



TRANSIT POLICE

SEXUAL OFFENCE INVESTIGATION

Effective Date: Feb. 17, 2017

Revised Date: July 25, 2017

Reviewed Date:

Review Frequency: As Required

Office of Primary Responsibility: Deputy Chief Officer Operations

POLICY

Sexual offences are serious incidents that may have a lasting impact on victims and their families. The main objectives of the primary investigator when dealing with a sexual assault are to ensure the victim's safety, address the victim's physical and emotional needs, preserve evidence and investigate the incident to the extent possible.

Definitions

BOLF – Be on the lookout for.

Charter – *Canadian Charter of Rights and Freedoms*, Constitution Act, 1982, c. 11(U.K.), Schedule B.

Criminal Code – *Criminal Code of Canada* [RSC 1985, c. C-46].

Chief Officer – The Transit Police Chief Officer or delegate.

CRU – Crime Reduction Unit

JPD – Jurisdictional Police Department.

JPD - FIS – Jurisdictional Police Department's Forensic Identification Section.

MCFD – British Columbia Ministry of Children and Family Development.

Member – Designated Constable, the Chief Officer or a Deputy Chief Officer of the Transit Police.

MO – 'Modus Operandi'; a distinct method of operation especially that indicated or suggests the work of a single criminal in more than one crime.

OCC – Operations Communication Center of the Transit Police.

Police Act – The *BC Police Act* [RSBC 1996], c. 367, and the regulations thereto, including the *South Coast British Columbia Transportation Authority Complaints and Operations Regulation*, all as amended from time to time

Sexual Offence – In accordance with the *Criminal Code*, occurs when a person commits an act of a sexual nature that violates and interferes with the sexual integrity of another person. [Note: For the Transit Police environment, the most common offences Members encounter are sexual assault, groping, frotteurism, indecent act, and voyeurism.]

Transit Police – The South Coast British Columbia Transportation Authority Police Service.

Authority

1. Sexual offence investigations will be consistent with the requirements of the *Police Act, Criminal Code, Charter*, relevant case law, and protocols with Jurisdictional Police Departments (JPDs).

General

2. Sexual assault and other sexual offences are serious incidents that can have a lasting negative impact on the victim and their families. The Metro Vancouver transit system is expansive and crosses many jurisdictions, and sex offenders have been identified as using the transit system to seek victims, offend and travel far distances after an offence.
3. Members will respond with sensitivity and respect in investigating allegations of sexual assault and will be accommodating to vulnerable persons involved in sexual offence cases who may be victims, witnesses or suspects (refer to Transit Police policy OD160 – Vulnerable Persons).
4. Members responding to and investigating allegations of sexual offences will conduct complete and thorough investigations (from initial response, victim and public safety, apprehending of the suspect, through to providing a complete report to Crown) and be mindful that within all interactions, safety is paramount for public interest.
5. The Supervisor responsible for overseeing a sexual offence incident will consult with the JPD on file responsibility and to request any needed assistance with forensic identification, evidence and DNA collection, investigative expertise, and exhibit management as required supporting an evidence-based investigation.
6. The Transit Police will provide specialized training to selected Members in the investigation of sexual offences, and identify Members with sexual offence training and experience to be a resource to all Members.
7. The Transit Police **Crime Reduction Unit (CRU) is to be notified¹ of all Transit Police sexual offence files.** CRU will review the file in support of consistent oversight and guidance to patrol sexual offence investigations. In exigent circumstances and when CRU is unable to provide guidance or investigative support, the Supervisor will seek the assistance of a trained/experienced Member or a JPD specialized resource /unit.
8. When Transit Police are the primary investigator of a sexual offence, the investigator holds responsibility for notifying the victim upon bail release of the accused. Crown and the Corrections Service have responsibility for notification of the victim post-sentence; however, as part of victim service support and follow-up,

¹ The CRU Sergeant is to be notified immediately when: (a) there is a suspect in custody; (b) incident involves children, youth, or other vulnerable person; or (c) multiple linked offences. Otherwise notification will usually occur through the PRIME process.

the Transit Police will in all cases ensure that the victim is notified of release of the accused when it becomes known to the Transit Police, irrespective of with whom the responsibility resides.

[Refer to Transit Police policy chapters: [OE020 – Forensic Identification Services](#) and [OE030 – DNA Collection and Databank](#)]

PROCEDURES

Initial Response to Victim

9. Members are responsible for the victim's safety and well-being during the investigation of a sexual offence. Members assigned to respond to or investigate an allegation of a sexual offence will ensure that the following measures are taken:

- (1) assess any medical needs and ask the OCC to request British Columbia Ambulance Service (BCAS) to attend, as required (including if requested by the victim);
- (2) at the earliest opportunity (and while maintaining sensitivity to the victim's needs), obtain a synopsis of the event from the victim, including the description of suspect, direction of travel, distinctive observations, any vehicles or other persons associated so the Supervisor may direct resources to search for the suspect;
- (3) locate, secure and protect the scene, and inform the OCC of the suspect's description, and last known sighting and direction of the suspect's travel so that the information can be broadcast to Members and the applicable JPDs
[REDACTED]
- (4) notify their Supervisor in every sexual assault allegation, whether current or historical, [REDACTED]
[REDACTED]
- (5) upon securing the scene, contact the Supervisor to address any immediate resource needs as well as determine if specialized sexual offence investigators are required to assist;
- (6) ensure that the Member's immediate observations [REDACTED], are documented thoroughly in the Member's notebook;
- (7) obtain victim identification, [REDACTED]
- (8) obtain any independent witness information;
- (9) [REDACTED]
[REDACTED];

- (10) [REDACTED]
- (11) [REDACTED]
- (12) [REDACTED]

Securing the Scene and Evidence

10. When conducting sexual assault investigations, Members will need to promptly locate and secure the scene, and preserve any available evidence. Accordingly, Investigating Members will:

- (1) [REDACTED]
- (2) [REDACTED]
- (3) [REDACTED]
- (4) [REDACTED]
- (5) inform the Supervisor as the investigation develops or investigational needs change;
- (6) [REDACTED]
 - a. [REDACTED]
 - [REDACTED]
 - [REDACTED]

[REDACTED]

b. [REDACTED]

(7) restrict access of non-essential persons to the secured scene;

(8) [REDACTED]

(9) [REDACTED]

[Refer to Transit Police policy chapter: [OD030 – Crime Scenes](#)]

Evidence Handling

11. [REDACTED]

(1) [REDACTED]

12. Where the sexual offence does not present a scene requiring evidence preservation, Members will consult with Appendix A/Transit Police Form OZ0720 - Checklist for Level 1 Sexual Assault Offence for applicable steps to complete and to ensure that:

(1) [REDACTED]

(2) [REDACTED]

(3) if available, the CCTV video is viewed as soon as is practicable (this is to be coordinated through the Supervisor so that attendance at the respective transit control center can be promptly arranged and a CCTV event timeline be completed).

13. Where a sexual offence investigation indicates the need for significant evidentiary collection, the Member will follow these procedures:

(1) [REDACTED]

(2) [REDACTED]

- (3) [REDACTED]
- (4) [REDACTED]

NOTE: For procedures regarding DNA Collection and Data Banks, Member are to refer to Transit Police policy chapter OE030.

- (5) [REDACTED]

- (6) wear gloves and ensure that all exhibits are gathered and handled in compliance with Transit Police policy, and that the Form 5.2 Report to Justice is completed as soon as practicable, as required by s. 489.1 of the *Criminal Code*.

[Refer to Transit Police policy chapters: [OD040 – Notebooks](#) and [OF020 – Exhibit and Property Control](#)]

Sexual Assault Nurse Examiner (S.A.N.E.) Kit Protocol

14. In the event that the S.A.N.E. Kit Protocol is required for a sexual offence investigation, Members will follow these procedures:

(1) Adult Procedures:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
- d. assist the victim if they wish to contact an advocate or support person;

(2) Children Procedures:

- a. [REDACTED]

[REDACTED]

(3) Follow-up Protocol:

a. [REDACTED]

b. [REDACTED]

NOTE: [REDACTED]

c. [REDACTED];

d. [REDACTED]

e. seek victim consent for release of medical information from the Emergency Room (use Transit Police Form OZ060B);

NOTE: *The S.A.N.E. Kit has a consent form for that procedure.*

f. [REDACTED] (use Transit Police Form OZ620 and/or OZ380);

g. ensure that Victim Assistance information (JPD victim services and/or Victim Link) is provided to the victim for follow up support and services;

h. provide the victim with transportation to a safe location, if required; and

i. [REDACTED].

NOTE: [REDACTED]

(4) Members will wear gloves and ensure that all exhibits are gathered and handled in compliance with Transit Police policy, and that the Form 5.2 Report to Justice is completed as soon as practicable, as required by s. 489.1 of the *Criminal Code*.

NOTE: Member can contact the S.A.N.E. forensic nurse coordinator at the respective hospital if they have questions, concerns or require detailed information regarding hospital protocol.

[Refer to Transit Police policy chapter: [OM050 – Victim Assistance](#)]

Processing DNA for Analysis

15. [REDACTED] Members will complete the C414 submission form, following the process below:


- (1) call [REDACTED] and provide a synopsis (the RCMP lab will then send an Email and assign a code for submission);
- (2) when obtaining the victim's consent for seizure of their clothing, the Member will document the following:
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. [REDACTED];
- (3) pursuant to Section 487.09 of the *Criminal Code*, the suspect and consensual DNA sample will be processed to ensure privacy and the Member will facilitate this requirement by:
 - a. [REDACTED]
 - b. [REDACTED]

NOTE: For procedures regarding DNA Collection and Data Banks, Member are to refer to Transit Police policy chapter OE030.

Supervisor Responsibilities

16. The Supervisor will:
- (1) attend the scene of all reported incidents of sexual assault, subject to historical incidents as referenced in s. 9(4);
 - (2) actively supervise the investigation (from start of finish) to help ensure that complete and thorough investigation is conducted;
 - (3) keep the Watch Commander updated on the investigation;

NOTE: The Watch Commander will keep senior officers informed as appropriate to the nature of the incident and as required by SOP55 – Notification of Sensitive Matters.

- (4) notify CRU Supervisor and consult on investigative resourcing as needed;
- (5) in consultation with the Watch Commander, contact the JPD duty officer to determine whether the Transit Police or JPD will be the primary investigator in strictly indictable offences. If the JPD assumes responsibility for the investigation, Transit Police will perform an assistance role (Transit Police handles dual procedure offences unless the JPD asserts jurisdiction – as set forth in the joint MOU with JPDs);
- (6) 
- (7) continue to monitor the file throughout the investigation and provide operational guidance to ensure that all investigative avenues have been exhausted;
- (8) ensure that the Member has addressed the victim's needs and provided Victim Assistance information and any additional support resource information required (continued monitoring the Member's support to the victim throughout the investigation and court process);
- (9) review the Report to Crown Counsel (RTCC) and ensure it is complete and thorough (including clear articulation of the grounds of the offence), and submitted within the required timelines; and
- (10) forward the reviewed RTCC to the Watch Commander for approval and uploading in JUSTIN.

Interviewing Victims and Witnesses

17. When interviewing of victim(s) and witnesses, the investigating Member will:

- (1) 
 - a. ;
 - b. 

NOTE: The victim may have an advocate/support person during the interview. This person is to be reminded not to participate in any way during the interview or they may become a witness in any future court proceedings.

- (2) [REDACTED]
- (3) [REDACTED]
- (4) [REDACTED];
- (5) [REDACTED];
- (6) [REDACTED];
- (7) provide Victim Assistance information (JPD victim services and/or Victim Link) and work with victim (and Victim Link as applicable) to develop and implement a safety plan, if required; and
- (8) ensure that Victim Assistance/support is prioritized and maintained by the investigating Member throughout the investigation and court process.

[Refer to Transit Police policy chapters: [OD150 – Violent Crime Analysis System](#) and [OD140 – Statements](#)]

Suspect Handling

18. Identifying, locating and apprehending a suspect in a sexual assault investigation is an important goal in a thorough investigation. Members who locate and identify a suspect are to be cognizant of [REDACTED]

[Refer to Transit Police policy chapter: [OE030 – DNA Collection and Databank](#)]

19. When the investigation presents reasonable grounds to effect the arrest of the suspect, Members will follow arrest procedures as outlined in Transit Police policy OD080 – Arrests. This is to include the arresting Member giving consideration to: the need to preserve evidence such as [REDACTED]; the importance of documenting as close to verbatim as possible (in the Member's notebook) the suspect's response when the police warnings are given; [REDACTED]

[Refer to Transit Police policy chapters: [OD080 – Arrests](#) and [OIO10 – Prisoner Care and Control](#)]

20. The investigating Member will discuss with their Supervisor on the necessity of the use of the Photo Pack tool when conducting the sexual assault investigations and if used, follow Transit Police policy to ensure admissibility in court.

[Refer to Transit Police policy chapter: [OD190 – Photo Packs](#)]

National Sex Offender Registry (NSOR)

21. [REDACTED]
- [REDACTED]
- [REDACTED]
22. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Interviewing Suspects

23. Where possible, the Member assigned responsibility for interviewing a suspect of sexual assault will be trained in interviewing and interrogation, as well as investigation of sexual offence complaints. If the Member has not received such training, they will consult with their Supervisor, and the Supervisor will determine if another Member or CRU will be assigned, or the assistance of the JPD sought.
24. Obtaining all information is important for a true understanding of the facts of the case. Members will conduct field and/or in custody interviews as appropriate to the nature of the incident and in accordance with training and Transit Police Policy.

[Refer to Transit Police policy chapters: [OD240 – Suspect Interviewing](#), [OD140 – Statements](#) and [AF170 – Digital Video Surveillance and Recording systems in Police Buildings](#)]

Young Offender – Youth Criminal Justice Act (YCJA)

25. Young offenders are protected under the YCJA and Members will be required to comply with the YCJA regarding arrest, detention and obtaining of statements.
26. The investigating Member will ensure upon arrest or detention that the young person is advised of their *Charter* rights under Section 10 (a) and 10 (b) of the *Charter*, and additional rights as set forth in the YCJA.
27. The investigating Member will ensure that the young person has been informed that they can have a parent, adult relative or any adult of their choice present. The Member will:
 - (1) call the identified person requested by the young person and have them attend prior to taking of the young person's statement;
 - (2) contact a lawyer if the young person wishes to speak with counsel;
 - (3) complete the Statement of a Young Person - Section 146 of the YCJA [use Transit Police Form OZ140]; and
 - (4) audio and video record the statement.

[Refer to Transit Police policy chapter OD180 – Young Persons]

Release from Custody on PTA/UTA

28. Respecting s. 498(1.1)(a) of the *Criminal Code*, Members must be cognizant of continuation, repetition and the danger imposed on the community, and release or detain an alleged offender in accordance with custody provisions of the *Criminal Code*. The investigating Member will consult with their Supervisor and provide all the details of the investigation to determine the most appropriate course of action. The priority is to protect the victim, the public, and not infringe on the rights of the offender.
 - (1) The investigating Member will consider release of the accused on a PTA, with or without conditions, when:
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - (2) Where the investigating Member determines that the accused meets the criteria for release, the Member will proceed with release of the accused from custody with a Promise to Appear (PTA), along with an Undertaking to Appear

² As Indecent Acts are now a dual offence under the *Criminal Code*, there is currently no summary conviction sexual offences.

(UTA) Form 11.1, with appropriate and reasonable conditions. The investigating Member will:

- a. assign a reasonable court date (usually 4-6 weeks) and a fingerprint and photograph date in compliance with *Identification of Criminals Act* (where practicable the dates to be the investigating Member is working);
- b. assign appropriate conditions to the UTA and the accused will be required to sign to comply with the assigned conditions;
- c. in order to maintain victim safety, always impose a **'No contact directly or indirectly with the victim'** and, as appropriate, **'Not to go anywhere the victim is expected to be'**;
- d. subject to s. 503(h) of the *Criminal Code*, consider imposing a specific access restriction to ensure safety of the community and the victim. It must be directive and specific, for example:
 - Not to be found at New Westminster SkyTrain Station;
 - Not to be found on the 99B line on the Coast Mountain Bus Company;
 - Not to ride on the West Coast Express;
 - Not to be found at Waterfront Station;
 - Not to contact a specific victim or witness.

NOTE:

[REDACTED]

- (3) The investigating Member will ensure that the PTA and UTA are forwarded to Protection Order Registry.

[Refer to [Law Letter 2016 Issue 6 – Pre Charge Release](#), [Law Letter 2016 Issue 3 – Pre Charge Approval](#) and Transit Police policy chapter: [OD080 – Arrests](#)]

In-Custody

29. For a sexual offence where the accused does not meet the criteria for release by a PTA/UTA pursuant to s. 498(1.1)(a) of the *Criminal Code*, Members must seek an in-custody JJP hearing and prepare a bail brief. [REDACTED]

(1) [REDACTED];

(2) [REDACTED];

(3) [REDACTED];

(4) [REDACTED];

- (5) [REDACTED]
- (6) [REDACTED];
- (7) [REDACTED];
- (8) [REDACTED]
- (9) [REDACTED]

30. A JJP may direct any conditions deemed appropriate, including but not limited to:

- (1) [REDACTED]
- (2) [REDACTED];
- (3) [REDACTED]
- (4) [REDACTED]
- (5) [REDACTED]
- (6) [REDACTED].

Remand into custody

31. The OIC/Crown may determine the person does not meet the criteria for release and the grounds for remand are present. The accused has the right to self-represent in a reverse onus situation to the justice and present reasons for release. The Crown will present evidence for remand.

- (1) [REDACTED]
- (2) [REDACTED]

(3) [REDACTED]

Notification of Investigation to Victim

32. The investigating Member will be responsible for keeping the victim apprised of the investigation's status, including but not limited to:
- (1) if a suspect was arrested and released;
 - (2) if a suspect has not been identified;
 - (3) outcome of the investigation;
 - (4) the arrest and release conditions (e.g., 'no contact' and any conditions of 'no go area'); and
 - (5) information on the first appearance date and the Victim Assistance support available (Member is to repeat this information even if previously provided).
33. When an offender is released from incarceration, the Transit Police are notified via CPIC and the Watch Commander to assign a Member to locate and notify the victim of the release.
34. The investigating Member will ensure sensitivity when contacting and interacting with the victim.
35. The investigating Member will provide the victim with the Member's business card with contact information, and encourage the victim to contact them at any time regarding the investigation.

Information Reporting to Crown Counsel (RTCC)

36. The investigating Member will complete the RTCC (articulating the facts of the case in a clear, concise and chronological manner) and ensure that all evidence is provided to Crown Counsel for review in a timely manner.
37. The RTCC will be reviewed by the Supervisor and forwarded to the Watch Commander for approval, and then forwarded to Transit Police Court Liaison for submission to Crown.
38. Transit Police staff will complete and process RTCCs and related materials in compliance with Transit Police policy and procedures, and the *Memorandum of Understanding on Disclosure between the Crown and Police in British Columbia* (see MOU).

[Refer to Transit Police policy chapters: [OD200 – Report to Crown Counsel](#) and [SOP60 – RTCC Submission Procedures](#)]

Third Party Reporting

39. In British Columbia, there is a Third Party Reporting (TPR) process to provide an alternative means by which an adult victim of a sexual offence/assault can report an incident to police while remaining anonymous. A TPR is processed through a community-based Victim Assistance agency. In the event of a TPR, Members will follow policy and procedures as outlined in Transit Police policy chapter OB210 – Third Party Reporting - Sexual Offences.

Key References

Bail Reform Act, S.C. 1970-71-72, c. 37

BC Child, Family and Community Service Act [RSBC 1996], c. 46

BC Infants Act [RSBC 1996], c. 223

BC Police Act [RSBC 1996], c. 367

Canadian Charter of Rights and Freedoms, Constitution Act, 1982, c. 11(U.K.), Sch. B

Criminal Code of Canada [RSC 1985, c. C-46]

R. v. Oickle, 2000 SCC 38

R. v. Singh, 2007 SCC 48

APPENDIX “A” FOLLOWS ON NEXT PAGE

***Please be aware that some information has been
withheld under s. 15(1) of the Freedom of
Information and Protection of Privacy Act.***