

Evidence and investigation techniques

Section 7 provides an overview of key issues in obtaining evidence and the associated techniques of investigation for rape and other sexual assaults, including both physical and sexual offences against women and children. In some jurisdictions specific police responses to these categories of offences and complainants have developed separately and there are special features in responding to each. However, there are shared elements in evidence gathering and investigation techniques, partly because domestic-based assaults against women may be either physical or sexual offences, and partly because the same attention to detail and respect for complainants, whether they are children or adults, is required. The quality of evidence obtained in the course of police investigations is vital to the outcome of any prosecution. Quality evidence can only be achieved through quality investigation and this is dependent on officers being appropriately trained.

Rape and other sexual assaults

Training must address the myths of rape and introduce officers to the rape trauma syndrome. It may be that negative attitudinal problems are reinforced by legal definitions for rape or outcomes of court cases, which suggest that only a very serious physical attack followed by sexual assault can be successfully prosecuted. A legal requirement of corroboration may have a negative effect on police attitudes. Training on policy and protocols, as well as law, in relation to rape and other sexual assaults on adults and children is an important part of improving responses to victims. Appropriate training should address the common assumption that women try to inflame men – a belief that influences the approach taken by many police officers in investigations of sexual assault. An appreciation of the psychological and social cost of sexual assault for a woman may minimise the perceived relevance of this view.

The investigation of rape and other serious sexual assaults of women and children is conducted by experienced officers in many jurisdictions. These may be detective level officers from the relevant local station or officers in dedicated units. The investigation may follow this pattern:

1. A preliminary interview with the complainant. At this point, no statement is taken. This interview is usually short and general, aiming to give the investigation offices an idea of the magnitude of the offence.
2. A lengthy interview with the complainant with a woman officer. This can take as long as necessary, the aim being a comprehensive, lengthy statement. If the report is early, a medical examination occurs. This is very comprehensive and will be framed by the statement. There should be a protocol to guide the medical examination.
3. It is the responsibility of officers to make sure the forensic specialists take the right samples. The scene of the crime and the woman's clothing are examined. Disposable clothing is provided and in most cases the statement and examination occurs in a special 'victim examination suites'. These may be in police stations or another designated space, such as health or community facilities. In order to provide the best possible response to victims, examinations are usually conducted away from police stations. The aim is to provide women with a comfortable, non-threatening place in which to make their statement and to conduct the medical examination. When police stations must be used, the best rape examination rooms are furnished as an apartment and include a place for the medical examination and showering and cooking facilities. Care is taken so that the complainant feels like an individual, therefore account should be taken of ethnicity and appropriate facilities provided. Any examination will be conducted, if possible, by a trained woman doctor, if the complainant prefers.

4. If the suspect is at the scene of the crime, he will be placed in a different vehicle from that of the woman when taken to the station. At the station they will be kept separated and he will be examined by a different doctor.
5. The suspect(s), when known, is(are) interviewed.

Alternative procedures need to be developed where the facilities listed above are not available or possible.

Physical and sexual crimes against women

The initial contact with the police is pivotal in determining possible outcomes. If met by rudeness or disbelief, or victim-blaming statements by officers, complainants may refuse to continue to cooperate. Because women and children are more likely to be assaulted physically and sexually by men whom they know, preliminary training of officers must include basic information on appropriate behaviour when individual members of the public wish to make a complaint about criminal behaviour from someone they know who may have legal authority over them. Officers require instruction on who should become involved once it is obvious that the complaint is about physical or sexual crime against a child or a vulnerable adult. Vulnerability is increased when the attacker is a known man and especially when he lives in the household.

While thorough investigation is necessary even if death has not occurred, when it does it is essential that the police investigate thoroughly, as non-prosecution of homicide can be interpreted as a licence to behave in the home and in society as offenders please. No crime becomes too extreme. Non-intervention by the police can act as an incentive to other men to behave in similar ways and it is re-interpreted in the community as reinforcing the rights of men in relation to women and children. Homicide includes infanticide and deaths of children and adult women. Writing off suspicious cases as accidents, which happens in some jurisdictions, encourages the commitment of crimes of violence against women and children. If a starting point is needed, then homicide investigation is the priority. Skills will develop that can be transferred to the investigation of survivors of attacks.

After the report of sexual or physical assault, it is vital that the victim continues to be treated with respect as the investigation proceeds, even if sufficient evidence cannot be produced to enable a case to go to court. Although the primary objective of the police officer is to obtain information and samples for evidence, the victim has other immediate needs, including psychological support, physical treatment, accommodation. Officers need to know how to deal with these or where to make referrals. The experience of police officers confirms that support of the complainant initially and during the investigation is key to continuing cooperation.

Victim witnesses require support prior to their cases coming to court. When crime is committed by known men, pressure on women to withdraw statements can be intense. The length of time a case can take to reach court may mean the victim witness has moved on with her life through divorce or separation or is moving away and no longer as keen to pursue the prosecution. Regular contact and keeping the victim witness informed of progress with the case are very important in ensuring she remains committed to prosecuting the offender. In some jurisdictions victim support is provided by special schemes which are organised in various ways. For example, in the UK, the Home Office financially supports an organisation for victim support for all types of crime. In addition, there are initiatives in the voluntary sector, such as Women's Aid Refuges, Rape Crisis Centres, and Incest Survivors' Groups. Other initiatives are financially supported by local government, some police forces and the probation service. These may be organised through inter-agency projects. The aims of these initiatives are to provide trained volunteer counsellors and/or practical support for victims.

Child sex crimes

Special techniques for investigation of sexual crime may need to be drawn upon where child sexual abuse is concerned. Police need to be aware of why children may be reluctant to report sexual abuse to anyone. When the child does disclose the abuse and the police are informed, a 'child centred' approach is required. Depending upon the age of the child, the investigative technique may include the use of puppets or comics, for example. Effectiveness of any technique will depend on the awareness and training of the investigating officer. As in sexual assault generally, the statement of the complainant is of crucial importance in obtaining sufficient evidence to proceed to a charge and a court case that will secure a conviction. Police must receive specific training so that they can provide the best statement possible. This should avoid inappropriate language, exclude irrelevant material, and be completely and accurately recorded. It should not paraphrase the child's verbal statement.

While in many Commonwealth countries there are no specialised units or procedures governing joint work with other agencies in cases of child abuse, the following is an example of the elements and procedures involved in working together. Some police jurisdictions work closely with other agencies, particularly health and social services, in the investigation of sexual crime against children and to ensure the protection of children after a report is made. This may be a statutory requirement, as for example in the UK. Here the working partnership between the police, health, social services and other relevant agencies is developed through joint training based on the document, *Working Together Under the Children Act 1989*. This provides statutory guidance for inter-agency cooperation for the protection of children from abuse. Each local authority has developed detailed written inter-agency child protection procedures jointly agreed between the agencies involved. The major reason for the development of close working relationships between agencies is to respond to the best interest of the child. Close working relationships avoids the child having to repeat his or her traumatic experience to numerous officials, ensures that each piece of evidence is collected by the expert in that area and, at its best, creates a focus on protecting the child and prosecuting the offender.

The procedure is that when a complaint is received from any source, which can be from parents, other family members, neighbours, teachers, doctors, or others including directly from a child, the social services is the lead agency. Social services have a statutory duty to investigate allegations of child abuse, both physical and sexual and to take appropriate action to safeguard or promote the welfare of the child. In practice, the social worker will contact the local child protection police unit for a discussion or possibly a meeting before investigating the complaint. The outcome is a decision on who will make the first contact. This can involve the social worker only or a joint initial visit or the police only, depending upon the details of the initial complaint. Depending upon the outcome of this initial investigation, the police may or may not become directly involved. The child may or may not be placed on the at-risk register maintained by social services. Health services will be involved if a medical examination of the child is required. In ideal circumstances, the police surgeon and a paediatrician jointly will conduct medical examinations for sexual abuse. The reason for this is that the police surgeon has received specialist training in forensic procedures, while the paediatrician has specialist skills in responding to children.

If initial investigations suggest a criminal act has been committed, the police then interview the suspect, if known. If not known, then the police investigation focuses on locating the man or men involved. Once a suspect is located, statements are taken by specially trained officers, other evidence obtained, such as pornographic photographs or videos or computer collections of images and text, which may or may not involve the child in question. Evidence gathered from child victims of other unsolved sexual crime may be reassessed for connections with the current investigation.

The interview with the child may be video taped. In the UK video evidence is admissible in court in cases involving children and it provides a permanent record of the evidence of the child if other agency staff need to know. This can overcome reluctance to continue with court cases, establish the child's evidence, and restrict repeated interviewing of the child by various agency staff.

Working together continues as immediate child safety is the responsibility of the social services. This can mean support for the non-abusing parent when the suspect is living with the child and her mother. Alternatively, legislation designed to protect children may mean the local authority will apply for a civil order to remove the child from the home, although removing the abusing man through police arrest and remanding in prison until trial is a better solution for the child. Health services, including psychological services, may be required for the child.

Confidentiality is a major issue and it takes time to develop working relationships between agencies. The information each agency collects is different because fundamentally, it serves different purposes. The police produce statements for court actions and maintain records of past offences. Social workers produce information on families and social factors, while health collects information on physical and mental well-being and disease and this can include family records. Education records and information from teachers is another type of relevant information. Sharing information does not mean that the police obtain this written material, but it does mean seeing it and making notes from it, if required. Each agency retains its own documents, but is knowledgeable about the information held by the others. This can assist police investigation by suggesting other aspects to be examined or to be taken into account when collecting evidence for a potential court case.

If charges are laid and the case proceeds to court, various strategies have been developed to enable children to give evidence and to avoid further traumatic experiences for them. Evidence may be given by video or the child may have a screen placed in front of her so that she does not have to see her abuser and be subjected to non-verbal threat through facial expressions or other body movements or simply be terrorised by the sight of her abuser. Cross-examination can take place via video link. The judicial permission to use these techniques to assist children in giving evidence depends on a recognition of the degree of vulnerability of victim witness. A major factor is the age of the victim with greater court protection offered to younger children. There may be court witness service which means the child (and adult) victim witness will have the layout of the court, who sits where and who does what explained before the case. Courts are very intimidating to victim witnesses who know nothing of the procedure prior to giving evidence for the first time. Each of the following guidelines requires training inputs.

Adult/child sexual assault

GUIDELINES

- Investigation and evidence collection in sexual assault cases are too often hampered by myths and beliefs surrounding such crimes, and in some jurisdictions legal provisions that impose unnecessary corroboration requirements, hence training should focus on demystifying such crimes.
- Quality evidence is essential for a successful prosecution. Upon receiving a complaint, prompt action is required, as medical and forensic evidence can be lost if there is delay.
- Evidence can only be acquired through accurate investigation. The quality of the evidence and investigation depends on the training of the investigator.
- The success of a prosecution for sexual assault may ultimately depend on the quality of the complainant's statement. Specific training is needed so that officers are able to provide the best statement possible. Specific problems of investigation and evidence collection and statement taking in cases of child sexual abuse may require the use of specialised techniques.

- Accurate packaging and labelling of samples are critical. Officers must be trained to appreciate the importance of the integrity of samples.
- Working together with other agencies is necessary in order to ensure the continuing support and protection of victims, both child and adult woman, and to assist the investigation. These agencies can include non-governmental organisations when responding to sexual assault of women and also in relation to the physical and sexual assault of children, if these agencies are formally recognised as appropriate to be involved.
- Maintaining confidentiality is a requirement for the release and receipt of information to and from a co-partner/partner agencies involved in the investigation.
- Investigation proceeds from a recognition that the human rights of vulnerable persons, whether child or adult, are to be protected.
- Support of victims by officers and any additional victim support services should be an integral part of police work.
- Witness liaison schemes to look after child victims after arrival at court should be part of the court services to child witnesses. If these are not provided by the court, then the following points need to be taken into account when the victim is a child. Victim witness schemes include prior visits to the court and explanations of the various roles played by different members of the court, eg, judge, jury, prosecution and defence. Children often have radically mistaken views on procedure and outcomes, including what may happen to them, that need to be clarified before their court appearance.