



# **Adult sexual assault investigation (ASAI) policy and procedures**

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# Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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## Summary

### Purpose

The Adult Sexual Assault Investigation (ASAI) policy and procedures detail:

- the New Zealand Police expectations and the corresponding responsibilities of all Police employees who respond to or are involved in the investigation of adult sexual assault complaints
- the key [policies and principles](#) that underpin the investigation of all adult sexual assaults.

The ASAI policy and procedures also outline the [key process points](#) in ASA investigations and provide detailed procedures and guidance in relation to each step. Not all steps will apply in every case and the order may vary depending on the circumstances. However, where the steps are applicable, the ASAI policy, procedures and guidance in this document **must** be followed.

### Who does the policy and procedures apply to?

The ASAI policy and procedures apply to all cases where the victim of the alleged offending (male or female) is 17 years of age or older at the time of making the complaint.

Follow the [Child protection investigation policy and procedures](#) if the victim, at the time of making the complaint, is under 17 years of age.

### Exceptions

Many cases will have individual circumstances warranting different approaches to achieve the most favourable outcomes. Due to the wide variance in sexual offending there may be situations where victims under 17 years of age will be dealt with according to the adult policy and procedures, depending on the nature and circumstances of the victim and the offending.

Investigators should only conduct the investigation of a child's complaint using adult sexual assault policy and procedures, or an adult's complaint using child protection policy and procedures when there is justifiable and rational reasoning for doing so. Such decisions should be:

- made in consultation with supervisors and where appropriate with specialist [sexual assault response persons](#) and/or [medical forensic practitioners](#)
- appropriately recorded on the file and available for review within an audit process.

### Actions when children are treated under adult procedures

Where a child is treated under the adult policy and procedures, investigators must ensure that:

- Child, Youth and Family are notified of any care and protection issues
- any actions necessary to protect the child or other children that may be at risk from the offender are taken.

(Follow the [Child protection investigation policy and procedures](#)).

### Key policies and principles

Rape and sexual violation are the most serious offences where the victim physically survives. Police recognise that sexual assault can have destructive long term consequences for victims. The psychological and emotional trauma can be extreme and/or permanent.

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The Police response to a sexual assault complaint can have a major effect on how quickly and well a victim recovers. The response must therefore carefully balance the need to undertake the investigation as quickly as possible and ensure that the victim's physical and emotional needs are met.

New Zealand Police is committed to delivering an effective and appropriate investigation of adult sexual assault complaints and bringing offenders to account.

**These key policies and principles underpin the Police investigation of all adult sexual assault complaints** and are reflected throughout the investigation policy and procedures.

Victims:

- will be treated with dignity and respect
- well-being and safety is paramount
- must be referred to [specialist sexual assault support services](#) and be encouraged to have specialist support available to them throughout the investigation until case resolution
- must be given regular updates on the progress of the investigation and all other matters they are entitled to receive information about under the Victims' Rights Act 2002.

Police will protect the privacy of victims as far as possible during ASA investigations.

All complaints will be investigated:

- by specially trained investigators and interviewers unless there is a valid reason for not doing so
- in a timely, fair and sensitive manner.

Police should also be aware of, and sensitive to, situations where people from minority ethnic communities (whether they are victims or informants) report instances of sexual assault, and take steps to ensure that these people receive any additional support, as appropriate.

Sexual assault is a serious criminal act and offenders should be held accountable.

Police will adopt a [partnership approach](#) to investigations with other agencies and [medical forensic practitioners](#) to ensure better outcomes for victims and to prevent re-victimisation. Good communication and consultation with the victim, specialist sexual assault support persons/ agencies, and medical forensic practitioners during ASA investigations can ensure the victim's co-operation with the investigation and improve investigation outcomes.

### **Outcomes of ASAI policy and procedures**

The desired outcomes of this ASAI policy and procedures are to:

- enhance the welfare and safety of sexual assault victims through the service, information and support provided, and
- improve the investigation, resolution and accountability of adult sexual assault complaints.

### **Training for initial responders and employees conducting investigations**

All Police employees who could potentially undertake initial actions in ASA cases should undertake the ASA initial complaint action frontline staff training.

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**Note:** An updated online training package for relevant Police employees who interact with the public (including Communications and watch-house staff) is scheduled for delivery in 2013.

[Specially trained investigators](#) who work predominantly on ASA investigations and [specialist adult witness interviewer](#) (regardless of the nature of the interview) should have three monthly one on one, scheduled visits with a psychological service.

### A partnership approach to investigations

Police are the lead agency in any criminal investigation. However, in ASA investigations Police work cooperatively with other agencies in a tripartite approach to achieve better outcomes for victims.

This table outlines the key responsibilities of each tripartite partner. Other Police responsibilities are specified in more detail in these procedures.

Agency/group	Responsible for...
Police	<p>the criminal investigation and prosecution process by:</p> <ul style="list-style-type: none"> <li>• investigating reported complaints (with priority to <a href="#">acute</a> and high risk complaints) and when evidence is available, prosecuting in accordance with the <a href="#">Solicitor General's Prosecution Guidelines</a></li> <li>• using ASA investigators and <a href="#">specialist adult witness interviewers</a> during investigations unless there is a justifiable reason for not doing so</li> <li>• coordinating support for the victim and working cooperatively with:               <ul style="list-style-type: none"> <li>- individuals and groups that support victims including Māori</li> <li>- approved medical forensic practitioners</li> </ul> </li> <li>• providing advice and feedback to the victim throughout the investigation to assist them and their family to understand and engage in the investigation procedures and to make informed choices based on the information provided.</li> </ul>
Specialist sexual assault response groups or people	<ul style="list-style-type: none"> <li>• ensuring the victim receives support through the investigation process including the medical examination, investigative interviews and at court when the case goes to trial</li> <li>• offering/providing the victim ongoing support through counselling and therapy</li> <li>• providing information to the victim about the investigation process and their legal rights</li> <li>• providing a link between Police and victims as required</li> <li>• referring the victim onto another appropriate support group or agency where necessary and appropriate</li> <li>• in situations/ locations where no specialist sexual assault agency is available, referral should be made to Victim Support.</li> </ul> <p><b>Note:</b> Support may be extended to the victim's immediate family, whanau and/or other connected members.</p>

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Specially trained sexual assault medical forensic practitioners	<ul style="list-style-type: none"><li>• providing primary medical care as well as the forensic and specific care required in sexual assault examinations</li><li>• retrieving forensic medical evidence</li><li>• referring victims for follow up medical care as appropriate</li><li>• providing examination reports to Police and criminal prosecutions when necessary</li><li>• providing unbiased expert evidence to assist courts to interpret examination findings.</li></ul>
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### Related information

Further information related to this policy and procedures can be found in these Police Manual chapters:

- [Sexual offences](#)
- [Child protection investigation policy and procedures](#)
- [Victims \(Police service to victims\)](#)
- [Investigative interviewing witness guide](#)
- [Crime scene examination](#)
- [Forensic evidence](#)



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### Definitions

These definitions apply in these procedures.

Term	Meaning
ASA (I)	Adult Sexual Assault (Investigation)
Adult	A person aged 17 years or older at the time of reporting a sexual assault.
ASA investigator	An employee who has completed the specialist ASA investigator's course and/or has completed the CIB Selection and Induction training course ( post February 2011).
Child	A person under 17 years of age at the time of reporting a sexual assault.
Fabricated complaint	A complaint deliberately made, which is intentionally fabricated, lacking in truth and known by the maker to be false.
Formal complaint	The formal reporting of a sexual assault to Police from an informed victim, irrespective of the report's <a href="#">acute</a> , <a href="#">non-acute</a> or <a href="#">historic timing</a> .
Key process points	The key points within the investigative process for a typical adult sexual assault report to Police. Used by investigators, supervisors and process auditors, these points have been highlighted as rudimentary to a best practice Police response, but are dependent on individual case circumstances which may warrant appropriate process adjustment.
Medical forensic practitioner	Practitioners who have received training, are accredited or working towards accreditation from the recognised training group Doctors for Sexual Abuse Care Inc (DSAC).
MEK	Medical Examination Kit.
SAATS	Sexual Abuse Assessment and Treatment Service.
Sexual assault	Sexual assault includes but is not limited to: <ul style="list-style-type: none"><li>• sexual violation by rape or unlawful sexual connection</li><li>• indecent assault</li><li>• any form of unwanted or coercive touching or actions of a sexual nature or in circumstances of indecency</li><li>• any sexual abuse or exploitation by way of coercion, deceit, power of authority or mistaken belief</li><li>• incest.</li></ul>
Specialist adult witness interviewer	A person who has successfully completed the investigative interviewing Level 3: Specialist adult witness training.

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Specialist sexual assault support response	<ul style="list-style-type: none"> <li>• A specially trained person, group or agency, including Iwi and Maori groups, providing specialist sexual assault support or counselling services for sexual assault victims/survivors in the community, or</li> <li>• A trained sexual assault counsellor where there are no groups available locally which support victims.</li> </ul> <p>A specialist sexual assault support person, group or agency is also seen as an independent advocate for the victim.</p> <p>Note that specialist support persons will usually be provided by the group specified in your local level agreement. This may include Victim Support in situations/ locations where no specialist sexual assault agency is available.</p>										
Timing of complaint	<table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Complaint type</th> <th style="text-align: left;">Reported...</th> </tr> </thead> <tbody> <tr> <td>Acute</td> <td>within seven days of the sexual assault</td> </tr> <tr> <td>Non-acute</td> <td>at seven or more days after the sexual assault, but before six months</td> </tr> <tr> <td>Historic</td> <td>after six months of the sexual assault</td> </tr> <tr> <td colspan="2"><b>Note:</b> this does not determine the level of risk or urgency in individual circumstances.</td> </tr> </tbody> </table>	Complaint type	Reported...	Acute	within seven days of the sexual assault	Non-acute	at seven or more days after the sexual assault, but before six months	Historic	after six months of the sexual assault	<b>Note:</b> this does not determine the level of risk or urgency in individual circumstances.	
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Historic	after six months of the sexual assault										
<b>Note:</b> this does not determine the level of risk or urgency in individual circumstances.											
Victim	The person whom a sexual assault has been committed against. Can also be referred to as the survivor.										



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Key process points in the ASA investigation

This table outlines the twelve [key process points](#) to be followed when responding to and investigating complaints of adult sexual assault.

Note that not all steps will apply in every case and the order may vary depending upon the circumstances of the matter and any local level agreement(s) in place.

Key process point	Process	Description
1	<a href="#">Initial actions on contact</a>	Brief details of the complaint are obtained to determine initial actions. Conduct these where necessary.
2	<a href="#">Case referral</a>	Incident is referred as soon as possible to the CIB and an ASA investigator.
3	<a href="#">Providing specialist support</a>	Where the victim consents, arrange for a specialist sexual assault response person to provide support.
4	<a href="#">Preliminary interview</a>	A specially trained CIB member or ASA investigator undertakes a preliminary interview of the victim.
5	<a href="#">Information feedback</a>	Whenever possible, and as soon as practicable, the victim is informed as to investigative findings and decisions.
6	<a href="#">Medical examination</a>	Organise a medical examination as soon as possible in appropriate cases. This is especially important in acute reports (within 7 days of the assault) or suspected drug facilitated sexual assault.
7	<a href="#">Formal interview</a>	Formally interview the victim.
8	<a href="#">Investigation and evidence assessment</a>	Re-assess investigation and commence or continue investigation phases, such as scene examination, witness and suspect enquiries.
9	<a href="#">Resolution options</a>	Consider options for resolution including prosecution.
10	<a href="#">Prosecution</a>	Connected areas around prosecution matters.
11	<a href="#">Final actions and record keeping</a>	Final actions on case conclusion and ensuring accurate and detailed records and statistics of sexual assault offences are held by Police.
12	<a href="#">Preventative opportunities and responsibilities</a>	Consider what can be learnt from an investigation regarding preventative or educational opportunities or process enhancement.  An outline of responsibilities for district commanders, ASA district coordinators and National Coordinator: ASA is included.

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### Initial actions on contact Key process point 1

#### Procedures

Depending on the nature of the victim's entry point to Police (e.g. Police public counter, communications centre, street approach or other) the first Police employee involved in a potential ASA case must take these initial actions.

Step	Initial actions on contact
1	Privacy must be ensured. If the victim is reporting in a public environment (i.e. a public counter), escort them to a place that will provide safety, privacy, comfort and be evidentially neutral (never a suspect interview or holding room).
2	<p>The safety of the victim is paramount at this stage. Using open-ended questions, obtain <b>brief</b> details of the complaint to:</p> <ul style="list-style-type: none"><li>ascertain if the matter is of a sexual nature</li><li>determine what immediate actions are required.</li></ul> <p>Details that must be gathered at this stage include:</p> <ul style="list-style-type: none"><li>victim's details and whereabouts (if not reporting in person)</li><li><b>brief</b> circumstances of the alleged offence</li><li>scene location (if known)</li><li>offender's description, whereabouts and mode of any travel.</li></ul> <p>Take care not to contaminate the victim's memory - they will be interviewed on a more substantive basis later.</p>
3	If the victim appears distressed, advise them that specialist support is available and, with the victim's consent, contact that support. In addition, consult with your supervisor to determine what actions can be taken to assist the victim.
4	Refer the incident <b>as soon as possible</b> to the Criminal Investigation Branch (CIB) which is responsible for ASA investigations and assigning an <a href="#">ASA investigator</a> .
5	<p>Pending transfer to the CIB and, where possible in consultation with them, take any necessary initial actions to:</p> <ul style="list-style-type: none"><li>ensure the victim's (and any others involved in the incident) safety and immediate health needs are met. If in doing so, clothing is to be removed, ensure that marks, tears and cuts in the clothing are preserved</li><li>consider other immediate needs (e.g. child care)</li><li>secure witnesses or locate and detain suspected offenders</li><li>preserve crime scenes and other relevant physical evidence</li><li>take other actions requested by the CIB member or detailed in a local action plan, policy, inter-agency agreement or desk file.</li></ul>



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6	<p>If the case is very recent (acute), it is important that any trace evidence is preserved. You should explain this to the victim. Where possible, victims should refrain from the following until <b>after</b> they have had a medical examination:</p> <ul style="list-style-type: none"><li>• eating or drinking</li><li>• going to the toilet (if necessary, use a <a href="#">toxicology kit</a> to capture urine and ask victims not to wipe)</li><li>• washing or showering</li><li>• washing their hands or biting their fingernails</li><li>• changing clothing</li><li>• smoking</li><li>• brushing or combing hair</li><li>• brushing teeth or rinsing their mouth.</li></ul> <p>If the perpetrator is unknown, very recent victims (acute) should be wrapped in a sterile sheet (half-drape) to prevent cross-contamination. The sterile sheet should remain in place until the medical/forensic examination.</p>
7	<p>Accurately record in your notebook details of all tasks undertaken including information provided by the victim and witnesses. Your notes, a completed formal written statement, and completed job sheets may be required during criminal proceedings.</p>
8	<p>Advise your supervisor of your actions. They will check all appropriate actions have been taken and that an ASA investigator is aware of all the circumstances.</p> <p><b>Note:</b> Supervisors must give priority to responding to <a href="#">acutely</a> reported cases of alleged sexual assault.</p>
9	<p>Throughout your response and while all initial actions are taken, explain the processes to victims and the reasons actions are necessary. This is important in ensuring victim cooperation, welfare and recovery.</p> <p><b>Note:</b> During all initial actions, you must <b>always</b> consider issues relating to the victim's privacy (e.g. if schools or neighbours are spoken to everyone knows).</p>



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## Case referral

### Key process point 2

#### CIB responsibility for sexual assault investigations

The CIB is responsible for ASA investigations and for assigning an [ASA investigator](#) to plan and complete investigations unless there is a justifiable reason for not doing so.

If an ASA investigator is not available to deal with the complaint and it is necessary for initial actions or intervention to proceed urgently, care must be taken to select the most suitable Police officer, taking into account the officer's experience, expertise and personal attributes.

#### Reasons for not appointing ASA investigators must be recorded

The reasons for not appointing an ASA investigator to plan and complete an ASA investigation must be appropriately recorded on the file for audit purposes.

#### Referral procedure

Take these steps to refer ASA complaints to the CIB.

Step	Case referral action
1	Following your local procedures, contact the CIB as soon as possible with information about the complaint and actions already taken.
2	Complete any action requested by the CIB that may be necessary to begin or continue proceedings.
3	Any further questioning must be undertaken by an <a href="#">ASA investigator</a> or a <a href="#">specialist adult witness interviewer</a> unless: <ul style="list-style-type: none"><li>• that is not practical in the circumstances and has been agreed with your supervisor, or</li><li>• you have been asked to undertake further interviews in that particular case by a CIB supervisor (e.g. when they do not have the resources to attend immediately and information is necessary to determine further investigative actions).</li></ul>
4	Complete and handover to the CIB all relevant paper work, correctly packaged exhibits and any other material connected to the investigation.



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## Providing specialist support Key process point 3

### Specialist support improves outcomes

Having a specialist sexual assault support worker available to the ASA victim during the investigation (particularly at the [formal interview](#) and [medical examination](#) stages) and later in court when the matter proceeds to trial:

- greatly improves [outcomes](#) including the victim's ability to give clear evidence, to stay engaged with investigative and criminal justice processes, and to be seen as credible in court
- can have a major effect on how quickly and well the victim recovers
- will assist in the prevention of re-victimisation, and the prevention/minimisation of both short and long term adverse psychological responses.

It is also important that specialists are called as early as possible if the victim has a disability which requires disability-specific support.

### Appropriate sexual assault support

Appropriate sexual assault support for ASA victims is provided by:

- a specially trained group or agency, including Iwi and Maori groups, providing specialist sexual assault support or counselling services for sexual assault victims/survivors in the community, and/or
- where there are no such groups available locally, a trained sexual assault counsellor who supports victims and is able to respond appropriately to sexual abuse disclosures should be used (the use of a person familiar with Police and CYF reporting and investigation processes is preferred).

**Note:** the role of a specialist sexual assault support group or agency or trained sexual assault counsellor is to maximise the psychological and emotional well-being of the victim. To this end, they may also be an independent advocate for the victim.

### Other support people

Victims may **also** be supported during the investigation by other people, for example, family, friends, whanau, iwi, hapu or a Maori group member.

**Note:** These people do not replace the need for specialist support in adult sexual cases.

### Arranging initial sexual assault support

Step	Action
1	Advise the victim as soon as possible after receiving a complaint of adult sexual assault: <ul style="list-style-type: none"> <li>• of their right to support during the investigation and that Police will arrange for a specialist sexual assault support worker to speak to them</li> <li>• that they can have input into decisions about who provides support and when.</li> </ul>



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2	<p>Contact your local specialist sexual assault support service regardless of the victim's initial response to the offending and even if the victim initially indicates they do not need support. Whatever the victim's initial response to the ASA, they are very likely to need specialist emotional support as the investigation progresses and it is important that contact with the appropriate agency is made as soon as possible.</p> <p>Encourage the victim to meet the sexual assault response person alone. This allows the person or agency to provide information about their role and the ongoing support they can provide the victim and their family.</p>
3	<p>If the victim is unwilling to accept specialist support and elects to have support from a family member or friend, discuss with the victim the implications of this decision, including that:</p> <ul style="list-style-type: none"> <li>• specialist support people are experienced and that having specialist support does not mean the victim cannot also have other support people</li> <li>• family members and others close to the victim may also be traumatised by the event and may themselves need specialist support</li> <li>• family and others connected to the victim may become potential witnesses and may influence or exert pressure on the victim</li> <li>• the presence of intimate partners and parents can create issues around frank and open disclosure</li> <li>• friends and family may disclose to others.</li> </ul> <p><b>Note:</b> If the victim remains unwilling to accept specialist support, give them a brochure or other written information with the contact details of the specialist support available locally so that they may contact them later, should they choose to do so.</p>

### Local agreements with specialist sexual assault support services

District commanders must ensure local level agreements are in place with appropriate specialist sexual assault support groups or counsellors to:

- provide ASA victims with assistance and support through the investigation process
- disseminate information about the services available to all sexual assault victims.

Police at both national and district levels will continue to work with agencies providing specialist support for ASA victims to improve services provided.

Contact the National Coordinator: Adult Sexual Assault:

- for assistance with preparing letters of agreement with local support agencies, and/or
- if you have difficulty identifying appropriate specialist sexual assault support groups/people in your district
- if there are relationship difficulties with your local specialist sexual assault support service which you have not been able to resolve locally. Such relationship difficulties can be addressed by the national tri-partite forum.

**Note:** It is acknowledged that specialist sexual assault support groups or agencies provide the best level of support for victims. However, in situations/locations where no specialist support group or agency is available, it is critical that victims are provided with independent support through the use of other agencies, such as Victim Support.



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## Preliminary interview Key process point 4

### Purpose of preliminary interviews

At this stage of the investigation process, a full investigation should be underway and information obtained during initial contacts passed on to an ASA investigator.

In most sexual assault investigations, a preliminary interview (the recognised interview/conversation with a victim) is necessary for investigators to gain a better understanding of what has occurred and to determine:

- what further investigative actions are necessary
- whether an offence may have occurred, and
- whether the victim wishes to make a [formal complaint](#).

**Note:** While a formal complaint is usually obtained at the [formal interview](#), Police should act from the first receipt of information and look to obtain a complaint as part of the ongoing ASA investigation process.

### Who should conduct preliminary interviews?

An [ASA investigator](#) should conduct a preliminary interview. If an ASA investigator is not available, the most suitable Police officer must be tasked to do the preliminary interview.

If you are not an ASA investigator, record the reasons for conducting a preliminary interview on the file for subsequent audit purposes.

### Procedures for conducting preliminary interviews

Follow these steps when conducting preliminary interviews of ASA victims.

Step	Preliminary interview action
1	Ensure: <ul style="list-style-type: none"><li>• the victim is safe</li><li>• all necessary <a href="#">initial contact actions</a> have been undertaken</li><li>• the interview environment is comfortable and private, and evidence neutral.</li></ul>
2	As soon as it has been established that a sexual assault may have occurred, immediately arrange for a specialist sexual assault support worker for the victim to provide emotional care. If the victim is very distressed, do not proceed without specialist support unless information is required urgently or a person's safety is at risk.
3	Following <a href="#">investigative interviewing procedures for witnesses</a> , ask the witness 'TEDS' type questions (e.g. Tell me, Explain, Describe, Show) to establish: <ul style="list-style-type: none"><li>• What has happened?</li><li>• When did this take place?</li><li>• Where did it take place?</li><li>• Who is the offender?</li></ul> <p>Avoid asking "why" or "how". Take care not to contaminate the victim's recall of the events. They will be interviewed in more detail later.</p>
4	Do not conduct a formal interview unless you have been asked to do so by a CIB supervisor or a specialist adult witness interviewer.

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### After the preliminary interview

Step	Action
1	<p>Re-assess the investigation so far and consider what further <a href="#">investigative procedures</a> are necessary including:</p> <ul style="list-style-type: none"><li>• public safety and the likelihood of similar or connected further offending</li><li>• the need to secure and preserve fragile or diminishing evidence (e.g. using a toxicology kit when victims need to urinate before a medical examination can be undertaken and asking them not to wipe)</li><li>• securing and containing the crime scene</li><li>• identifying and locating witnesses</li><li>• identification and/or apprehension of the suspect.</li></ul>
2	<p>Consider whether a recent photograph of the victim is necessary for evidential purposes (e.g. to compare with security camera footage during an investigation or with multiple victims) or for the management of the Police file (e.g. if there are changes to the O/C case). Use of the Police photographer is encouraged for this.</p>
3	<p>If Police require the victim's clothing for examination, ensure a suitable change of clothing (the victim's own or clothing provided by the support agency) is arranged and available at the medical examination centre.</p> <p>Consult with the victim and/or the specialist sexual assault support person or agency and if victims prefer to use their own clothes, arrange collection en route to the medical examination centre.</p> <p><b>Note:</b> If the victim's home or place where the clothes are situated is the scene of the crime, the potential contamination of the scene must be considered before clothing is uplifted.</p>
4	<p>Regardless of whether further investigative actions are to be taken or a formal complaint made, ensure the victim is advised of the specialist services available to them, such as <a href="#">medical examination/care</a> and intervention through specialist sexual assault support services.</p>



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## Information feedback Key process point 5

### Keep victims informed

Providing information to victims about the processes being undertaken and explaining reasons why actions are necessary is one of the most important factors in ensuring a victim's welfare and pathways to recovery. Information allows a victim to start making decisions and can assist in their long-term recovery.

The information feedback process commences early and **must** continue right through the Police investigation and judicial process.

### Statutory obligations to victims

Police have a statutory obligation to provide information to **all** victims under the [Victims' Rights Act 2002](#) about the services available to them and the investigation of the offence and related proceedings (sections [11](#) and [12](#)).

### Information to be provided to victims

This table outlines the information Police should provide adult sexual assault victims or obtain from victims when relevant.

Step	Actions
1	Give information to sexual assault victims as soon as possible about the sexual assault support services available to them and provide access to these services. (Specialist support services should be contacted by Police as soon as possible and victims must be given the earliest possible opportunity to meet and talk with them).
2	Provide information about the Police investigation process and realistic expectations about the likely timing of each stage, including: <ul style="list-style-type: none"> <li>• <a href="#">initial actions</a>, e.g. scene examinations</li> <li>• the <a href="#">medical/forensic examination</a></li> <li>• the <a href="#">formal interview</a> and recording process</li> <li>• an explanation regarding exhibits that may have been taken, the purpose for this and likelihood of return</li> <li>• subsequent court processes.</li> </ul> <p><b>Note:</b> Always consider the victim's privacy when providing information.</p>
3	Clarify the victim's expectations in reporting. For example, do they wish to lay a <a href="#">formal complaint</a> or are they seeking information from Police to enable them to make a decision about how they should proceed (specialist sexual assault support workers will assist in this process). <p><b>Note:</b> If the victim does not want to make a formal complaint but there is a need to disclose the complaint to the offender, you <b>must</b> talk to the victim about this.</p>

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## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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4	<p>The victim must be given an opportunity to comment on their needs regarding the selection of the:</p> <ul style="list-style-type: none"><li>• <a href="#">ASA investigator</a></li><li>• <a href="#">specialist adult witness interviewer</a></li><li>• <a href="#">medical/forensic doctor</a></li><li>• <a href="#">support person(s)</a>.</li></ul> <p>The victim's views should be strongly considered and attempts made to address them. It is accepted that this aspect may prove difficult where resources are limited or not available. Explain this sensitively to the victim, discuss it with supervisors and record it on the Police file.</p>
5	<p>Provide progress updates to the victim about and during the investigation. Record all these contacts in the "victim contacts" field within NIA.</p> <p><b>Note:</b> When a medical examination has taken place, it may be more appropriate for the medical practitioner to advise the victim of the findings from the examination (also that further medical support or care may be required).</p>
6	<p>Most ASA victims meet the criteria in section <a href="#">29</a> of the Victims' Rights Act 2002. Ensure information about any proceedings commenced, charges laid and changes to charges laid, dates of the accused's first appearance in court and subsequent hearings and appeals is provided to the victim as soon as practicable. Victims must also be advised of an accused's release on bail.</p> <p>(Refer to the <a href="#">Victims (Police service to victims)</a> Police Manual chapter for detailed information about Police responsibilities to provide information about the progress of investigations and court proceedings).</p>
7	<p>Discuss with the victim whether the investigation and/or prosecution could or should continue if a complaint is withdrawn.</p>
8	<p>Explain and discuss decisions not to proceed with an investigation or prosecution and assist the victim to understand the reasons for this.</p>
<p><b>Note:</b> Because the receipt of critical information about the progress of a case may cause distress, arrange specialist sexual assault support for the victim <b>before</b> providing such information, e.g. giving forensic results or advising there is insufficient information for an investigation to continue.</p>	

### Providing feedback to medical practitioners

When results of forensic tests are available, ASA investigators should provide feedback to medical practitioners who have conducted medical forensic examinations. This information may be relevant to the ongoing medical/emotional care of the victim.



# Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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## Medical forensic examinations Key process point 6

### Primary objective of examination

The ASA victim's well being and safety is paramount. Therefore, the primary objective of a medical forensic examination is the victim's physical, sexual and mental health and safety. Of secondary importance is the opportunity to collect trace evidence.

Investigators should ensure the medical forensic examination is promoted to victims in this way.

### Sexual Abuse Assessment and Treatment Service (SAATS)

The SAATS model is a medical forensic service for all victims of sexual violence in New Zealand (female or male, child, adolescent or adult) regardless of whether or not they report to Police.

SAATS employ medical forensic practitioners (doctors and nurses) trained and/or accredited by the Doctors for Sexual Abuse Care Incorporated (DSAC). SAATS are supported financially to provide facilities, staffing, equipment and examinations for both acute and historic presentations, including a limited number of follow-up examinations.

### Local level agreements

District commanders must ensure that local level agreements are in place within SAATS for [medical forensic practitioners](#) to undertake standard medical and forensic examinations of sexual assault victims in adequately equipped medical facilities when required.

### Examination venues

Examination rooms must be comfortable, non-threatening for the victim, secure, private and safe. They should also be available 24 hours a day.

Medical forensic examinations of victims should not be carried out in rooms where suspects are likely to be examined or treated. If this is unavoidable, investigators must ensure appropriate measures are taken to reduce the chance of contamination and to preserve the integrity of any evidence. Appropriate cleaning of the examination room between examinations must take place to ensure "forensic capability" is maintained. A record of the times and dates of when the cleaning of a venue takes place should be kept for the purposes of reassurance.

### Costs of medical examination

SAATS has its own funding structure and a proportion of the fees will be met by Police at a national level. Payments for medical examination kits, the preparation of formal statements and other aspects will be outlined in the National Pricing Schedule.

District procedures should be followed when requesting formal written statements from medical forensic practitioners.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Timing of medical forensic examinations

ASA investigators should always make decisions about examination timing and type in consultation with a medical forensic practitioner.

Type of case	Actions
<a href="#">Acute</a> or a suspected drug facilitated sexual assault (1-7 days)	<p>A medical forensic practitioner <b>must</b> be contacted as soon as possible. The timing of the forensic examination is particularly important in the first seven days after an assault.</p> <p>Ideally an examination should be conducted within 24 hours and before the evidence is lost (see step 6 of the <a href="#">Initial actions on contact</a>) and before a formal interview is completed.</p> <p>If three or four days have passed since the assault, the examination may not be as urgent, however, it <b>should</b> still be considered, primarily for the well-being of the victim and for possible trace evidence capture. This is a recommended course of action that should be taken in discussion with the victim and the medical forensic practitioner.</p>
<a href="#">Non-acute</a> (7 days - 6 months)	<p>Always refer the victim for SAATS medical care, even in cases when a forensic examination is unlikely to generate trace evidence because of the time passed since the assault.</p> <p>Remember that useful forensic evidence can still be captured in the early days of non-acute reported cases. For example, bruising or genital symptoms may still be evident at 10 or more days after a serious assault.</p> <p>There may also be benefits in having the medical practitioner go to court in subsequent proceedings, particularly to present counter-intuitive evidence.</p>
<a href="#">Historic</a> (more than 6 months)	<p>Refer the victim to <a href="#">SAATS</a> to determine whether they may benefit from a medical examination and/or medical care.</p> <p>(Never assume that just because a case is historic there will be no benefit to the victim in undergoing a medical examination, either for their well-being or the investigation).</p>



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Before conducting medical forensic examinations

Step	Action
1	<p>Explain to the victim:</p> <ul style="list-style-type: none"><li>• that the examination:<ul style="list-style-type: none"><li>- will be conducted by a medical forensic practitioner specially trained in examining individuals who have been sexually assaulted</li><li>- has potential health benefits and can help Police obtain evidence to apprehend the offender</li></ul></li><li>• the expected duration of the examination ("a couple of hours") and, if appropriate, possible outcomes of the examination.</li></ul> <p>Ask the victim if they have any concerns about the gender of the practitioner conducting the examination and advise that you will do your best to accommodate their wishes. (Research indicates that most ASA victims identify gender as an issue and indicate a preference for examination by a female practitioner).</p>
2	<p>Contact the medical forensic practitioner on call and:</p> <ul style="list-style-type: none"><li>• advise the age and gender of the victim as this may impact on the suitability of the practitioner</li><li>• advise when the sexual assault was believed to have occurred</li><li>• give a very brief outline of the information known so far, including whether drugs may be involved and details of the victim's injuries, level of intoxication or other known health concerns</li><li>• if relevant, discuss the victim's wishes about gender of the examining practitioner</li><li>• when necessary, discuss whether a <a href="#">child's sexual assault complaint</a> should be investigated using the adult sexual assault procedures (or vice versa).</li></ul> <p>Providing this information will allow the practitioner to assess:</p> <ul style="list-style-type: none"><li>• the best timing and approach for the examination</li><li>• how to best meet the victim's wishes regarding the gender of the examining practitioner (e.g. could the examination be delayed without compromising the evidence or the victim travel to another centre for examination by a practitioner of the preferred gender)?</li></ul>
3	<p>Arrange times for the medical forensic practitioner to be at the examination venue and provide access to the examination room when necessary.</p>
4	<p>Ensure the victim has had the opportunity to speak to a specialist sexual assault support worker (see step 3 of the <a href="#">Initial actions on contact</a> and <a href="#">Providing specialist support</a> in this chapter).</p> <p>Ensure any supporting person chosen has not been in contact with any suspects.</p>
5	<p>Use toxicology kits for early evidence capture in appropriate cases, pending the medical/forensic examination. There may be a delay of several hours during the working week, as most services rely on clinicians who have other daytime jobs.</p> <p><b>Remember:</b> If the case is very recent (acute), remind the victim to refrain from the actions set out in step 6 of the <a href="#">Initial actions on contact</a>.</p>
6	<p>Unless you are sure a change of clothing (including undergarments) will be available at the examination venue, arrange a change of clothing for the victim for after their examination.</p>

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## Adult sexual assault investigation (ASAI) policy and procedures, continued...

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7	If necessary take a medical examination kit for use at the examination venue, although this should be previously arranged via the SAATS local level agreement. In appropriate cases, a toxicology kit should also be taken for use at the examination venue.
8	Ensure the officer attending the examination has all relevant information so that the practitioner can be fully briefed (e.g. photocopies of any notes from preliminary interviews and other relevant notebook entries).

### Examination procedure

The attending Police officer and medical forensic practitioner should follow this procedure when conducting the victim's examination.

Step	Action
1	The attending officer should ensure the medical forensic practitioner has not been in contact with any suspects before the examination and that an un-expired <a href="#">medical examination kit</a> (MEK) and toxicology kit (where relevant) is available. (Do not use any kit that has passed its expiry date or where the plastic seal has been broken).
2	The attending officer provides the practitioner with all relevant information available to Police at that time about the nature of the sexual assault (e.g. the victim's body position or where they said they were kissed or licked).  <b>Remember</b> <ul style="list-style-type: none"><li>• A considerable number of sexual assault victims do not fully or initially disclose the extent of their attack, particularly oral or anal contact.</li><li>• Disclosures not made during a preliminary interview may be made during a medical forensic examination.</li></ul>
3	After conducting the examination, the practitioner: <ul style="list-style-type: none"><li>• seals and labels all samples with the victim's name, date and time they were taken and places them within the MEK</li><li>• bags, seals and labels any items of clothing removed during the examination.</li></ul>
4	Before the MEK is sealed, the attending officer debriefs with the practitioner asking them to: <ul style="list-style-type: none"><li>• advise on any immediate needs of the victim (remember that their safety and well-being is paramount)</li><li>• verbally summarise the exhibits and advise their possible significance in the investigation</li><li>• identify any forensic items that may need to be taken to ESR as soon as possible for analysis to minimise loss of evidential benefits</li><li>• identify any injuries that should be <a href="#">photographed</a> (i.e. non-intimate injuries)</li><li>• identify any significant disclosures made by the victim during the examination which:<ul style="list-style-type: none"><li>- may be useful in the Police investigation, or</li><li>- in the case of under 17 year olds being dealt with under these procedures, require notification to Child, Youth and Family.</li></ul></li></ul> All information from the debrief should be captured on the investigation officer's evidential statement and attached to the case file.

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## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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5	<p>The practitioner seals the MEK in the officer's presence and hands over to Police the sealed MEK, toxicology kit (where relevant) and clothing removed during the examination for preservation of evidence and/or subsequent analysis.</p> <p>The practitioner keeps the original medical protocol form. (The duplicate is sent to ESR within the sealed MEK and Police retain the triplicate for the case file).</p>
6	<p>Police secure the sealed kit in an appropriate refrigerator (not a freezer) until it should be delivered to ESR. Once it is established that analysis is required, follow local procedures for the delivery of specimens to the ESR as soon as practicable.</p> <p><b>Note:</b> If the kit contains specimens identified by the practitioner as requiring urgent examination to minimise loss of evidence (e.g. tampons or toxicology) the kit must be sent to ESR without delay.</p>
7	<p>Police collect and preserve any clothing worn by the victim during the offence that has not already been bagged by the medical forensic practitioner. Appropriately package and label each item of clothing separately to avoid cross-contamination.</p>

### Photographing injuries

Taking photographs of a victim's physical injuries can replicate aspects of the dynamics of a sexual assault in the general experience of objectification and the more specific experience of voyeurism. Therefore, police must take photographs of the victim's physical injuries with appropriate sensitivity and the victim's full consent. An appropriately trained Police photographer should be used. A specialist sexual assault support worker should be present to support the victim while photographs are being taken and afterwards.

### Arranging follow up medical examinations

Bruises and other injuries may take a number of days to best appear and a further assessment should be made at the follow-up medical appointment. Consult with the medical forensic practitioner as to when this should be arranged.

### Medical examination kits (MEKs)

[Medical examination kits](#) are available for use by SAATS medical forensic practitioners, Police surgeons and (on other occasions) other medical practitioners responsible for examining or obtaining samples from any person including:

- sexual assault victims
- suspects and offenders.

The kits must be used in all sexual assault complaints reported to Police.

MEKs must also be made available to SAATS medical practitioners to use in cases that are **not** reported to Police but where the victim has given their consent for a forensic examination. In these cases, and where possible, the completed MEKs are securely held by the SAATS vendor for up to 26 weeks in case the victim changes their mind and decides (post-examination) to make a complaint to Police.

**Note:** The retention of MEKs in cases where the victim does not report to Police, is only available in areas with an existing SAATS vendor.

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# Adult sexual assault investigation (ASAI) policy and procedures, continued...

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## Formal interview Key process point 7

### Introduction

The "formal" interview records the complaint and detail of the sexual assault and forms the victim's statement. It is a critical part of the investigation process and successful prosecution of sexual offences often hinges on how well the interview is done.

The [Evidence Act 2006](#), sections [103](#) to [105](#), provides an opportunity for victim's/witness' evidence to be admitted by an alternative means (e.g. the electronically recorded interview is played to the court or evidence given orally but from a safe location via CCTV). It is important that the investigator explains to the victim/witness that the prosecution must apply to the court to use the 'alternative means' and it is the Judge's decision whether to allow this. Each application is considered on its merits and it is not guaranteed that the 'alternative means' will be authorised.

The way you approach the interview is also crucial to the victim's well-being. The victim is being asked to discuss with a stranger possibly the most traumatic experience of his or her life and, in most cases of sexual assault, the victim is the only witness.

### Conducting the interview

When formally interviewing ASA victims, you must follow the [Investigative interviewing witness guide](#) including the guide's additional procedures for witnesses requiring [special consideration](#) and witnesses who have suffered [trauma](#). In some circumstances, other procedures for special categories of witnesses may also apply, e.g. if the witness fears intimidation, is intellectually impaired or requires an interpreter.

Key aspects of the interviewing procedures applying to ASA victims include:

- explaining to the victim the process and format of the interview
- using a [specialist adult witness interviewer](#) (where possible, different interviewers should interview the victim and the suspect)
- interviewing the witness using the [PEACE](#) interviewing framework as it applies to witnesses requiring special consideration, usually using the [enhanced cognitive interview model](#)
- with the victim's consent, making a support person trained in supporting sexual assault victims (preferably a specialist sexual assault support worker trained in supporting sexual assault victims) available to the victim during the formal interview
- electronically recording the interview with the potential for that interview to be a victim's evidence-in-chief at any later hearing.

### If a specialist interviewer is not available

In exceptional circumstances, if a specialist interviewer is not available, a CIB supervisor can authorise a suitably qualified investigator to conduct the interview. Preference should be given to those trained in level 1 or 2 investigative interviewing and who have completed the ASA training. When this approach is undertaken, record the reasons and detail of this on the file for later audit purposes.

### Support person's role during interview

For information about the specialist sexual assault support worker's role during the interview and the procedures to be followed when support people are involved, see [Support persons](#) in the Investigative interviewing witness guide in the Police Manual.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Investigation and evidence assessment Key process point 8

#### Background

The investigation process for ASA complaints has many similarities with other criminal enquiries. However, owing to the intrusive and violent nature of the crime, along with increasing the likelihood of prosecution, a well conducted ASA investigation will greatly improve long term outcomes for the victim, their family and the community.

Investigators need special understanding and sensitivity when managing sexual assault cases and interacting with victims. A broad knowledge of the variety of offender motivations is also an asset.

#### Factors to consider during ASA investigations

This section of the ASAI procedures outlines, in no particular order, key factors to consider during ASA investigations.

#### Crime scene examination

Follow standard investigation procedures for:

- [crime scene examination](#)
- gathering and securing physical and [forensic evidence](#).

Consider aspects of premises or scene vulnerability - did it offer or raise the levels of vulnerability to the victim, protection or privacy to the offender or provide indications of planning around the pre-event activity, execution and/or escape?

Also consider connections to other investigative opportunities, such as the area canvass, witness location and interview, Intelligence office input, media releases and other individual case aspects.

#### Exhibits

Follow standard investigation procedures for:

- locating, recording and photographing [exhibits](#) in situ
- securing, labelling and packaging, handling and retention of exhibits - for instance, if clothing is to be secured, ensure the integrity of cuts, tears or marks by preserving these in their entirety during removal from the victim
- analysis, assessment and court presentation
- final action, i.e. appropriate return, disposal or destruction.

Be aware of the potential vulnerability of exhibits for forensic assessment. Sound forensic processes must be carefully followed, adhered to and able to be outlined and demonstrated.

Consider the increased sensitivity required in sexual abuse cases. Photographs, digitally recorded interviews and written statements, transcripts and other exhibits can have voyeuristic or other value to sexual offenders (or like-minded individuals) and accordingly should be treated with sensitivity, understanding and control.





## Adult sexual assault investigation (ASAI) policy and procedures, continued...

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### Returning exhibits to victims

Sensitivity in the return or disposal of exhibits can be very important to victims. Items of clothing may be damaged during trace evidence examination (e.g. for forensic analysis, segments might be cut from the crutch area of trousers) and this should be discussed with the victim before returning. Also consider having expensive clothing or bedding cleaned or appropriately dealt with before returning. As the return of evidence can, in some cases, be a triggering event, this discussion might best be initiated by the specialist sexual assault support service. Where possible avoid returning items in labelled Police exhibit bags - other bags or boxes might be more appropriate.

### Recent complaint or disclosure witnesses

Obtain written or electronically recorded statements from all appropriate recent complaint witnesses (the person a victim first complains to) with sufficient depth and detail as the circumstances warrant. This can offer evidential value where a victim's account or aspects around disclosure become an issue and this evidence can therefore, on occasions, be an exception to the hearsay rule at judicial hearings. Witnesses in sexual abuse cases may be able to have their evidence in chief presented to court by alternative means under section [105](#) of the Evidence Act 2006.

Ensure the details you get from a recent complaint witness include:

- as exactly as possible, what the victim said
- any questions the person asked the victim that might have elicited the complaint, and
- the victim's demeanour and physical appearance at the time.

Seek corroboration from these witnesses as to the reported circumstances.

### Historic cases

When investigating and assessing a complaint relating to historical behaviour (i.e. an incident more than 12 months old), investigators should approach the investigation of the complaint in the same way as any other complaint. However, investigators should be mindful of the impact time can have on a victim's memory recall and the potential difficulty in establishing corroborating evidence due to the lapse in time between the incident and when the complaint is made. (See [Historical complaints](#) in the "Resolving investigations" section of this policy).

Where the complaint is one of historical child abuse, investigators should assess the risk that the offender may present to other/unknown children.

### Considering other enquiries

Consider other investigative opportunities, such as the area canvass, location of further witnesses, propensity (similar fact) evidence, Intelligence office input (e.g. prison releases, known sex offenders, similar crime, etc), media releases, contact with the Police Criminal Profiling Unit and other relevant individual case circumstances.

### Dealing with suspects

#### Identifying and locating suspects

Most sexual offences are committed by offenders known or connected to the victim. These individuals are often not difficult to locate and do not deny knowing or having an association with the victim.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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In other cases identifying and then locating a suspect may take extensive and prolonged investigation which will be greatly assisted by thorough victim interviews, detailed statement taking and thorough scene examinations.

Accessing the skills and expertise of the Criminal Profiling Unit and tools within their databases (such as [ViCLAS](#)) is encouraged.

### Approaching suspects

Best results derive from a planned approach to suspect interviewing.

In incorporating an understanding of the crime type dynamics, fully assess all available information to determine the best approach that fits the situation and circumstances.

When planning an initial approach to a suspect, consider:

- the time of day
- the location and situation (alone or in a family or work situation)
- investigator's style, manner and approach
- the possible perceptions of the suspect and what they may interpret is occurring, and follow-up options (e.g. medicals, photographs, further victim involvement, etc).

### Interviewing suspects

Follow the [Investigative interviewing suspect guide](#) in the Police Manual.

Follow additional procedures set out in the interviewing guide for suspects requiring [special consideration](#) (e.g. because of age, disability, disorder or impairment, or where English is a second language).

### Medical examination of suspects

Police Medical Officers (ideally a practitioner who has not examined the victim) medically and/or forensically examine suspects in sexual assault cases at the request of the O/C case or O/C suspects. They should use:

- medical examination kits, and/or
- a toxicology kit if the suspect is a known or suspected drug user.

When making arrangements for the examination, ask the practitioner to:

- take requisite samples such as buccal, blood, saliva, head hair, pubic and body hair, foreign hairs, and fingernail scrapings
- note any injuries such as scratches or bruises and how they may have originated
- give their opinion of the suspect's mental condition so that Police obtain a further psychiatric opinion where necessary; and
- record any comments or explanations made by the suspect about the cause of injuries or other relevant comments made.

Consider photographing injuries.

**Note:** All DNA suspect samples are covered by the [Criminal Investigations \(Bodily Samples\) Act 1995](#). Follow the procedures for taking suspect samples in the [DNA sampling](#) Police Manual chapter.

### Ongoing evidence assessment

Ongoing appraisal of the information and evidence available to the investigation team should be undertaken as part of usual practice. There may also need to be a formal assessment which could include seeking the opinion of Legal Section or the Crown Prosecutor.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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Assessment of [inconsistencies](#) in complaints and gaps in evidence should be made with background knowledge of the known dynamics of sexual violence.

Also consider [resolution options](#).

### **Using Violent Crime Linkages Analysis System (ViCLAS)**

ViCLAS is recognised as an effective and useable automated violent crime linkage system. It is designed for the collection of information for serial offences. For further information on ViCLAS refer to the [Criminal Profiling Unit](#) Police intranet site.

Investigators must submit completed documents from relevant files to the Criminal Profiling Unit (CPU) for entering into ViCLAS.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### **Inconsistent or fabricated complaints**

#### **Inconsistencies in complaints**

In some sexual abuse investigations the evidence and details obtained may indicate ambiguities, errors, falsehoods or seem to make little sense. Problems can include: no workable description, late reporting hindering trace evidence capture, minimal corroborating evidence, or perhaps no corroboration when indications are that, logically, corroboration should be available.

These issues may simply be due to factors such as natural mistakes within recalled accounts, as in everyday life. Alone, they do not indicate fabrication of a complaint or intentional misleading by a victim. Investigators should always be mindful that it is very difficult for victims to tell a stranger what has happened to them sexually.

#### **Further emerging details**

As it may not be easy for victims to provide full details of a sexual assault to investigators, it will be common for further details about the same incident to emerge in subsequent contact with the victim.

#### **Fabricated complaints**

A fabricated complaint is when a complaint is deliberately made and the maker knows it to be untrue.

Genuine complaints can have elements of inconsistency, inaccuracy or concealments. For example, details may be left out or embellished due to the victim's desire to maintain privacy in respect of matters such as recreational drug taking, which may be accompanied by judgmental responses.

It is also common in genuine complaints for there to be elements of inaccuracy and/or inconsistencies due to trauma that has taken place. Investigators should not draw early conclusions from inconsistencies. Rather they should maintain an open mind until evidence-gathering nears completion.

Care is also necessary when dealing with victims with disabilities, such as mental health issues, who in being more vulnerable, are likely to be targeted for that reason. Disabilities do not invalidate complaints and should not disadvantage victims in having their complaints fully investigated.

#### **Dealing with inconsistencies or possible fabrications**

Police professionalism requires that officers who investigate sexual abuse allegations remain objective, empathetic and respectful, irrespective of apparent inconsistencies or fabrications. If they do not, the truthfulness of the allegation may never be known and helpful outcomes not achieved (e.g. referral to a health service).

**Note:** You **must** obtain a supervisor's approval (Detective Senior Sergeant or above) **before** suggesting or informing a victim that you believe their allegation is fabricated. If authorised by a supervisor:

- the reasons for doing so must be recorded on the file for auditing purposes and in the supervisor's review in NIA case management
- consider approaching the victim in the presence of the specialist sexual assault support person so they can provide ongoing emotional support for them. Discuss this first with the support person.



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### Charging complainants for making fabricated complaints

When deciding whether to charge the maker of a fabricated claim, consider every case on its own merits and all [options for resolving the investigation](#). Follow the [Solicitor General's Prosecution Guidelines](#) before charging. Consult with local Crown Prosecutors when appropriate.

When there are clear mental health issues, Police should ensure the person is referred to an appropriate health service.

### Police statistics for fabricated claims

Follow these steps to record fabricated complaints for statistical purposes (as per the National Recording Standard).

Step	Action
1	Record all complaints using the appropriate offence code from the details of the allegation. If the investigation reveals later that the offence did not occur, do not change the offence code, but give it a result code of "no offence disclosed" (K3).
2	If it is discovered that a fabricated complaint is made, record an offence of 'Making a false complaint', whether or not Police decide to take any action against the person making the false complaint.
3	Give a result code on this offence (Making a false complaint) related to the action taken by police on the fabricated complaint, as follows: <ul style="list-style-type: none"><li>• "arrested" (K9)</li><li>• "cautioned" (K4)</li><li>• "not arrested nor cautioned, but proceeded against by some other means" (K6).</li></ul>
4	Information should be placed into NIA as an outline of the nature of the fabricated complaint and the way the matter was resolved. This should <b>not</b> be done in the form of an alert. The NIA entry can only be undertaken with authority of a Detective Senior Sergeant, or higher, who must also approve the content.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Resolving investigations Key process point 9

#### Resolution options

These options for resolution are available in respect of any alleged sexual assault investigation (whether [acute](#), [non-acute](#) or [historic](#)):

- fully investigate and [prosecute](#) the offender
- fully investigate and give a [warning](#) to the offender
- fully investigate and if insufficient evidence to take the matter further at that time, inactivate as unsolved
- record the complaint, and
  - talk to the offender, and/or
  - refer the victim and/or offender for counselling, or both victim and offender for restorative justice (where appropriate), and/or
  - take no other Police action.

If the victim does not make a formal complaint:

- record details for intelligence purposes
- consider disclosing or not disclosing the source of the information
- talk to the offender for the purposes of a risk assessment (e.g. consider attaining their DNA profile); any interview with the offender should also be considered for propensity evidence
- consider options with the offender as might be appropriate (such as advising the public by way of the [public notification of offender](#) process).

#### Who decides on which option to adopt?

The O/C investigation should work closely with their supervisor/s when considering what resolution option is appropriate in each case. The views, situation and circumstances of victims should always inform considerations.

Further consultation may be undertaken with the District ASA Coordinator, Crown Prosecutor, Legal Section or other relevant parties.

Final decisions on what resolution option to pursue in sexual assault complaints must always be made by a supervisor.

#### Historical complaints

Sexual assault reports may be made to Police some years after the incident.

Investigators should consider these factors when deciding on the Police response:

- the likelihood of further, continued or connected offending (past, present or future)
- the victim's ability to clearly recall events
- whether corroboration is available
- the availability of other evidence and witnesses
- the victim's current circumstances and well-being
- legal precedents (consult Legal Section or the Crown Prosecutor where relevant)
- the offender's current situation (e.g. still alive, infirmed or overseas).

In cases where the victim was a child at the time of the offending, consider whether CYF should be contacted to ascertain if there may have been other victims or people still at risk.

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## Adult sexual assault investigation (ASAI) policy and procedures, continued...

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The victim must be fully informed of their options in making a formal complaint or commencing other actions.

### **When victims do not wish to continue**

The decision as to whether there is sufficient evidence to prosecute is for Police and not the victim (or their family). In making this decision, Police should:

- consider the victim's views, especially if they are not supportive of a prosecution
- offer all available assistance when that decision is considered. This may be by working with the specialist sexual assault support worker, medical forensic practitioner, family, community members, crown prosecutor or others.

Police should also advise the victim that the investigation and prosecution may still continue depending on the circumstances. This could be, for example, due to the seriousness of the incident and danger that the offender presents to the community or other evidence or complaints that are connected to the matter.

If Police wish to continue the investigation or prosecution after the victim decides to withdraw their complaint, the investigator must inform the victim of this and the reasons for doing so. A specialist sexual assault response person should ideally be present with the victim in these instances.

### **Explanation when matters do not proceed**

If a prosecution does not proceed, or an investigation is filed without prosecution, the O/C investigation or the O/C victim must clearly, carefully and fully explain the reasoning to the victim so they understand why this is occurring.

In these situations, always consider the victim's well-being and arrange ongoing support for them through your local specialist sexual assault support service.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Prosecution actions Key process point 10

Due to the public and adversarial nature of court processes, victims and witnesses are especially vulnerable at the prosecution stage and require special sensitivity and consideration.

#### Who prosecutes sexual assault cases

All sexual assault cases are Category 3 offences under the Criminal Procedure Act 2011 (punishable by 2 or more years imprisonment, where the defendant has the right to elect trial by jury).

In accordance with Crown Prosecution Regulations 2013, the Crown will prosecute:

- all Category 3 cases with a maximum penalty of 14 years imprisonment or more, from the point of entry of a plea;
- all Category 3 cases specified in Crown Prosecution Regulations to always be tried by the Crown, from the point of the adjournment following the entry of a plea;
- all other Category 3 cases where trial by jury is elected, from the adjournment to trial callover.

Engagement of the Crown Prosecutor (at Police's expense) may be authorised by the Police Prosecution Service Regional Manager for Category 3 cases not captured above when appropriate, for example in a matter which is complex or overly sensitive, at any appropriate stage.

#### Referring sexual assault cases for prosecution

The O/C case must provide all relevant information to the prosecutor about the victim and witnesses, including:

- a fully detailed POL 258 report which provides clear detail of the alleged incident, investigation and issues that may have arisen or are foreseen
- information necessary to make an application under section [103](#) Evidence Act 2006 for giving evidence by an alternative way (e.g. because of the trauma to the witness or the nature of the evidence to be given)
- details of any preferred support person for any witness required to give evidence (section [79\(1\)](#) Evidence Act 2006).

#### Matters to consider during prosecutions

Refer to the [Solicitor General's Prosecution Guidelines](#) and follow standard file preparation and prosecution procedures for:

- preparation of documents, formal statements and testimony
- preparation of appropriately handled, packaged and presented exhibits
- preparation, handling and presentation of electronically recorded evidence and testimony.

#### Vulnerability of victims at prosecution stage

The court phase can be extremely stressful for victims and their families. Because this stress can also impact unfavourably on court outcomes, victim access to specialist support is highly recommended.

An early meeting between the Crown Prosecutor and the victim at the court room in advance of the hearing will also assist in alleviating witness anxiety in respect of court premises and procedures. Also consider the victim in respect of offender bail or release

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issues. Remember that Police have a continuing obligation to provide information to victims under the Victims' Rights Act 2002.

The decision whether to oppose the offender's bail, and/or the appropriate bail conditions should also form an important part of the prosecution process. Investigators should have regard to the relevant criteria in section 8 of the Bail Act 2000, particularly if there is a risk the defendant may interfere with evidence and/or attempt to contact witnesses or the victim (as per section 8(1)(a)(ii)). (See the [Bail](#) Police Manual chapter for more information).

### **Sensitivity to victim is critical**

In sexual abuse cases, photographs, DVD/video and written statements, transcripts and other exhibits will potentially be of great interest to the media and public. Ensure Police retain control over their access.

Be sensitive when creating and presenting a victim impact statement. Follow the statement guidelines but consider specialist and other support for the victim in writing these. Widen your consideration of impact to include that on family, friends, work and other aspects of a person's life, plus that of the wider community. It is important for the victim to feel that the crime's impact on them has been accurately portrayed, and the appropriate sentence imposed. Statements must be suitable, clear and concise.

### **Provide details for victim notification register**

Ensure that you provide (using POL 1065 in Police Forms> Victims> POL 1065) the victim's details to Ministry of Justice for placement on the victim notification register to ensure the victim is advised of bail conditions, and release dates post conviction.

### **Further information**

For further information about victims at the prosecution stage of the ASA investigation, see the [Victims \(Police service to victims\)](#) chapter in the Police Manual.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Final actions and record keeping Key process point 11

#### Final victim related action

At the conclusion of the investigation and/or prosecution action, regardless of the outcome, the O/C investigation, O/C victim, or the district ASA co-ordinator must clearly, carefully and fully explain the outcome or court finding to the victim so that they understand what has occurred.

In these situations, always consider the victim's well-being and arrange ongoing specialist support for them through your local specialist sexual assault support agency.

You may also conduct a formal or informal debrief of the investigation and prosecution process with the victim, their family, support persons (including specialist sexual assault support services and other support persons) and other connected parties. This can assist victims, and their families, with the outcomes (favourable or not) and provide a tangible conclusion to their Police involvement.

Where appropriate and without breaching privacy principles, Police should also advise those case connected [tripartite partners](#) of outcomes. This can be done via the regular tripartite meetings as per the local level agreement.

#### Record keeping

To ensure Police are well placed to deal with the volume and seriousness of adult sexual assault offences, accurate and up to date, quality information about the victim, offender and incident is required to determine trends and develop systems to enhance investigation practices and procedures.

Take these record keeping actions.

Step	Action
1	If the offence is a family violence related offence, complete the Family Violence Report, POL 1311, and Intimate Partner Violence Risk Assessment (ODARA), POL 1315.
2	Ensure you complete the Sex Offender/Suspect Notification, found under the ' <b>notifications</b> ' on the Bulletin Board for subsequent review by the Criminal Profiling Unit, OCEANZ and the Police MO section who complete offender dossiers and NIA offender alerts.
3	Promptly enter complaints in NIA when received and manage from receipt to resolution according to procedures detailed in the <a href="#">Police investigations of complaints and notifiable incidents</a> Police Manual chapter.
4	ASA files should be only be filed by supervisors with a clear understanding as to the nature and intricacies of this crime-type. Using the <a href="#">key process points</a> as a guide to the practice undertaken in respective files, as well as due diligence and professionalism, are main areas of interest in the filing of these matters.

#### Oversight and monitoring

NZ Police is committed to improving compliance with these adult sexual assault investigation policy and procedures, ensuring positive outcomes for victims and more effective investigations and resolution of complaints.

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## **Adult sexual assault investigation (ASAI) policy and procedures, Continued...**

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### **Monitoring framework**

NZ Police National Headquarters will monitor the successful implementation of the ASAI policy and procedures through the national integrated quality assurance and improvement framework (QAIF). The QAIF framework aims to improve the quality of investigations and service to victims with reviews of ASA investigations conducted at a national level by the National Coordinator: ASA. This will be reinforced by annual monitoring by the Organisational Performance Group (OPG) as part of its ongoing focus on policing processes.

The National Coordinator: ASA and the OPG will liaise with district commanders and/or district ASA coordinators in regards to this process. Case victims and other connected individuals will not be advised of the monitoring outcomes, unless in the circumstances this is deemed necessary.



## Adult sexual assault investigation (ASAI) policy and procedures, Continued...

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### Preventative opportunities and responsibilities Key process point 12

#### Continually improving Police response

Sexual violence reports brought to Police, like those for all offences, should receive the same high level of response, as outlined in this ASAI policy and procedures. This response process is in many ways an evolving and developing practice that will be enhanced and improved by assessment, monitoring and appropriate evaluation and feedback.

As part of an ongoing investigation process Police want structured, proactive preventative action which will consider investigation procedures and approaches for individual cases and wider sector improvement. Input into this, and preventative opportunities, can be undertaken by all those involved in ASA investigations, from the first recipient of a complaint, the investigator, [tripartite partners](#) (via Police channels), supervisors, managers and filing officers.

#### Preventative opportunities

As part of the ongoing case process and at case closure, each investigation should be assessed with these considerations (this is not an exhaustive list):

- What further investigative work can be undertaken that could link this offence to unsolved or other cases? (e.g. use of [ViCLAS](#) and Criminal Profiling Unit, DNA databank or other Intelligence Office initiatives).
- What preventative opportunities arise? (e.g. addressing liquor outlets around drink spiking or street lighting in remote or isolated areas (environmental scanning).
- What opportunities or interventions to prevent sexual re-victimisation have been considered? (A substantial proportion of sexual violence victims experience repeated sexual victimisation, often beginning in childhood or adolescence and continuing through life. Sexual re-victimisation is often linked to other forms of violence).
- What sensitive and appropriate information sharing can enhance our understanding and approach to investigating sexual violence? (e.g. approaches used by drug facilitated sexual assailants or on-line sexual groomers).
- What educational opportunities or messages can be gained or promoted at either a local or wider basis? (e.g. appropriate use of case studies in Police training forums - a respective victims understanding and buy-in is paramount in these situations).
- What part of the process at a case level, local level or national level needs addressing for improvement or enhancement?

#### Responsibilities within the ASAI policy and procedures District commanders (in connection to ASA)

To improve compliance and outcomes around this policy and procedures, district commanders must ensure:

- the appointment of appropriate district adult sexual assault coordinators
- local level agreements are in place outlining the relationships between local tripartite partners
- local Police have access to appropriate venues and equipment for:
  - receiving complaints in a safe and secure environment (e.g. victim friendly interview rooms)
  - medical forensic examinations of sexual abuse victims
  - the formal interview and victim interface
- there are sufficient trained and qualified Police staff in their locality to satisfy local demands for specialist investigators and related specialist interviewers

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- training is carried out in line with national directives, e.g. ASA initial complaint action.

### **District adult sexual assault coordinators**

To improve compliance and outcomes around this policy and procedures, district adult sexual assault coordinators must:

- regularly liaise with all connected tripartite partners, namely specialist sexual assault support services, SAATS medical forensic practitioners and where relevant, Police medical officers
- ensure local training is carried out in line with national directives
- monitor staff performance to ensure they are performing sexual assault investigations satisfactorily and institute the staff [Trauma policy](#) when necessary
- monitor complaints to ensure this policy and procedures and the appropriate level of service to victims are being adhered to
- ensure compliance with requirements for record keeping and statistical capture and respond to requests for statistics and data connected to ASA investigations from PNHQ in accordance with the QAIF framework
- encourage appropriate information sharing and assessment of preventative and educational opportunities is undertaken at a local level, with consideration for national level opportunity via the National Coordinator: ASA
- report annually to the National coordinator: ASA at PNHQ on:
  - any issues relating to compliance with these procedures and connected training
  - any initiatives, preventative measures, endeavours and developments that have proved successful in the investigation and area of ASA
  - provide a copy of the local level agreement.

### **National Coordinator: ASA**

To improve compliance and outcomes around these procedures, the PNHQ based national coordinator of ASA must:

- at a national level regularly liaise with all connected tripartite partners, namely specialist sexual assault support agencies and DSAC (National Tripartite Forum)
- at a national level regularly liaise with other connected agencies, such as ESR, Crown Law, Ministry of Justice, ACC and Ministry of Health etc
- liaise with district commanders and/or district ASA coordinators around ASA matters such as local issues, collation and assessment of local level agreements and locally developed enhancements of ASA investigations
- disseminate appropriate connected information to Police employees via district ASA coordinators or other means (such as district commanders and/or crime managers)
- be connected and involved with the Police Training Service Centre around the ASA Investigators course, other related training courses, material and delivery
- monitor and assess international law enforcement (and connected) best practice and the application of this within New Zealand
- undertake an annual review of ASA investigation files in accordance with the QAIF framework
- respond to connected media requests, ministerial queries and other connected bodies of work as an ASA subject matter expert
- be a conduit for the National Manager: Crime, and therefore the Police Executive, around the ASA policy and procedures in their promotion, enhancement and ongoing development.

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