

# GUIDELINES FOR COLLECTION AND PRESERVATION OF EVIDENCE IN SEXUAL ASSAULT CASES

## Judicial Reform and Institutional Strengthening (JURIST) Project

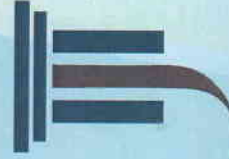
C/O Caribbean Court of Justice  
134 Henry Street, Port-of-Spain,  
Trinidad and Tobago

Tel: (868) 623-2225 ext 2225

Email: [jurist@juristproject.org](mailto:jurist@juristproject.org)

Website: [www.juristproject.org](http://www.juristproject.org)

Facebook: [www.facebook.com/juristproject](http://www.facebook.com/juristproject)



JUDICIAL REFORM AND  
INSTITUTIONAL STRENGTHENING  
(JURIST) PROJECT



Funded by the  
Government  
of Canada

Canada

There are several areas that the investigating officer must plan for and take precautions with in collecting and preserving evidence in sexual assault cases.

1. In respect to children, some jurisdictions still require corroboration of the child's testimony. Since it is usually rare that there was someone at the scene of the alleged assault who witnessed the assault, the corroboration will usually come from the medical forensic exam and other evidence collected by the police that may place the defendant at the scene or corroborate the child's account of what happened.
2. In respect to the medical forensic exam, there are some specific directives that are recommended for best practice. These are provided below separately. This section will deal with the collection of other physical evidence by the police.
3. When the report comes in of a sexual assault, police protocols and practice should direct that such reports must be diverted to a police officer or department trained to work with sexual assault cases within a specialized unit with expertise in working with traumatized persons such as a Domestic Violence Unit.
4. The specialized officer taking the report of the incident should ensure that they ask questions to assess the immediate safety needs of the person making the report, and assessing details about the scene of the crime and any potential risks to safety that may still exist at that scene, so that instructions can be given to scenes of crime personnel to be deployed to the scene to collect evidence.
5. Regarding reports about children, once the report is made about an allegation of sexual assault on a child or by a child, the local child care or child protection services department must be contacted and all further interventions organized in collaboration with them. This is important to ensure that:
  - a. The trauma needs of the child will be appropriately dealt with;

- b. Decisions about removal from the home and alternative placement of the child, if necessary, can be done in an expeditious manner; and
- c. To ensure that the child will have support and assistance for the forensic interview to be done as outlined above and the medical forensic exam as outlined below.
  6. **IMPORTANT:** If the report of the sexual assault is made by phone, the officer taking the report must tell the complainant of the importance not to shower or change clothes before coming to the police station to make the report and the need to bring a change of clothes with them to the police station in the event the clothes they are wearing will be collected as part of the evidence.
  7. If the complainant is injured or otherwise physically incapacitated and so not able to come to the police station on their own, arrangement should be made for transporting the complainant and a support person to the police station for the forensic interview.
  8. It may also be necessary to arrange for the arrest and detention of the accused if he is still present at the scene of the crime, so that his basic details and presence or location should be requested in that first initial report to ensure no continued safety risk to the complainant.
  9. Basic instructions should also be given when the report is made by telephone about preserving the scene and avoiding contact with potential pieces of evidence.
  10. As soon as practicable, scenes of crime technicians should be deployed to the scene.
  11. Photographs of the scene should be taken in all instances.

## AT THE SCENE

1. At the scene, the following directions for protecting evidence should be implemented:
  - a. Secure, preserve and control the scene to limit any access until sufficient information is available to make an informed assessment of the situation.
  - b. Remove people and animals from the identified areas of activity, and where practicable from the whole area.
  - c. Establish parameters concerning scenes which may be additional or secondary to the primary scene—potentially the whole of the premises, in serious offences.
  - d. Note that the suspect(s) should also be treated as a scene, and other persons at the premises may also be scenes.
  - e. Note that the suspect's actions following the incident may create further sites of forensic interest.
  - f. Dependent upon the severity of the incident, consider erecting cordons and appointing a loggist, to record persons entering and leaving. The extent of an enquiry can always later be scaled down.
  - g. Consider any potential areas of contamination that could affect the integrity of evidential material.
  - h. Request that a scenes of crime officer attends, or record the reasons why one was not requested or did not attend.
  - i. Establish a work base in a safe area of the premises.
  - j. Ensure the scene is photographed or videoed as soon as possible.
  - k. Observe the guidelines to prevent contamination of exhibits collected at the scene set out below.

## GUIDELINES TO PREVENT CONTAMINATION OF EXHIBITS

To ensure that contamination of the exhibits (including the complainant and suspect as they are both in a sense considered to be exhibits) does not occur, the following guidelines are provided and should be adhered to where possible.

1. The police officer who visits the scene, or with whom the complainant comes into contact, must avoid coming into contact with the suspect.
2. The complainant and the suspect must not be transported in the same police vehicle.
3. The same police officer must avoid contact with the clothes of both the complainant and the suspect.
4. Ideally both sets of clothes should not be seized and packaged by the same official. Remember statements will need to prove the chain of custody in handling the exhibits.
5. Different work surfaces should be used to package all exhibits to avoid cross-contamination.
6. In cases where the suspect was arrested shortly after the offence, the same police officer may not conduct an interview with both the complainant and the suspect until after the suspect and the complainant have dressed in other clothes and the clothes worn during the alleged attack have been removed for forensic analysis.

## ARREST AND DETENTION

1. The arrest and detention of the accused requires planning.
2. Arrest may be done at the scene, or by appointment.
3. Particular care must be taken in arresting child offenders.

4. In court, especially during case management, it will be the responsibility of the judge to assess whether these directives in respect of child offenders were observed and to give direction for the protection of the complainant as well as for the protection of the child's rights.

## IDENTIFICATION PARADES

1. It will probably only be necessary to conduct an identification parade where the identity of the alleged defendant is being disputed. It will be necessary before conducting an identification parade to get instructions from the D.P.P. to ensure the complainant is not unnecessarily exposed to trauma.
2. The importance and purpose of the identification parade should be explained to the complainant. In addition, the steps and procedure for what will be done should also be explained.
3. It is also recommended that the identification parade be held at a venue or a police station where the facility has a one-way mirror.
4. When conducting the identification parade, the police must ensure that there is no contact between complainants if there are multiple complainants, and also that there is no contact between the complainant and the suspect, so that the parade procedure is not contaminated.

## FIRST OFFICER AT THE SCENE

1. The first officer at the scene is a witness and where necessary may need to be interviewed. At the very least, the officer must make a statement. The interview should cover:

- a. The complainant's injuries and reactions and those of any other children in the house.
  - b. The observations of the officer of the scene.
  - c. Identification of risk factors.
  - d. Unsolicited comments made by the suspect.
  - e. Any first description of the incident as provided by a witness or complainant.
  - f. Significant statements made by the suspect.
  - g. Actions taken by the officer at the scene and afterwards, and reasons for that action, e.g., any exercise of child protection powers or referral to child care agencies.
2. Supervisors should be mindful of the need to provide basic training to all officers on the basic steps of care and witness protection and basic procedures for preserving the scene.

## PHOTOGRAPHIC EVIDENCE

1. Where photographs of the scene are taken or where photographs of the complainant are taken, the following procedures for the collection and preservation of photographic evidence should be observed:
  - a. Ensure that a suitably trained forensic physician documents and records injuries, rather than relying exclusively on photographic evidence.
  - b. Record video footage of crime scenes when appropriate.
  - c. Photograph or video record all damage and disruption at the scene (including damaged clothing and toys) and any other details that will assist in corroborating the complainant's or witness's accounts, or in proving the offence(s).
  - d. Be aware that photographing a complainant, especially a child,

- may cause distress, particularly in cases where photographing and videoing has been part of the sexual assault.
- e. The reaction of the complainant to being photographed may itself form part of the evidence and should be recorded.
  - f. Photograph all injuries – bite injuries should be photographed as soon as possible.
  - g. Consider using specialist ultraviolet photography which can be used to show non-visible historic bruising.
  - h. Make arrangements for the complainant to be re-photographed when injuries may later be more apparent.

## INVESTIGATIONS FOR CYBER-SEX CRIMES

1. Investigations involving cyber-sex crimes may require seizing computers and other electronic devices for the collection of evidence.
2. Police must ensure that their actions do not change the data held on the device that may subsequently be relied on in court.
3. The following procedures should be observed in search and seizure of computers and other electronic media:
  - a. At the premises quickly secure the area containing the equipment.
  - b. Move people away from the computer and the power supply.
  - c. Ask for and follow the IT department's recommendation in removing power supply or turning off computers.
  - d. Never switch on machines and never review data with occupier(s).
  - e. Take a picture of the monitor, keyboard or mouse; it is usually not necessary to take those items unless the processor is built into the monitor.

- f. Take the processor or case or tower that contains the hard disk drive or internal memory.
  - g. Take any power leads or power supply units.
  - h. Take any hard disk drives not contained within the computer.
  - i. Where the system has a broadband or wireless connection seize the router.
  - j. Seize any associated electronic storage media.
  - k. Seize cameras, tablets, PDA devices etc.
  - l. Seize mobile telephones - most mobile telephones available on the market have photographic as well as video facilities.
  - m. Seize media cards.
  - n. Seize original phone boxes, charges and data transfer cables.
  - o. Seize all video tapes including pre-recorded tapes.
  - p. Identify and seize notebooks or pieces of paper containing passwords and e-mail addresses as well as bank account and credit card details. Try to establish from the owner if there are any passwords on the system.
4. Investigatory tools may include, with appropriate authority, interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts or other financial investigations, considering, inter alia, the principle of proportionality and the nature and seriousness of the offences under investigation. Police should consider what tools are allowed by the laws of their jurisdiction and collaborate with the D.P.P. to ensure the appropriate applications that may be needed to utilize the respective tools.

## STORAGE OF SEIZED ITEMS IN CYBER-SEX CRIMES

1. Each collective item can then be placed in a separate exhibit bag under one exhibit number and secured with a plastic seal.

2. Ensure the exact location of seizure is clearly marked on the exhibit label.
3. An exhibit label should be attached to the outside of the bag to ensure correct continuity.

## **GENERAL MANAGEMENT OF THE INVESTIGATIVE PROCESS IN SEXUAL ASSAULT CASES**

1. An effective investigation will require consideration and development of the following:
  - a. Policy file (for very serious cases).
  - b. Care plan.
  - c. Witness management plan.
  - d. Forensic management plan.
  - e. Search plan.
  - f. Suspect management plan.
  - g. Disclosure plan.

## **LINES OF ENQUIRY IN SEXUAL ASSAULT CASES**

1. These are areas where the guidelines for collection and preservation of evidence provided above must be observed to reduce or prevent challenge to such evidence in court.
2. Lines of enquiry may include:
  - a. Suspect identity checks including other names used and previous addresses.
  - b. History of previous reports, by the complainant against the suspect or anyone, and against the suspect by anyone.

- c. Records relating to the suspect held by child care agencies and other agencies.
- d. Child contact arrangements and disputes, including any court orders.
- e. Social services involvement in the family.
- f. Existence of civil injunctions or other legal proceedings (e.g., divorce).
- g. Medical information that may constitute evidence, such as failure to attend medical appointments or developmental checks, and repeated presentation of children with unexplained injuries, which is obtainable from doctors, health visitors, midwives, hospital accident and emergency department (A&E), dentist, and hospital records.
- h. Evidence of grooming by a suspect, including contact with children through working with them or applying for jobs with children, paying children for casual work, frequenting places where children congregate, contacting a child through using a mobile phone, internet chat rooms and taking photographs of children.
- i. Evidence of the suspect's access to computers at work and home and use of the internet to encourage or observe abuse of children.
- j. Evidence of alcohol or substance misuse during the sexual assault.
- k. Friends and associates in whom the complainant may have confided or who may have witnessed an offence or significant event, or who themselves may have been groomed or subjected to abuse by the same suspect.
- l. Witnesses to uncharacteristic behavior by the complainant which are linked to abuse such as withdrawal, violence or explicit sexual behavior.
- m. Potential witnesses to abuse including neighbors, friends or family.