM CARE

A statement may also be received and considered in the Children's Court in relation to an offence that involves the death of any person.

A victim impact statement is given to the court after a person has been convicted and before the person is sentenced. Once a victim impact statement has been accepted by a court, a victim (or their representative) is entitled to read or all or part of the statement to the court, at such time as the court determines after conviction but prior to sentencing.

A victim has the right to information and assistance for the preparation of a victim impact statement to ensure that the full effect of the crime on the victim is placed before the court.

The statement can be prepared by the victim, the victim's representative or a qualified person. A qualified person means a counsellor who is authorised to provide approved counselling services for the purposes of section 21 of the *Victims Support and Rehabilitation Act 1996* or any other person who is qualified by training, study or experience to provide the particulars required for inclusion in a victim impact statement. Police officers must not prepare the victim impact statement or provide any comment to authors on any observations that they made about the impact of the crime.

Where a victim is considering tendering a victim impact statement the lawyer or Witness Assistance Officer (ODPP) will provide him/her with a copy of the VIS Information Package to assist him/her or the qualified person in the preparation of the statement.

The victim impact statement must be filed by or on behalf of the prosecutor.

Section 3



VICTIMS WITH SPECIFIC NEEDS

PEOPLE FROM CULTURALLY AND LINGUISTICALLY DIVERSE BACKGROUNDS

ABORIGINAL PEOPLE

PEOPLE WITH DISABILITIES

SEXUAL ASSAULT WITHIN RESIDENTIAL FACILITIES

VICTIMS WHO ARE DEAF OR HEARING IMPAIRED

SEXUALITY AND GENDER

MENTAL HEALTH

SEX WORKERS

POLICE EMPLOYEES

VICTIMS OF DOMESTIC VIOLENCE

VICTIMS AGED 16 TO 18 YEARS

VICTIMS WHO ARE AFFECTED BY ALCOHOL AND OR DRUGS

Section 3

VICTIMS WITH SPECIFIC NEEDS

NSW is a diverse community. The diverse nature of the community means that frequently NSW Police officers will need to make adjustments to the process of responding to victims of sexual assault in order to accommodate the needs of these groups.

PEOPLE FROM CULTURALLY AND LINGUISTICALLY DIVERSE BACKGROUND

Before interviewing sexual assault victims police should consider the cultural background and religious beliefs of the person and the impact this may have on the statement taking process.

The Ethnic Affairs Commission of NSW *Use of Interpreters in Domestic Violence and Sexual Assault Cases* provides a useful guide for responding to victims of sexual assault where English is not identified as the first language.

Use of Interpreter services

If a victim cannot communicate orally in English with reasonable fluency, then an appropriate interpreter service will be used. Police must use accredited interpreters when interviewing victims or witnesses in sexual assault matters. Where ever possible on site (face to face) interpreters should be used. Under no circumstances should unaccredited police employees or members of the public be used to interpret in detailed operational and policing situations. The use of the Telephone Interpreter Service should be considered in these situations.

NSW Police guidelines for using interpreters are documented in the *Code of Practice CRIME and Procedures for the Evidence Act*. Do not use a friend or relative to interpret when taking a statement from the victim.

Some victims of sexual assault from culturally diverse communities may have experienced torture and trauma in their country of origin. This may have occurred at the hands of a political oppressor a military regime or the police. Their experience may impact on their ability to disclose the assault and willingness to co-operate with police.

Section 3

VICTIMS WITH SPECIFIC NEEDS

ABORIGINAL PEOPLE

It is important for officers to be sensitive to cultural issues when responding to the needs of sexual assault victims from the Aboriginal community. Establishing and maintaining networks with the support of the Aboriginal Community Liaison Officer (ACLO) will assist you in your work.

In many Aboriginal communities it is often the case that complainants and alleged offenders are related to or well known in the community. Aboriginal victims may fear reporting to police particularly if the alleged offender is also Aboriginal or they are already known or had previous dealings with police. In all of these circumstances the matter needs to be dealt with in a highly sensitive manner.

PEOPLE WITH DISABILITIES

Both Australian and international research indicates that up to 80% of people with a disability, particularly an intellectual disability are sexually assaulted at some time in their life.

The NSW *Guidelines for police when interviewing people with impaired intellectual functioning* outlines the procedures when interviewing victims of sexual assault who have an intellectual disability.

If you decide not to proceed with a statement and prosecution you must document your reasons and submit this information to the Commander and the Deputy Director, Criminal Law Division, Legal Services.

If the victim is unable to make an informed decision, and the support person is not the legal guardian, you will need to contact their guardian or the Guardianship Tribunal for assistance. If a guardian is appointed there are a number of procedures throughout the investigation process that will require their advice of consent.

The Guardianship tribunal can be contacted on:

Sydney	(02) 9555 8500
Tollfree	1800 463 928
TTY	(02) 9552 8534
www.gt.nsw.gov.au	

Section 3

VICTIMS WITH SPECIFIC NEEDS

SEXUAL ASSAULT WITHIN RESIDENTIAL FACILITIES

Where a notification of adult sexual assault has been made by a residential or hospital facility, criminal investigators should proceed in consultation with staff at that facility. A notification may be made without the knowledge or consent of the victim and a high level of sensitivity is required in these circumstances. Early contact with the sexual assault service should be made.

VICTIMS WHO ARE DEAF OR HEARING IMPAIRED

Accredited Auslan interpreters must be used when interviewing deaf and hearing impaired victims. They can be contacted at the:

Community Relations Commission

Telephone 1300 651 500

NSW Rape Crisis Centre is able to offer counselling to deaf and hearing impaired victims through the TTY phone service (02 9181 4349)

SEXUALITY AND GENDER

People who identify as Gay, Lesbian, Bi-sexual, Transgender, Queer and Intersex may experience sexual assault as a form of homophobic or prejudice related violence. Sexual assault also happens within these communities and is very much a hidden crime. People who identify from any of these communities may experience heightened fear in reporting to sexual assault to the police because of fear of not being believed or being judged because of their sexuality.

The Gay & Lesbian Liaison Officer (GLLO) at the Local Area Command may be able to provide valuable advice about investigating sexual assaults involving people who identify as Gay, Lesbian, Bi-sexual, Transgender, Queer or Intersex.

Section 3

VICTIMS WITH SPECIFIC NEEDS

MENTAL HEALTH

Mental health issues may include a range of conditions such as psychiatric disabilities, psychological problems and drug-related disorders.

Mental illness for most people is transitory. Victims of sexual assault with a mental illness may be too unwell at the time to proceed with the investigation or make an informed decision. In such instances it is preferable, where possible, to defer the investigation until the person is well enough to give informed consent.

It is crucial that in situations where there is a recent assault and the investigation is being deferred due to the victim's mental health that any physical evidence is secured and any corroborating evidence obtained.

In situations where the victim of sexual assault is suffering from an acute psychiatric illness, consultation with a mental health professional is recommended before proceeding with statement taking.

Police should seek this advice from the treating psychiatrist or a mental health professional nominated by the psychiatrist.

SEX WORKERS

Sexual assault and violence in the sex industry is frequently not reported to police. Sex workers are marginalised, this leaving them more vulnerable to sexual violence. Sex workers generally do not report sexual assault to the police because they fear that they will not be believed, may have outstanding warrants, will not be taken seriously or will be blamed or judged because of the work that they do.

The Sex Workers Outreach Project (SWOP) can offer advice and support when investigating allegations of sexual assault against sex workers. They can be contacted on 9319 4866.

Section 3

VICTIMS WITH SPECIFIC NEEDS

POLICE EMPLOYEES

The principles of these SOPS apply equally where the victim is a NSW Police employee (sworn or unsworn). Information and access to support should be provided to officers who are victims of sexual assault.

When investigating sexual assault allegations involving police officers or police employees guidance must be sought from a senior officer within the Local Area Command investigating the allegation. The privacy of all officers involved in the allegation must be protected at all times.

If the victim is an employee of NSW Police, do not record the victims name on COPS rather enter "victim known to Police".

Sexual assault allegations that involve NSW Police Officers or employees MUST NOT be recorded as a significant event. The Local Area Commander or equivalent must be advised of the situation.

VICTIMS OF DOMESTIC VIOLENCE

The reporting of sexual assault within intimate domestic relationships is the lowest reported form of domestic violence. Sex offences that have occurred within a domestic relationship can be difficult to prosecute as lack of consent may be difficult to prove.

It is essential that the Domestic Violence Liaison Officer (DVLO) and the Criminal Investigator work closely together with these victims. Criminal Investigators should consider ways that the DVLO may be able to assist during the investigation including support to victims when they are providing a statement in relation to the sexual assault.

VICTIMS OF SEXUAL ASSAULT AGED 16 TO 18 YEARS

A key principle of the *Children and Young Persons Care and Protection Act (1998)* allows young people to participate in decisions that affect them and extends the options available to them, including adult courses of action. In all cases 16 to 18 year olds who have experienced a sexual assault will be offered counselling and medical services in an

Section 3

VICTIMS WITH SPECIFIC NEEDS

adult sexual assault service. The legislation does not mandate police to report young people, aged 16 –18 years of age who have been sexually assaulted to the Department of Community Services.

Cases involving young people aged 16 to18 years who are sexually assaulted by a peer, stranger or acquaintance and where the young person is not at risk of ongoing harm will be investigated and managed by the LAC. This includes date rape situations. Matters that do not meet this criteria are investigated by the Joint Investigation Response Team.

Where there is doubt about responsibility for a matter negotiations regarding the allocation of a case will take place between the JIRT Team Leader and the Investigations Manager. If the allocation remains unresolved then the matter goes to the JIRT Coordinator, Crime Manager. If this remains unresolved the Commander Child Protection and Sex Crimes Squad will liaise with the Local Area Commander.

VICTIMS AFFECTED BY ALCOHOL AND OR DRUGS

Offenders may use drugs and or alcohol to facilitate sexual assault. Reports indicate that drink spiking is under-reported to the police, medical agencies and other authorities. (Taylor N, Prichard J, Charlton K 2004. *National project on drink spiking: investigating the nature and extent of drink spiking in Australia*) Victims who do report may be hesitant as they have a poor memory of what has happened. These victims may attend police stations intoxicated, in order to ensure the preservation of traces of drugs or alcohol it is essential that toxicology is obtained as soon as possible. In situations where the victim has been sexually assault these samples (blood and urine) will be taken by the Sexual Assault Service.

Section 4



INTERAGENCY RESPONSES

INTERAGENCY PROCEDURES

WORKING WITH NSW HEALTH

REFERRAL TO SEXUAL ASSAULT SERVICES

PRELIMINARY MEETING AT THE SEXUAL ASSAULT SERVICE

CRISIS COUNSELLING INTERVIEW

MEDICAL EXAMINATION

Section 4

INTERAGENCY RESPONSES

INTERAGENCY PROCEDURES

While people's specific experiences of sexual assault differ, the common features of the crime enable consistent procedures to be developed and implemented within a best practice framework. The response to adult sexual assault is complex, involving agencies from both the health/welfare and criminal justice systems. Its effectiveness therefore requires the roles and activities of the various agencies to be properly coordinated, with procedures in place to ensure a smoothly functioning interface.

NSW Police works in collaboration with NSW Health and the Office of the Director of Public Prosecutions in responding to adult victims. All agencies are committed to providing an effective and comprehensive response to adult sexual assault that prioritises the safety and well being of victims.

WORKING WITH NSW HEALTH

NSW Health has a network of specialist sexual assault services. The role of these services is to provide crisis and ongoing counselling, group work, advocacy, information and general and forensic medical examinations for adults who have experienced sexual assault.

REFERRAL TO SEXUAL ASSAULT SERVICES

Victims must be advised about the availability of services offered at the sexual assault service. With the victim's consent, NSW Police officers will refer victims to the sexual assault service as soon as possible.

In situations where crisis counselling and medical intervention is required NSW Police will notify by telephone the sexual assault service. It is important that the sexual assault service be advised of an estimated time of arrival and the victim's personal details, including name, date of birth and address.

The sexual assault service prioritises referrals for counselling in the following ways:

1. Children and adults where the sexual assault has occurred within the past seven days.

Section 4

INTERAGENCY RESPONSES

2. Any disclosure of sexual assault by a child or young person under the age of 16.
3. Any disclosure of sexual assault by a young person aged 16-18.
4. Adult victims sexually assaulted in the last year.
5. Any sexual assault victims requiring court preparation and support or cases where the assault is the subject of some investigation and which does not fit into categories one to four.
6. Adults who have been sexually assaulted as adults more than one year ago.
7. Adults who have been sexually assaulted as a child.

PRELIMINARY MEETING AT THE SEXUAL ASSAULT SERVICE

At the point that victims arrive at the sexual assault service they may be in a state of crisis. It is integral that police and health officers advise victims of the unique roles and responsibilities of each agency.

With the consent of the victim, the Criminal Investigator, the medical officer, counsellor, and the victim's support person may meet to discuss the roles and responsibilities of each officer.

CRISIS COUNSELLING INTERVIEW

People who present at sexual assault services are usually in shock and have experienced severe trauma. The purpose of the first crisis-counselling interview is for the counsellor to assist the victim in beginning to regain control after a traumatic event and to provide information which may assist victims to make decisions about how they would like to proceed. The main concern of the sexual assault service at this point is the rights and needs of the victim. Police officers should not be required to attend this interview.

Section 4**INTERAGENCY RESPONSES**

MEDICAL EXAMINATION

The purpose of the medical examination conducted at the sexual assault service is to ensure that the victim has no physical injuries and to obtain forensic evidence. The medical examination will only be conducted with the victim's informed consent. Police officers should not normally be present during the medical examination. Generally, a health worker or other support person will be present during the medical examination.

Section 5



WORKING WITH OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

POLICE PROSECUTIONS

ODPP PROSECUTIONS

SCREENING BRIEF

COMMUNICATING CHANGES

COMPLETION OF TRIAL

APPEALS TO THE COURT OF CRIMINAL APPEAL

WITNESS ASSISTANCE SERVICE

Section 5

WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Office of the Director of Public Prosecutions (ODPP) is responsible for the conduct of child sexual assault prosecutions in both summary and indictable matters (complainant under the age of 16 years at the time of the alleged offence) and for adult sexual assault prosecutions in indictable matters.

The Director of Public Prosecutions prosecutes. The police investigate. The Director has no investigative function and no power to direct police in their investigations.

The Director of Public Prosecutions may advise investigators in relation to the sufficiency of evidence to support nominated charges and the appropriateness of charges; but not in relation to operational issues, the conduct of investigations or the exercise of police powers.

Any request for such advice may only be done formally and in accordance with the NSW Police Handbook (see chapter on Legal Advice).

POLICE PROSECUTIONS

Police retain responsibility for prosecuting matters where the charge involves a penalty of less than two years imprisonment or three years' cumulative sentence, unless the alleged offender is a police officer or a public figure. The Officer in Charge will coordinate the proceedings and keep the victim informed.

ODPP PROSECUTIONS

After criminal charges have been laid in relation to sexual assault offences and where the prosecution is the responsibility of the ODPP, the police will forward the brief of evidence to the ODPP. Upon receipt of a brief, the managing lawyers will:

- screen these cases to assess the seriousness, complexity or sensitivity of each matter and;
- allocate the brief to the appropriate lawyer and;
- refer matter to Witness Assistance Service.

Section 5

WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

At this stage the ODPP assumes responsibility to conduct the criminal proceedings. Contact with the victim will be in accordance with Prosecution Guideline 19, the Charter of Victim's Rights and the ODPP's Strategy for the Preparation of Defended Indictable Matters.

It is important for the OIC to provide the ODPP lawyer, at the earliest opportunity, with the contact details for victims and any special needs that the victim may have that can assist the ODPP lawyer and Witness Assistance Service in planning for the victim's role as a prosecution witness. Police must advise if the victim has any special needs, is Aboriginal or requires an interpreter.

SCREENING BRIEF

When a matter is assigned to an ODPP lawyer, the lawyer will screen the case in accordance with the ODPP Prosecution Policy and the Local Court Screening Sheet that prescribes complainant contact.

The prosecutions are conducted in accordance with the Strategy. The lawyer will:

- speak to the officer in charge of the investigation to ascertain any information that is relevant to the prosecution of the matter;
- establish a relationship with the police and to ascertain any difficulties or special needs that may relate to the victim;
- raise requisitions if necessary;
- where appropriate seek the officers views concerning issues relating to screening;
- ascertain availability of expert witnesses; and
- seek the OIC's opinion on charge negotiations, charge agreements and agreed statements of fact.

Section 5

WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

COMMUNICATING CHANGES

During the progress of criminal proceedings issues will arise that need to be communicated to the victim and/or to the sexual assault counsellor working with the victim. The sexual assault counsellor should advise the ODPP of their involvement in the matter and their contact details. The ODPP lawyer, the police officer and the sexual assault counsellor will maintain communication to ensure that all the relevant parties are informed of the progress of the matter.

The victim should be informed about:

- date of court listings, hearings, trial adjournments;
- dates for the hearing of evidence from the victim;
- bail applications and any new bail conditions or variations breaches of bail conditions progress of proceedings;
- breaches of bail conditions;
- progress of proceedings;
- charge negotiations and charge agreements;
- charges withdrawn by the Crown (no Bill applications);
- findings of determinations of courts;
- sentencing decisions and victims right to submit a victim impact statement;
- appeals; and
- any other matter that may arise that is relevant to the safety of the victim.

COMPLETION OF TRIAL

After the hearing the lawyer involved must inform the victim and the OIC of the result and ensure that the victim understood the process and the outcome. The lawyer must allow sufficient time for this debriefing to occur. The lawyer may enlist the aid of the sexual assault counsellor or the Witness Assistance Service. In matters involving conviction, information on the Corrective Services, Mental Health Review Tribunal and/or Juvenile Justice Victim Registers will be provided to the victim. The victim will

Section 5

WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

be informed of other services and remedies available to victims by the ODPP. The victim can be provided with information about services and remedies depending on their needs post proceedings and can be assisted with referrals by the Witness Assistance Service. The victim will also be informed by the ODPP about the offender's right to appeal.

APPEALS TO THE COURT OF CRIMINAL APPEAL (CCA)

Upon receipt of the notice of appeal the lawyer who instructed in the matter is to be notified by the ODPP CCA Unit. That lawyer is to notify the victim and to provide the victim's details to the CCA unit. The CCA unit will notify the officer in charge of the pending appeal. Thereafter, the CCA unit has responsibility of keeping those persons informed. A conference with the Crown prosecutor and the CCA lawyer and the victim/OIC may, in appropriate cases, be held prior to the CCA hearing.

THE ROLE OF WITNESS ASSISTANCE SERVICE (WAS)

The WAS provides information, referral and support for victims of violent crimes and vulnerable witnesses who are required to give evidence in matters that are prosecuted by the ODPP. The WAS aims to:

- minimise the stress and trauma associated with the legal process;
- enable witnesses to give their evidence in court to the best of their ability; and
- assist the ODPP in meeting victims' rights and needs.

The Witness Assistance Service has an early referral system, which identifies all adult complainants in sexual assault cases. WAS Officers make contact with complainants where contact details are available and assess the information and support needs of the complainant and their families, as well as determining any special needs the complainant may have as a prosecution witness. WAS will discuss with complainants whether they have a sexual assault counsellor and if not will assist in referral for counselling, where appropriate.

Section 5

WORKING WITH THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

WAS Officers play a key role in facilitating communications between lawyers and complainants and between counsellors and lawyers. WAS Officers are an important contact point for victims, their families and counsellors when ODPP lawyers are unavailable. An important role of WAS is the provision of information to victims, their families and counsellors. Some of this information is obtained only from within the organisation such as updates on matters.

The WAS role includes exploring court support options for victims of sexual assault, and referring victims for counselling and court preparation. When victims do not have a sexual assault counsellor who can provide court support, the WAS Officer will explore alternative options and may be able to provide court support where necessary. Sexual assault counsellors and WAS Officers may also work jointly in providing court support in some complex matters. There is an Indigenous Identified WAS Officer who can also assist Aboriginal victims and witnesses.

Section 6

INVESTIGATION PROCEDURES

ROLE OF CRIMINAL INVESTIGATOR

INTERVIEWING VICTIMS

- Statement Taking
- When & Where to conduct the interview
- Support person present during the interview
- Electronic Recording of victims interviews
- Copy of statement to victim

INTERVIEWING THE SUSPECT

OUTSTANDING WARRANTS

DISCONTINUANCE OF POLICE ACTION

ACCESS TO HEALTH RECORDS

POLICE BRIEF TO ODPP

SERVICE OF BRIEF

MEDICAL OFFICER'S STATEMENT

CERTIFICATES (UNDER S282 CRIMINAL PROCEDURE ACT) TENDERED
AS EVIDENCE

Section 6

INVESTIGATION PROCEDURES

ROLE OF THE CRIMINAL INVESTIGATOR

A criminal investigator will:

1. Be appointed by the Investigations Manager to provide victim support, conduct the investigation, manage the case, and prepare the brief of evidence;
2. Respond by providing understanding and support, being non-judgemental towards the victim, and providing early referral to support services;
3. Investigate complaints, including interviewing victims, witnesses and alleged offenders, recording, collecting physical evidence and facilitating scientific analysis and initiating appropriate court action;
4. Provide protection to victims of sexual assault who are at immediate or continuing risk, using relevant powers (such as AVO's);
5. Provide information about criminal proceedings including arrest, charging, bail, court process, and sexual assault services and victims compensation;
6. Observe the Charter of Victims Rights;
7. Identify any special or specific needs that victims may have that will assist the victim during the criminal justice processes:
8. Ensure that where a sexual assault has occurred within the last 7 days that the victim is taken immediately to the sexual assault service for counselling and medical intervention; and
9. Prioritise sexual assault investigations equally regardless of the recency of the assault.

INTERVIEWING VICTIMS

Statement Taking

Criminal Investigators must take sexual assault statements. This is not the responsibility of general duties police. Interviewing victims of sexual assault is the responsibility of all criminal investigators.

In circumstances where a victim does not feel comfortable speaking with the designated Criminal Investigator, the victim's preference, wherever possible, for a gender specific officer should be met.

Section 6

INVESTIGATION PROCEDURES

When & Where to Conduct the Interview

As far as possible, the location and timing of the interview will be determined by the victim's wishes. Factors to be taken into account in deciding when and where to conduct an interview include the lateness of the hour and the emotional and physical condition of the victim of sexual assault.

If circumstances permit, it may be preferable to arrange for the police interview to take place the next day or at some other time. In some situations you may consider interviewing victims of sexual assault at a location outside of the Police Station.

When the interview is conducted at the Local Area Command, criminal investigators should ensure that the victim's privacy and anonymity are safeguarded.

Support Person Present During Interview

Inform the adult victim of sexual assault that s/he is entitled to be accompanied by a support person while the statement is being taken. The person must, however, be advised that:

- the support person may not participate in the interview; and
- a potential witness may not act as a support person.

Electronic Recording of Victim Interviews

Under no circumstances should NSW Police officers use ERISP to take statements from victims of sexual assault. It is best practice that all victims of sexual assault be interviewed and a typed statement taken.

In relation to adult complainants, the ERISP transcript becomes the statement and these transcripts are often very long. These lengthy transcripts make it extremely difficult for the Office of the Director of Public Prosecutions to locate the details of the offence and to prosecute the matter.

Section 6

INVESTIGATION PROCEDURES

Some complainants may have previously been charged and therefore experienced an ERISP interview. In situations where the complainant is a victim of sexual assault it is essential that all reasonable steps are taken to ensure that he/she feels comfortable to provide the details of the sexual assault. In most situations the ERISP room is not conducive to providing this environment.

In situations where the victim has an intellectual disability, the use of a Joint Investigation Response Team (JIRT) audio recording suite can be negotiated with the JIRT Police Team Leader.

Copy of Statement to Victim of Sexual Assault

At the end of the interview, the victim will be advised of their right to a copy of the statement and, if requested, this will be provided.

The time at which the statement is provided will be at the investigating officer's discretion. In circumstances where statements are not provided immediately it is the investigating officer's role to explain why the statement isn't being provided and when the victim can receive a copy.

If the Officer in Charge (OIC) considers that a copy of the statement should not be released (to the victim, legal representative or witness), because of security or to maintain confidentiality of inquiries, they may decline to release it.

Before deciding not to release the statement the OIC must believe on reasonable grounds, that the release of the statement would hinder the investigation.

INTERVIEWING THE SUSPECT

All interviews conducted with suspects should be done in accordance with ERISP Instructions and Guidelines.

Section 6

INVESTIGATION PROCEDURES

OUTSTANDING WARRANTS

Officers constantly deal with victims of crime who have outstanding warrants. When an officer is responding to an adult victim of sexual assault and there is an outstanding warrant the officer will need to consider the seriousness of the offences for which the warrant was issued combined with the seriousness of the present allegation.

Generally police should deal with any allegation first and then negotiate other issues such as warrants or other warnings. Commitment warrants are most commonly dealt with by giving an additional seven days notice and arrest warrants require discrete negotiations to resolve. Police need to assess the risks of alternative courses of action against the competing needs of the victim. Police will consult with the Investigations Manager in the event of a victim presenting with an outstanding warrant.

The NSW Police Service Victims Support Policy and Procedures confirms the rights of victims and the responsibilities of all police officers. Victims of crime, particularly those who have experienced sexual assault, deserve the highest standing of service police can possibly provide.

DISCONTINUANCE OF POLICE ACTION

Where an adult victim of sexual assault does not wish to proceed with further police action after charges have been laid, a brief statement must be obtained from the victim outlining this decision. The victim must, however, be advised that it may still be necessary to call her/him as a witness.

If a victim, having been taken to the Sexual Assault Service, does not wish to report the crime to police, the victim's wishes must be taken into consideration.

Where the alleged offender is a family member or known to the victim, enquiries should be made to ensure no undue pressure has been put on the victim to withdraw.

Section 6

INVESTIGATION PROCEDURES

ACCESS TO HEALTH RECORDS

The Sexual Assault Investigation Kit contains a protocol which is provided to police at the time of the medical examination. It contains documentation of the forensic examination and history given by the victim. This kit should provide sufficient information for the investigation and preparation of the brief.

POLICE BRIEF TO OFFICE OF THE DIRECTOR OF PROSECUTIONS (ODPP)

A copy of the charges, facts sheet, antecedents, the victim's contact details, lists of witnesses, bail forms and available statements must be faxed to the ODPP when someone is charged with an indictable offence, which can be dealt with only by the District Court.

The Police Service Handbook provides additional details regarding police liaison with the ODPP.

SERVICE OF BRIEF

When the brief is served on the defendant or the defendant's legal representative it must not contain the address, telephone number, or occupation of any victim or witness. This information must be deleted before the brief is served.

MEDICAL OFFICER'S STATEMENT

Criminal Investigators are responsible for obtaining a statement from the doctor who performed the forensic medical examination. The Sexual Assault Service may be able to provide assistance in obtaining the statement from the doctor.

The doctor's statement must include the following:

- the opening words "I hereby certify" (this allows the statement to be treated as a certificate under section 282 Criminal Procedure Act 1986);

Section 6

INVESTIGATION PROCEDURES

- the doctor's qualifications in full;
- the time, date and place of the medical examination and the name of the victim;
- the doctor's observations during the course of that examination; and
- the doctor's conclusions or opinions as a result of those observations. Observations must be restricted to the doctor's field of expertise. They must not include versions of the allegation given to the doctor by other people.

CERTIFICATES (under section 282 Criminal Procedure Act) TENDERED AS EVIDENCE

At the committal proceedings, a doctor's statement may be tendered as a certificate under section 282 Criminal Procedure Act as prima facie evidence of the matters stated.

- Where a certificate is tendered in this manner, the matter cannot be dealt with summarily except with the consent of the accused.
- Even though a doctor's statement has been tendered under section 282 Criminal Procedure Act, you will need to advise the doctor that she or he may still be called to give evidence if a magistrate gives a direction under section 91 of the Criminal Procedure Act.

Section 7



INFORMATION & INTELLEGEENCE GATHERING

INTERVIEWING THE VICTIM

IDENTIFICATION SERVICES

COPS

INTELLIGENCE UNIT – CHILD PROTECTION & SEX CRIMES SQUAD

CRIMINAL INVESTIGATIVE ANALYSIS

MEDIA MANAGEMENT

OPERATIONAL DEBRIEFING

SUPPORT TO POLICE

HYPNOSIS/EMDR

Section 7

INFORMATION & INTELLIGENCE GATHERING

Information and intelligence gathering is vital and will impact on the success or failure of any criminal investigation. It is important for all criminal investigators to observe the following:

INTERVIEWING THE VICTIM

When interviewing victims of sexual assault the following issues may assist in obtaining a full and detailed account of the assault:

- The attitude and behaviour toward the victim will have a significant impact on the victim's cooperation, the quality of information obtained, and her/his recovery.
- If the victim is uncertain, ambivalent or does not want to prosecute, continue the interview if the person consents to gain intelligence about the offender, which may assist other investigations.
- Obtain as much detail as possible about the characteristics of the offence from the victim as this can greatly assist in offender identification and offence linkage. This is particularly important when the victim does not know the identity of the offender/s.

IDENTIFICATION SERVICES

Police may consider utilising the services provided by the Forensic Imaging Section (FIS). Services which can assist in the identification of suspects include Com-Fit.

Com-Fit is a manual facial composition system that assists in the identification of suspects. Victims/witnesses are interviewed and facial components are selected from the Com-Fit books located at each Local Area Command. Police should advise victims that s/he may have a support person present during this process. This information needs to be faxed through to FIS for compilation. A first draft will be returned for consideration and if necessary it can be resubmitted.

The Forensic Imaging Section is located at the Sydney Police Centre and can be contacted on EN 54669 during business hours.

Section 7

INFORMATION & INTELLIGENCE GATHERING

COMPUTERISED OPERATIONAL POLICING SYSTEM (COPS)

All reports of sexual assault must be reported on COPS even if the victim does not wish to proceed with a prosecution. If an allegation is to be rejected the reasons must be recorded in the narrative.

Record as much detail as possible in the narrative. This is particularly important in offences where the victim does not know the offender/s as it can be vital to offence linkage. A detailed narrative enables searches to be conducted with the aim of identifying offenders and any other similar incidents.

INTELLIGENCE UNIT – CHILD PROTECTION & SEX CRIME SQUAD

On a daily basis all sexual offences are monitored by the Intelligence Unit at the Child Protection & Sex Crime Squad. This process incorporates both child and adult victims.

All serious and stranger sexual assaults are entered onto a High Risk Offender (HRO) database which is maintained by the Intelligence Unit. In addition, all information reports created under sexual assault or child abuse categories are reviewed for inclusion on the database.

The HRO database is an intelligence tool that can assist investigators as it can be searched to link offenders to offences via modus operandi, sexual activity, offence location, offender/s description, conversation, vehicle description, etc.

The Intelligence Unit can also assist in the facilitation of enquiries with other police jurisdictions when it is believed that a person may have offended elsewhere in Australia. Enquiries can also be made based on offence characteristics when an offender has not been identified.

The Intelligence Unit, Child Protection & Sex Crime Squad is located at Police Headquarters, Parramatta and can be contacted on EN 28686.

Section 7

INFORMATION & INTELLIGENCE GATHERING

CRIMINAL INVESTIGATIVE ANALYSIS (CIA)

Criminal Investigative Analysis is:

"a technique for identifying the major personality and behavioural characteristics of an individual based on analysis of crimes he or she has committed".

CIA includes criminal profiling and is the study of offender's actions, victim's actions, behavioural patterns, analysis of the crime scene and victimology. CIA has the capacity to link serial sexual assaults. It alone does not solve crime but is used in conjunction with other investigative tools.

The Crime Management Faculty, Operations Support Command offers CIA to investigators upon request. As this is a very small team job requests are prioritised against other requests and caseloads. Investigators can make requests for assistance at any stage of the investigation. Requests are made through the Crime Management Faculty EN 29555.

MEDIA MANAGEMENT

NSW Police Media Policy should be followed in all sexual assault matters. Where specific advice is required regarding the management and use of the media during a sexual assault investigation the NSW Police Media Unit must be contacted.

OPERATIONAL DEBRIEFING

The Officer In Charge is responsible for coordinating a debriefing. The purpose of this is to review any operational issues and plan for the next stage of the investigation. The debrief will be held following the initial report to the police.

The OIC should consider inviting the following officers to attend the meeting:

- Initial response officer
- Duty Officer

Section 7

INFORMATION & INTELLIGENCE GATHERING

- Forensic Services Group personnel
- Any Police involved in a search/canvas
- Intelligence Analyst
- Crime Manager
- Any specialist police involved

SUPPORT TO POLICE

The nature of sexual assault investigations means that they may have an impact on police. Each individual officer has responsibility to ensure that they look after their welfare needs and access any support services that are available such as a Peer Support Officer, Police Chaplain or the Employee Assistance Program.

It is the responsibility of the Investigations Manager to monitor the welfare of officers and arrange any debriefing at various points through out the process including any court proceedings.

HYPNOSIS/EYE MOVEMENT DESENTITISATION AND REPROCESSING (EMDR)

No victim of sexual assault will be hypnotised. The use of hypnosis will lead to the exclusion of any evidence elicited by such means and may lead to the exclusion of all evidence given by that person.

Hypnosis or EMDR may only be considered as a means of memory retrieval or memory refreshment for witnesses, after all conventional investigative techniques have been exhausted to identify suspects. If either of these processes wish to be used the OIC must seek advice from Legal Services and approval from the Local Area Commander or equivalent.

The NSW Police Handbook sets out the procedures for the use of hypnosis and EMDR.

Section 8



MANAGEMENT OF PHYSICAL EVIDENCE

PREVENTING CROSS EXAMINATION OF FORENSIC EVIDENCE

PRIORITISING EXHIBITS

TRACE EVIDENCE RECOVERY FROM VICTIM

CRIMES (FORENSIC PROCEDURES) ACT 2000

SEXUAL ASSAULT INVESTIGATION KIT (SAIK) DELIVERY TO DIVISION OF ANALYTICAL LABORATORIES

STORAGE AND RETENTION OF EXHIBITS

Section 8

MANAGEMENT OF PHYSICAL EVIDENCE

Increasingly forensic technology is available to support investigations. DNA evidence may be vital in securing a conviction.

All police involved with sexual assault scenes, victims, suspects (including search warrants) should be familiar with the procedures below to optimise the recovery and analysis of forensic evidence.

Crime Scene Investigators should be called to attend all sexual assault scenes, victims and suspects (including search warrants) where forensic evidence may be available, especially when:

- The sexual assault involves a 'stranger' and/or serial offender (offender not known by the victim and/or similar modus operandi to other known sexual assaults).
- The sexual assault has been recently committed (within 72 hours).
- The victim has serious additional physical injuries.

In all cases the Sexual Assault Service located within NSW Health will conduct the forensic medical examination of the victim and complete the Sexual Assault Investigation Kit (SAIK). This is in accordance with the *NSW Police, Health and ODPP Guidelines for Responding to Adult Sexual Assault*.

Crime Scene Investigators are responsible for the following:

- Attending, photographing and examining the crime scene and recovering all relevant forensic (including biological and trace) evidence for further examination and analysis.
- Recording, examining and removing forensic evidence from victims/offenders clothing for further analysis (this must be carried out in an FSG examination room to prevent cross contamination).
- Conveying all relevant forensic evidence to the appropriate laboratory for further examination and analysis.

Section 8

MANAGEMENT OF PHYSICAL EVIDENCE

PREVENTING CROSS CONTAMINATION OF FORENSIC EVIDENCE

At the outset police need to consider the risk of contamination and transfer of trace evidence (small or minute particles e.g. hair, fibres, paint flakes, vegetation, blood, semen etc). The crime scene should be preserved as per existing guidelines and special care taken to avoid cross contamination of evidence (e.g. a suspect should be conveyed to the police station in a different vehicle to that of the victim, to avoid cross contamination of trace evidence). Also accompanying police and interviewing police should be different if the victim and the suspect conveyance or interviews are carried out on the same day/shift.

PRIORITISING EXHIBITS.

The Criminal Investigator should arrange for all Sexual Assault Investigation Kits (SAIKs) to be conveyed to the Division of Analytical Laboratories, Lidcombe within 3 days or sooner if possible.

Sexual assaults involving strangers, that is, offenders not known by victim and/or suspected serial offender/s are to be treated as high priority. The SAIK's and any relevant exhibits/items are to be conveyed to the DAL within 24 hours for DNA profiling and possible comparison against the DNA database. The Director or the Commander, Crime Scene Operations Branch, Forensic Services Group, will upon request (from crime scene or police investigators) decide whether to authorise DAL to expedite DNA profiling of the relevant exhibits (including after hours or weekend analyses). These arrangements are available 24 hours via the DOI, VKG Sydney who should be requested to contact the FSG Operations Coordinator.

When a suspect's DNA swab or blood sample is taken it should be submitted to the DAL for comparison within 24 hours, if high priority, and no later than 72 hours in all other matters.

Section 8

MANAGEMENT OF PHYSICAL EVIDENCE

TRACE EVIDENCE RECOVERY FROM VICTIM:

Part 8 of the *Crimes (Forensic Procedures) Act 2000* relates to the carrying out of forensic procedures on volunteers such as victims. Victims of personal violent crime are excluded from Part 8, *Crimes (Forensic Procedures) Act 2000*, this includes victims of sexual assault. The Victims Protocol will cover the victims.

Any recovery of trace and/or biological evidence from volunteers should be done with the consent of the victim, or the parents/guardian of the victim if under 10 years of age.

If Forensic Services Group personnel are not involved in the initial recovery of the trace or biological evidence the following should apply:

- Strict continuity and care should be exercised to eliminate or reduce the level of contamination.
- Each item of clothing to be placed in a separate labelled exhibit bag.
- Where possible the removal of clothing should be done in a sterile environment.
- Biological and trace evidence must not be removed from victims clothing unless correctly recorded and assessed by a crime scene investigator.

Charged persons:

For suspects of sexual assault, consider the appropriateness of the following forensic procedures:

- Non-intimate(eg fingernail cuttings/scrapings, samples of hair other than pubic hair)
- Intimate (eg dental impressions to compare to bite marks, samples of pubic hair, photographs of genital area and buttocks)
- Buccal swab(mouth swab to obtain DNA)

A Forensic Procedure may be carried out within the investigation period under Part 10A of the *Crimes Act 1900*, however, it is not a "time out" when calculating the time. Otherwise police have up to a maximum of two hours to carry out a forensic procedure after the expiration of the investigation period.

Section 8

MANAGEMENT OF PHYSICAL EVIDENCE

For the purpose of forensic procedures a suspect is under arrest where he/she is subject to Part 10A of the *Crimes Act 1900*. Once a person is charged Part 10A of the *Crimes Act 1900* ceases to apply and the person then becomes a suspect not under arrest.

Where a suspect is under arrest an intimate and/ or non-intimate forensic procedure and a buccal swab may be carried out on the suspect with consent. If the suspect does not consent to an intimate forensic procedure or a buccal swab then a court order is required. If the suspect does not consent to a non-intimate forensic procedure a senior police officer (Sergeant or above) may issue an order to carry out the procedure.

If the suspect is not under arrest forensic procedures may be carried out by consent. If a suspect does not consent then a court order must be obtained for all procedures.

CRIMES (FORENSIC PROCEDURES) ACT 2000

Suspect persons:

Police need to be fully conversant with the Act and understand how trace and biological evidence can be recovered from suspects (especially the provisions concerning whether the suspect is under arrest or not under arrest) otherwise the evidence may be deemed inadmissible.

Forensic Services Group personnel should be used in all cases where the Forensic Procedure is a non intimate procedure and involves the following:

- Recording of any injury/ies sustained by the suspect.
- Recording and retrieval of biological and trace evidence whether by photographs, swabbing, tape lifts or collecting the appropriate clothing for further examination including Gun Shot Residue.

Where possible, arrangements should be made for a crime scene investigator to carry out the non-intimate forensic procedure to recover fragile evidence such as biological and/or trace evidence (any small or minute particle such as blood, hair, fibres etc) from the suspect prior to interview in order prevent loss or further contamination of the evidence.

Section 8

MANAGEMENT OF PHYSICAL EVIDENCE

If the forensic procedure involves an intimate examination of the suspect to recover any biological or trace evidence a qualified medical practitioner must be used eg:

- Swabbing of genitalia,
- Combing of pubic hair,
- Recovery of botanical evidence from genital areas of the body,
- Fingernail clippings (recommended to be carried out by medically qualified person such as GMO etc).

RELEASE OF SEXUAL ASSAULT INVESTIGATION KIT TO Division Analytical Laboratories

Victims must be informed that the SAIK will be forwarded to DAL for analysis and DNA profiling. The OIC must explain that the analysis and profiling carried out on the SAIK is necessary for the proper investigation of the alleged sex offences and that evidence obtained from the analysis and profiling may be used as evidence in court.

Police are only required to obtain this written consent when a Health Officer has performed a SAIK prior to the offence being reported to the police. There must be a witness to the signing of consent. If reasonably practicable, the witness should not be a police officer or a person involved in the investigation of the offence to which the procedure relates.

STORAGE AND RETENTION OF EXHIBITS

All exhibits in prosecutions involving all sexual assaults (including those matters dealt with summarily) where crime scene specimens are obtained, irrespective of whether or not DNA evidence is extracted from these specimens, are to be retained by Local Area Commands.

Under NO CIRCUMSTANCES are these exhibits to be destroyed or disposed of whether a person has been charged or not. This applies after all proceedings, including appeals have been finalised. Local Area Commands are to ensure that these exhibits are secured in an environment to reduce the risk of contamination.

Section 8**MANAGEMENT OF PHYSICAL EVIDENCE**

If the owner of any property held as an exhibit in the above mentioned matters desires the return of that property, a report is to be submitted to the Director, Legal Services, for advice.

Section 9



INVESTIGATIVE SUPPORT FOR POLICE

CHILD PROTECTION AND SEX CRIMES SQUAD

FORENSIC SERVICES

CRIME MANAGEMENT FACULTY

EDUCATION SERVICES

Section 9

INVESTIGATIVE SUPPORT FOR POLICE

CHILD PROTECTION AND SEX CRIMES SQUAD

The State Crime Command's Child Protection and Sex Crimes Squad have responsibility for investigating serious and serial adult sexual assault. The Sex Crimes Teams respond to offences that meet the squad's charter.

The Sex Crimes Teams monitors and/or investigates matters likely to be of a protracted, complex or particularly serious nature involving both adult and child victims. These include:

- Serial and serious sexual assault allegations. ('Serial' for the purpose of this Charter means offences committed by a stranger towards three or more victims).
- Multiple or networked sex offenders. ('Multiple' for the purpose of this Charter means three or more offenders operating together).
- Adult sexual assault involving serious injuries to the victim.
- Complex historical sexual assaults.
- Sexual servitude.
- Matters involving female genital mutilation.
- Proactive investigation of the Child Protection Register identified high-risk offenders.
- Child prostitution, where it involves;
 - * organised crime, or
 - * profiting by any means by a third person or organisation from the proceeds of child prostitution, or
 - * the targeting of areas where intelligence indicates that child prostitutes are currently active.

The Sex Crimes Team also provides short-term investigative assistance to complex JIRT investigations.

The CP&SCS has an on call function. The Squad will only respond to matters that fall into the squad criteria for investigation.

The squad will take responsibility for providing consultation and support to Local Area Command where required.

Section 9

INVESTIGATIVE SUPPORT FOR POLICE

FORENSIC SERVICES

For urgent advice and support in relation to crime scene management, management of physical evidence associated with the victim, exhibit handling, and management of physical evidence associated with the suspect you need to contact the Crime Scene Operations Coordinator who is available through The Duty Operations Inspector 24 hours a day.

CRIME MANAGEMENT FACULTY

Crime Management Faculty is located within the Operations Support Command. The role of the Senior Programs Officer/Adult Sexual Assault is to ensure that Police policy and legislation is easily understood by Police undertaking their every day duties. The Senior Programs Officer who can be contacted on EN 29162 provides advice and support concerning current legislation, policy implementation and acts as a contact with external government agencies.

EDUCATION SERVICES

To ensure Criminal Investigators are fully trained in the Policy and Standing Operating Procedures for the Investigation and Management of Adult Sexual Assault officers will attend a course conducted by the Police College. The principle tutor, Adult Sexual Assault may provide assistance and support for training needs, and can be contacted EN 77523.

