



AFP

1.4.3 Sexual Offences – ACT Region Specific

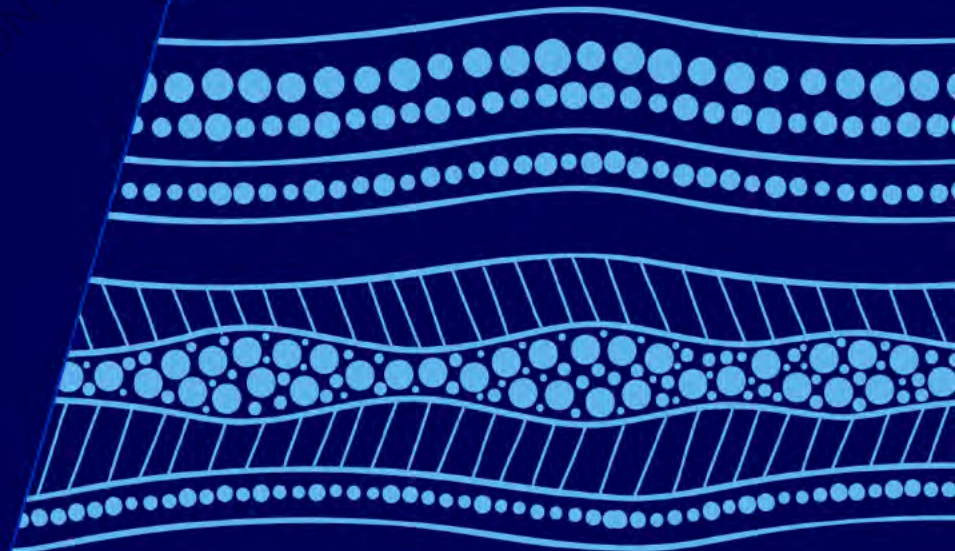
Federal Police Development Program.

afp.gov.au

Acknowledgement of Country

The Australian Federal Police acknowledges the Traditional Owners and Custodians of Country throughout Australia and acknowledges their continuing connection to land, sea and community.

We pay our respects to the people, the cultures and the Elders past, present and emerging.



Disclaimer Statement



DISCLAIMER

Please note that during this session we will be covering sexual offences, this may include:

Examples of sexual assault cases

Sexual assault victim statements

Instances of child abuse

Learning outcomes



By the end of this lesson, participants will be able to:

01 Understand the requirements when responding consistently and in accordance with trauma-informed and victim-centric principles when dealing with child abuse and sexual offences against children and/or adults

02 Recognise myths and misconceptions about sexual offending

03 Remember the process for requesting forensic medical examinations for victims of suspected sexual and/or physical abuse

04 Understand the best processes when receiving receipt of complaint and first response

05 Identify requirements for preservation of evidence

Re-cap of sexual offences



Previously covered in the 1.4.3 Sexual Offences foundational lesson:

- Policy around the investigation of sexual offences
- Trauma-informed and victim-centric principles
- SACAT and JACET
- Myths and Misconceptions about sexual offending
- Receipt of complaint and first response
- Preservation of evidence
- Victims requiring medical attention
- What resources are available to you

Patrol Level Investigations



Not all offences of a sexual nature or those that involve children are by default referred to SACAT. The following circumstances are the responsibility of attending patrols to investigate:

s47E(d)

In the case of the death of a child refer to the [Standard Operating Procedure for Police attendance at deaths](#). ACT Homicide Investigations Team will take carriage of the suspicious death of a child.



Forensic medical examinations



During business hours, members should organise interviews and medical assessments through the Enhanced Child Health Service (ECHS), for a child requiring an assessment, or Forensic and Medical Sexual Assault Care (FAMSAC) duty worker, for an adult requiring an assessment.

Advice should be sought from a SACAT Team Leader (during business hours).

Before the victim has any contact with a hospital, doctor, or member of The Canberra Hospital ECHS or FAMSAC, members must either:

- obtain the consent of the victim;
- obtain the consent of the parent or guardian; or
- provide written evidence that emergency action has been taken per s. 406 of the [Children and Young People Act 2008](#) (ACT).

Unless otherwise directed by a SACAT Team Leader or the CIRO, medical examinations must be organised and coordinated by a member of SACAT.



Victims requiring medical attention



Where a victim has suffered injuries which require medical attention, the forensic medical examination (FME) must be performed at s 47E(d)

If the victim does not have injuries requiring medical attention, the FME should be performed:

during business hours (8am–4pm Monday to Friday), at FAMSAC and outside business hours, at FAMSAC or the hospital at which the victim has presented (if applicable).



Victims under the age of 15 years



Seek advice from a SACAT TL (business hours) or the CIRO (after hours) in the first instance.

Where urgent medical attention is required, members should ensure the ECHS doctor or on-duty worker is advised the child is being brought to hospital.

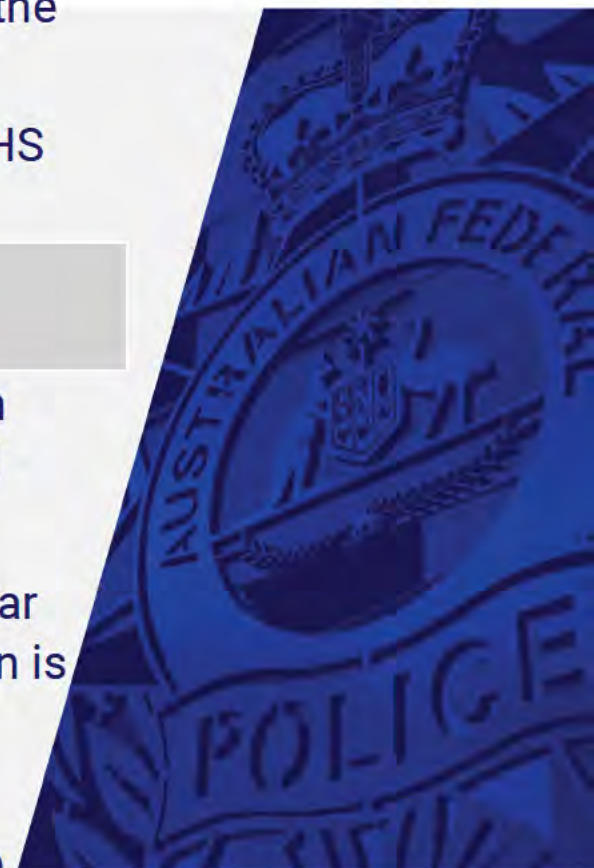
s 47E(d)

s 47E(d)

This decision should be made in consultation with a SACAT Team Leader or the CIRO and documented accordingly.

Members should ensure children are accompanied by an adult who is familiar with the child's situation, health and well-being, unless no appropriate person is available.

Members must consider the child's parent/guardian may be the alleged offender, and therefore may not be an appropriate person to accompany the child.



Victims under the age of 15 years (*cont*)

To refer children for FME's, members should:

1. Make initial referral by phoning ECHS on (02)  s 47E(d) (following speaking to a SACAT Team Leader or the CIRO);
2. Arrange for representatives from CYPS and/or ACTP to accompany the child to the ECHS; and
3. Complete a written referral using the following AFP Forms:
 - [SACAT – Referral for Counselling Child At Risk Health Unit](#)
 - [SACAT – Referral for Medical Examination Child At Risk Health Unit.](#)

Victims aged 15 years and over



ACTP members must refer people 15 years of age and above to FAMSAC for examination as follows:

- during business hours: the FAMSAC Nurse Coordinator or Medical Coordinator on (02) s 47E(d) 

after hours: the on-call FAMSAC doctor.

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Historical sexual assault



ACTP defines a historical sexual assault as one that occurred more than six months ago. Such reports may not require the attendance of a patrol. However, the member must take sufficient details of the complaint including:

- contact details;
- when the alleged incident(s) occurred; and
- brief circumstances of the incident(s) to determine the nature of the offence/s being reported.

When speaking to a victim of a historical sexual assault, members should consider having a discussion with the victim regarding whether they would prefer to have the matter reported and recorded only, or whether they would like the matter to be investigated by police. ACTP has a victim centric approach thus, it is the victim's choice, and ACTP will be guided by the victim. The objective of this conversation with a victim is to enable a victim to be fully informed and make their own decision for what is most suitable for them. Members are to provide the information only and are not to influence the decision of the victim in any way.



Historical sexual assault (*cont*)



In addition, and in line with ACTP's victim centric approach, members might consider making a victim aware of the option to report a historical sexual assault online, via the ACTP website. A historical sexual assault is defined as any sexual assault that is alleged to have occurred more than six months before the date of reporting. Members are reminded this is an option only for victims and in the instance, a victim attends a police station and wishes to make a report, members are not to turn a victim away by referring them to report online. Reporting a historical sexual assault online is one option available to a victim in the instance they are more comfortable doing so.



Reporting - Mandatory



Members who believe or suspect a child or young person is in need of care and protection must report the basis for their belief or suspicion to the Chief Executive (per s. 356 of the [Children and Young People Act 2008](#) (ACT)).

Serious and urgent matters should be reported in the first instance to CYPS using the mandatory reporting line 1300 556 728 (24 hours) and to the CIRO. Other (not immediate) cases should be reported via [Supportlink](#).



Reporting – General reporting



A member, who believes a child or young person has been sexually and/or non-accidentally physically abused, must notify their Team Leader. A Team Leader who becomes aware of such information must ensure the CIRO is briefed. In the instance, it is for information only (briefing the CIRO) and not for referral to CI (via the CIRO) an email briefing will suffice. ACT Communications can confirm who the CIRO is. Please note: matters requiring CI assistance/attendance are not to be emailed to the CIRO (unless the CIRO requests information be emailed to them).

The relevant Team Leaders must ensure a mandatory report is made to CYPS via [Supportlink](#).

Any updates including the progress or outcome of an investigation should be emailed to s 47E(d) [@act.gov.au](mailto:s 47E(d)@act.gov.au).



Emergency Action for children and young persons

Members should seek advice from Child and Youth Protection Services (CYPS) prior to taking Emergency Action of a child/young person. Contact numbers are available from ACTP Communications, alternatively 1300 556 728 is a 24 hour number and further numbers are listed at the end of this document. 

Members may take Emergency Action if they believe on reasonable grounds that the child or young person is in need of emergency care and protection or emergency therapeutic protection (see section 345 of the [Children and Young People Act 2008](#) (ACT) for definitions).

Members must use the '[Children – Emergency Action](#)' form to record the action taken. This form, along with all associated forms, are located on the 'ACT Sexual Offence Investigations' page on the AFP HUB.

Members should also make a detailed record of the mandatory report on PROMIS in a case note entry or on the results summary screen.



Emergency Action for children and young persons (*cont*)



If a member takes Emergency Action under s. 406 of the [Children and Young People Act 2008](#) (ACT), they must ensure they then comply with s. 408 of the same Act by informing CYPS as soon as possible. Members must exercise 'daily care responsibility' for the child or young person until CYPS have been informed in writing (or orally, if that is not practicable).

Of note, when investigating a matter referred to police via CYPS it is imperative details of the reporter not be disclosed to the alleged offender, unless circumstances exist that are crucial to the investigation (i.e. disclosure statements).



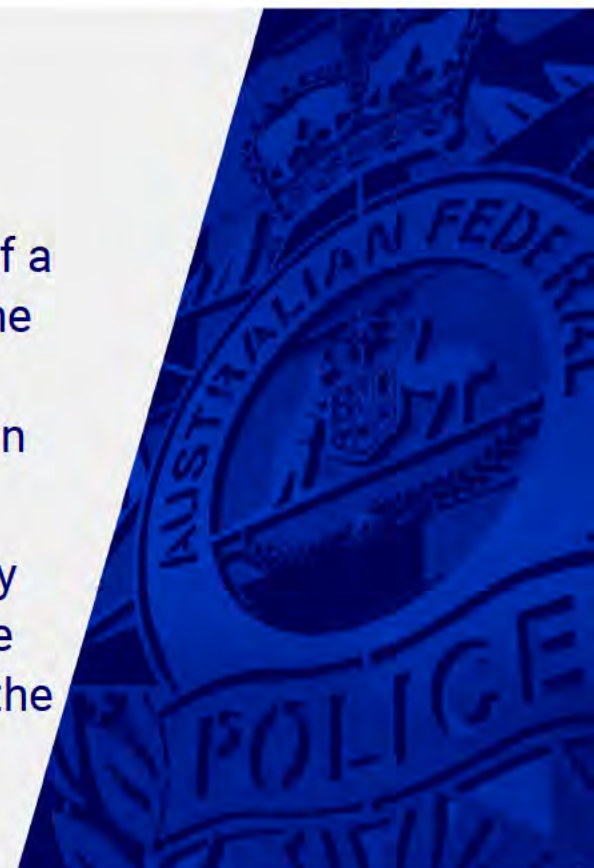
Sexual Offence finalisation case note entry



It is mandatory for a 'Sexual Offence Finalisation' Case Note Entry to be completed for any sexual offence investigation in the ACT whereby the confirmed incident type is 'sexual assault' or 'indecent exposure/act'.

This case note entry enables ACTP to better understand the varying stages of a sexual offence investigation, specifically at what stage of the investigation the matter ceased being investigated and the reasons behind matters not progressing. This case note entry enables accurate data to be recorded and in turn reported on with respect to sexual offence investigations.

It is the Team Leaders responsibility to review their member's case note entry in sexual offence investigations and reflect having done so by completing the Team Leader section at the bottom of the case note entry, prior to finalising the matter.



QUESTIONS?

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Investigation skills hold you in good stead for all Policing areas.

SACAT is a high tempo environment but a great place to work.



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ACT POLICING

- Outcome 2 of the Australian Federal Police
- Responsibility for providing a community policing service to the ACT
- Responsible to both the Commonwealth Government (AFP Commissioner) and ACT Government (Chief Police Officer)
- Criminal Investigations – SACAT is responsible for providing a response to victims of sexual violence and child abuse.

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SACAT Today

- ACT Policing – Sexual Assault and Child Abuse Team
- Winchester Police Centre
- Teams:
 - Detective Sergeant, Investigators
- 24/7 coverage
- Remit – provide an effective response and investigative service to:
 - Victims of sexual violence
 - Victims of child abuse

Also Op Foster; CSORT; JACET

SACAT requires experience, is a specialist area within Criminal Investigations.

Children's Play Room



Soft Interview Rooms



Soft interview rooms –project in the works to get them at all stations
Environment for talking to victims / witnesses – not suspects

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 **WHO DOES WHAT – SACAT AND GENERAL DUTIES**

- Quick reference for sexual and child abuse offences referrals:
 - Sexual offence with penetration of the victim's body, including cunnilingus – SACAT
 - Person offences against children under 12 - SACAT
 - Child abuse material offences – SACAT / JACET
 - Intimate image offending, acts of indecency (over 12) and indecent exposure – response
 - Sexual offending including indecent acts or indecent exposure suggesting a serial offender or child victim - SACAT

'Check welfares' will be conducted by General Duties and only referred to SACAT if an offence meeting the guidelines has occurred.

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Talk about how might be helping GDs and/or SACAT – sometimes, investigations may even be run by both for the same family

Check welfares won't be done by SACAT unless in extenuating circumstances.

Explain referral process:

- Job comes in either via Comms, CYF-LO, or General Duties
- Assessed by a SACAT Sgt as to whether it warrants response, and if that response should be GDs or SACAT
- Either GDs or SACAT are dispatched; job may remain with GDs; or we may send it back for further advice/no action from Police.

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Evidence in Chief Interviews

- Evidence (Miscellaneous Provisions) Act allows us to obtain audio-video statements from vulnerable witnesses, including children and/or complainants in sexual assault matters
- EICI is video statement, where they tell us their story in their own words
- ONLY certain trained Police are allowed to talk – Intermediaries, CYF, teachers, parents, etc are NOT allowed to communicate with the child during the EICI
- EICI allows certain protections at Court
- EICI is played as their evidence in Court – i.e. instead of being asked to recall things by the Prosecutor

Explain Court protections such as remote witness rooms; can't be cross-examined by a self-represented Defendant; no need to remember things perfectly down the track; as well as how Intermediaries can make ground rules.

Explain how EICI is played, then can be asked clarifying questions by Prosecutor, then Defence can cross-examine but no recall from the witness about the whole event. Obviously very beneficial for children when Court may take place years after the incident and their memory may not be as reliable.

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ENGAGEMENT

- First Presentation – what do I say?

s 37(2)(b), s 47E(d)

STOP

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s 37(2)(b), s 47E(d)

Have ways to get kids to talk, eg safety and how that feels.

We will, however, if there are no disclosures but we hold concerns for safety, ask directly if appropriate at the end of an EICI.



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Ground Rules – Under 14 years of age

- Ground rules for child less than 14 years of age
- Application determined depending on intellectual ability

s 37(2)(b), s 47E(d)

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Ground Rules – Over 14 years of age

- Ground rules for witness over 14 years
- Application determined depending on intellectual ability

s 37(2)(b), s 47E(d)

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MEDICAL EXAMINATIONS – ADULTS

- Immediate health, safety and welfare of your victim comes first. If your victim requires immediate medical attention – take them to the Emergency Department or call ACTAS.
- Forensic and Medical Sexual Assault Care (FAMSAC)
 - Victims 15 years or older can be considered competent for medical consent (pending maturity)
 - Forensic medical examinations are conducted as s 47E(d) by an FMO (present through ED)
 - s 37(2)(b), s 47E(d)
 - Victim needs to know what the next steps are for police engagement and has a contact point

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Give out meet and greet pamphlets – help break up the presentation!



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MEDICAL EXAMINATIONS - CHILDREN

- Immediate health, safety and welfare of your victim comes first. If your victim requires immediate medical attention – take them to the Emergency Department or call ACTAS.
- Pediatric Forensic Medical Service (PFMS)
 - PFMS examinations are conducted at s 47E(d) by Paediatricians
 - What are in the best interests of the child and their welfare?
 - Out of hours consultation is possible but rare – remember the child needs to feel safe and physically well/rested for the examination.

s 37(2)(b), s 47E(d)

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s 37(2)(b), s 47E(d)



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TIMEFRAMES FOR FORENSIC SAMPLE COLLECTION

Time Frames for collection of biological samples, working (theoretical maximum)

s 37(2)(b), s 47E(d)

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s 37(2)(b), s 47E(d)

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KEY CONSIDERATIONS

- Initial engagement

s 37(2)(b), s 47E(d)
- During the EICI

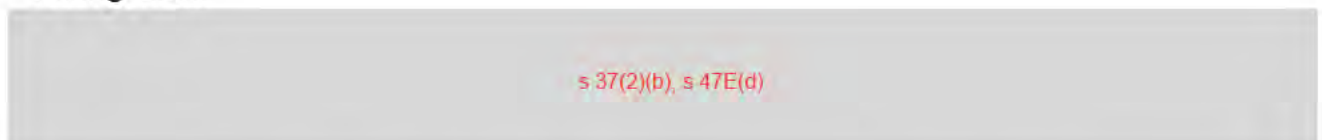
s 37(2)(b), s 47E(d)

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Initial engagement:



During EICI:



Monitoring rooms are great, otherwise when it's 2 police, an intermediary, a school teacher, AND CYF in a room it can get too much – please bear in mind we might not be able to have you there with the configuration of the space but we will update you on anything that's said.

If there ever are any issues, we're happy to hear them and I'm always available to hear anything if there have been problems or issues.

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ACTP CHILD PROTECTION LIAISON

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CPLO vs SACAT

- The CPLO works completely independent of SACAT and SACAT have nil oversight of the CPLO function unless a matter is referred to SACAT by the CPLO (or Comms) for their involvement.
- The acronym 'SACAT' should no longer be used by CYF staff unless a member from SACAT (or the CPLO) has directly engaged with CYF to confirm SACAT is taking carriage of the matter.

Child Concern Reports (CCRs)

Considerations for CYF prior to sending Child Concern Reports to the ACT Policing CPLO:

s47E(d), s37(2)(b)

- Is the suspect under the age of 12?
If yes, **NO need to refer to Police (<12 child is deemed to not have criminal capacity)**
- Did CYF obtain the information via Supportlink from Police?
If so, **NO need to report it to Police.**
- Has a criminal offence been identified/disclosed? (Note: an unexplained bruise/mark or rash on a child does not indicate an offence has occurred)
If nil offence, **do not refer it to Police.**
- Did the offence occur within the ACT?
If NO, **do not refer it to ACTP. Refer the matter to the relevant State Police.**
- Is there an indication that the YP wishes to speak with police? (not a consideration if a child is aged <12)
If NO, **this matter will not progress and will be recorded for information only.**
- Does the report contain sufficient detail to identify a victim (including accurate DOB)?
If NO, **seek these details prior to forwarding the CCR.**

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Prior to forwarding the remaining CCRs, to increase the likelihood of a police investigative threshold being met, please ensure as much of the below information is included:

WHO? (victim/offender/witnesses)

WHAT? (what occurred, what led up to it occurring)

HOW? (how did it occur - Eg: was a smack above the shoulder level, how hard was it, was an implement used rather than a hand, was there an open palm or a closed fist etc)

WHEN? (Date, Time, Place)

Where possible, please include:

- A specified level of force
- Exact words of any disclosures made by the child/YP.
- Confirmation on whether the information is first hand.
- Confirmation on whether other corroborating evidence is available.
- Confirmation of any injuries sighted or reported (and if they were documented through written reports or images).



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Contacting ACT Policing

- Email ACTP CPLO via: [s 22\(1\)\(a\)\(ii\), s 47E\(d\)](#) [@afp.gov.au](#) or call via the direct CPLO hotline numbers: [s 47E\(d\)](#) or [s 47E\(d\)](#). All are managed between 8am-4pm (weekdays – excluding public holidays).
- Do not contact individual LOs via their personal email. All correspondence/queries should be directed to the email address above. This is to ensure appropriate oversight occurs for ACT Police.
- Do not contact individual LOs via their personal desk phone numbers. All phone contact should occur via the hotline number or ACT Police Communications after 4pm.
- All referrals sent to ACT Police after 4pm, must be sent to ACT Communications on: [s 47E\(d\)](#) [@afp.gov.au](#), and must CC in the usual ACTP CPLO email address: [s 47E\(d\)](#) [@afp.gov.au](#)
- In the event any email is sent requiring immediate response, please follow this up with a phone call to the CPLO Hotline/ACT Communications.

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Requests for Information

FVO/iFVO:

- To request a copy of a Family or Domestic Violence Order you **must apply** to the issuing **Court** directly for a copy the most current Order ([s 47E\(d\)](#) @courts.act.gov.au).
- Note: In some circumstances, the CPLO can provide some details if deemed relevant to the safety and wellbeing of a child.
- If it is an interstate order you must make contact with each jurisdiction's courts and ask for a copy if an order exists. The CPLO does not hold these contact details.

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ACTP CPLO Information Sharing

- **s 47E(d)** @afp.gov.au may be able to share the following information with you if the information is deemed relevant to the safety and wellbeing of a child:
 - **Following up on a current and/or existing matter** (Eg; Job number, member details, status, outcome)
 - **Information about family history/police involvement** (up to 4 months prior)
 - **Other information that may be deemed to be relevant to the safety and wellbeing of children/young people.**

Please do not email other areas within ACT Police requesting information, as this creates unnecessary duplication.

- Provide as much detail as possible in your requests for information, for example:
 - PROMIS/IMS number;
 - Names, DOBs, addresses;
 - When the information is required by;
 - A time period for the information; and
 - Which specific information you would like (has to be relevant to s862)
 - Why the information is required and which children it relates to.



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Information for Intelligence purposes only

- The ACT Policing External Agencies **Intelligence Team** process information relating to **criminal activity that may not meet an immediate investigation threshold**.
- Information within this scope must bypass the CPLO and be **forwarded directly** to the ACTP Intelligence (external agencies) inbox: s 47E(d) [@afp.gov.au](mailto:actp@afp.gov.au)

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Questions?



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ACT Policing Criminal Investigations

Sexual Offences and Child Abuse

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Investigation skills hold you in good stead for all Policing areas.

SACAT is a high tempo environment but a great place to work.

ACT POLICING

- Outcome 2 (Arm) of the Australian Federal Police
- Responsibility for providing a community policing service to the ACT
- Responsible to both the Commonwealth Government (AFP Commissioner) and ACT Government (Chief Police Officer)
- Priorities determined by the Minister for Police and Emergency Services through the Ministerial Direction:

IMPLEMENT EFFECTIVE SEXUAL ASSAULT PREVENTION AND RESPONSES

- Focus on the priority of effectively responding to sexual violence against children and adults as a strategic crime type. Work together with the Coordinator-General for Family Safety to implement the ACT Government's response to the Sexual Assault Prevention and Response Steering Committee's recommendations in the *Listen, Take Action to Prevent, Believe and Heal* report.
- Continue to review and improve ACT Policing operations response to sexual violence where care of the victim survivor is the core consideration.

SACAT Today

- ACT Policing – Sexual Assault and Child Abuse Team
- Winchester Police Centre

▪ **Teams:**

▪ **Det Detective Sergeant, Investigators**

- 24/7 coverage
- Remit – provide an effective response and investigative service to:
 - Victims of sexual violence
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ENGAGEMENT

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s 37(2)(b), s 47E(d)

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Ground Rules – Under 14 years of age

- Ground rules for child less than 14 years of age
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s 37(2)(b), s 47E(d)

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Ground Rules – Over 14 years of age

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MEDICAL EXAMINATIONS – ADULTS

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s 37(2)(b), s 47E(d)

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s 37(2)(b), s 47E(d)



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Time Frames for collection of biological samples, working (theoretical maximum)

s 37(2)(b), s 47E(d)

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KEY CONSIDERATIONS

- Initial engagement

s 37(2)(b), s 47E(d)
- During the EICI

s 37(2)(b), s 47E(d)

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Initial engagement:

s 37(2)(b), s 47E(d)

During EICI:

s 37(2)(b), s 47E(d)

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CYPS Liaison Officers

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Questions?



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ACT Policing Criminal Investigations

Sexual Offences and Child Abuse (SOCA)

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Investigation skills hold you in good stead for all Policing areas.

SACAT is a high tempo environment, however a great place to work.

Introduce SOCA, who is presenting and their backgrounds (to show experience and credibility building trust before you commence presenting).



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Training session plan for today – 2 hours total

- **First half of session; 45 - 60 mins**
- **10 min break**
- **Remainder of the 2 hour session**
- **Questions** – please note them down and we will address (if we don't cover them off during the presentation) before we break and/or at the end of today's session. If you have a burning question, of course ask as we progress. We will do our best to stick to timeframes.

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TRIGGER WARNING

- We will be discussing matters relating to sexual offences and child abuse. You encounter these as part of your core business however, that doesn't mean they don't have an impact on you.
- Support services are always available through Shield and Welfare. Please always look after yourselves and your colleagues.

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WHO DOES WHAT – CRIME AND RESPONSE

- Key governance – familiarise yourself with these (via the AFP HUB):
 - BPG on Criminal Investigations Response and Notification
 - BPG on Sexual Offence and Child Abuse Investigations and First Response
 - Investigators Toolkit – ACT Sexual Offence Investigations
- Quick reference for sexual and child abuse offences referrals:
 - sexual offence with penetration, to any extent, of the victim's body, including fellatio and cunnilingus – SACAT
 - child abuse/exploitation material (CAM/CEM) offences – SACAT/JACET
 - sexual offences committed in circumstances which suggest a serial offender – SACAT;
 - child abuse (physical assaults, neglect, etc), acts of indecency and sexual offences on children (under 12 years of age) – SACAT;
 - Intimate image offending/capturing visual data (eg: up-skirting), acts of indecency (12 and over) and indecent exposure – Response (You); and
 - Child abuse (physical assaults, etc) matters of a person (12 and over) – Response (You).

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Show the 2x documents on the SOCA hub page (CIRO BPG and BPG on 'child abuse and sexual offence investigations')

Speak through thresholds; SACAT v GDS

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Common Myths and Misconceptions

MISCONCEPTION

Real victims would report rape and sexual offences immediately.

REALITY

The majority of victims who experience sexual offences delay disclosing and/or reporting or never disclose/report their experiences.

Common reasons include:

- » Shame
- » Confusion, guilt, or shock about the offence
- » Fear of the offender and of consequences of reporting
- » Protecting an offender they know
- » Fear that they will not be believed and
- » They may not recognise what they have experienced as a sexual offence or may blame themselves for what has occurred.

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Talk through the first comment, gauge the groups thoughts then show the explanation to why this is not factually correct.

Feel free to refer and send the group (post presentation) the 'final M&M document' Victoria Police. Speak to fact LG is involved in the creation/oversight of the national document with the Aust Institute of Family Studies (National paper to be released in May). Will be a helpful document for Police, DPP and the Community. Can be used by Prosecutors in Court.

Common Myths and Misconceptions

Real rapes are committed by strangers to the victim.

MISCONCEPTION

REALITY

A common rape myth relates to a belief that victims are often attacked violently by strangers and that this is 'Real Rape'. This is actually very rare.

The majority of rapes are committed by someone known to the victim, often in a familiar residential location. They are often committed by family members, within intimate partner relationships or another known person.

Victorian law is clear that consent to a sexual act with the same person at some time in the past is not an indicator of consent in the future.

Common Myths and Misconceptions

One person's word against another is not enough to convict rape; there needs to be witnesses or more evidence.

MISCONCEPTION

REALITY

Most rapes or other sexual offending occurs away from public view such as in a residence so victims and offenders are often the only witnesses to the crime(s).

Sexual offences do not require additional evidence in order to be taken seriously by police. Judges will instruct juries about how to consider these issues.

SEXUAL ASSAULT

- **Facts and figures – what we think we know**
 - 17% of women – 4.3% of men (15+)
 - Sexual Assault in Australia – 13% of women report – men are less
 - 545 investigations referred to/investigated by SACAT in 2023
 - Childhood sexual abuse
 - Women – 23 years to report
 - Men – 25 years to report
 - Under reporting and delayed reporting
- **What does all this mean for first responders?**

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- We say “what we think we know” as this is the most underreported crime type. We will never truly appreciate the data in the sexual offences/sexual assault space.
- 17% of women – 4.3% of men (15+) have been the victim of a sexual assault (this data does not include sexual offences). Sexual offences range from acts of indecency through to sexual assault.
- On average, for victims of childhood sexual abuse, it takes on average 23 years for females and 25 years for males to report the abuse they endured as a child. This means, you may be the first person they tell. This may be when you are called to their house for a sexual assault or when you greet them when they walk into the Front Office.
- **WHAT DOES THIS MEAN FOR FIRST RESPONDERS?** How you treat them, what you say to them, how you reflect demeanour (your verbal and non verbal cues) are extremely important. Majority of sexual assault/offence victims already feel shame, blame themselves and wonder if anyone will ever believe them. Your job is to listen to them, not judge them, identify if what they have reported meets the threshold for the investigation to remain with you/GDs or whether you need to consider briefing your TL for the purposes of briefing the CIRO/referring to SACAT. Please treat this person, irrespective of what you may think of them/their actions or lack there of, with dignity/respect and how you would want a

police officer to treat you/a member of your family if they were to be the victim of a sexual assault/offence.

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FIRST RESPONSE - DOING IT WELL

- **Where?**
 - Wherever your victim is comfortable!
 - Please get out of the Front Office!!!

- **How?**
 - Compassion and empathy – what is your victim experiencing right now and how would you want to be treated?
 - Fear/shame
 - Disempowerment
 - Will I be believed? Is it worth it?
 - If they are unsure what they want/need more information – give them a sexual assault information pamphlet.

 - Witness credibility - this is a jury consideration (not yours)

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ACTP sexual offences information pamphlets – give your comp/victim one – trauma impacts memory/the way someone retains information. D/A/SGT [REDACTED], s 22(1)(a)(ii) and [REDACTED] s 22(1)(a)(ii) developed this pamphlet for ACTP. It has been endorsed by the ACTP Executive and key external stakeholders, such as Canberra Rape Crisis Centre/Victim Support ACT, as a key piece of material that SHOULD be given to a victim/complainant who has been the victim of a sexual offence/is considering reporting to ACTP. This enables the victim/comp to go away and think about their options following first engaging with ACTP, if they are not ready to make a decision immediately.

The more you understand the process/provide the pamphlet/website, etc to them the more you can help them and set expectations for them. If you don't know something, tell them. Do not make it up. it is very difficult for SACAT to build trust when others have set unrealistic/false expectations, etc. Eg what happens when a MEK is taken/Court/statement processes – these are explained in further detail in the pamphlet/website or we can explain them to the comp/victim or you!

FIRST RESPONSE - DOING IT WELL

- How?
 - What does victim-centric and trauma informed mean?
 - Disclosure and Complaint Witnesses – preserve their integrity while explaining what you are doing
 - s 47E(d)
 - Collect the evidence – turn on your BWC and explain what you are doing – minimising the need to re-tell what occurred
 - Listen to your victim – be quiet and let them talk

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Disclosure/complaint witnesses – it is important your victim feels comfortable when telling you what happened however it is also important you obtain/collect evidence as per best practice. Is the support person with your victim their first disclosure? Meaning, is the support person the first person your victim told what happened to them? If this is the case it is important to explain that this person may not be best placed to be their support person and you can arrange someone else to support them (EG – another person of their choice or CRCC) s 37(2)(b), s 47E(d)

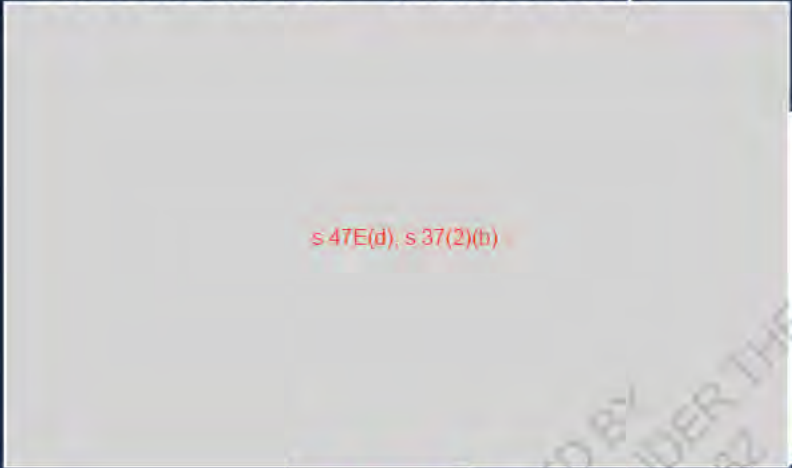
Listen to your victims – when you “shut up and listen” you will obtain best evidence with minimal encourages required by asking open questions (This feeds into the next slide and the importance of open TEDS questions).

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FIRST RESPONSE – DOING IT WELL

- First Presentation – what do I say?



s 47E(d), s 37(2)(b)

STOP

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Importance of open questions.

Importance of never stating 'I understand how you feel' – you do not, as you are not in their shoes – if you have been the victim of something, it would not be appropriate for you to share this with them.

Importance of never trying to understand 'why' this happened – this is not your role. IM SORRY YOU HAVE HAD THIS EXPERIENCE. Then stop talking and listen.

FIRST RESPONSE - DOING IT WELL

- Key considerations
 - Take a breath
 - Is your victim safe?
 - Medical – does your victim need urgent treatment?

s 37(2)(b), s 47E(d)

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Talk about best practice when it comes to forensics –

s 37(2)(b), s 47E(d)



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Information and support to help you, help your victim!

- ACTP sexual assault information pamphlet – give one to your victim/complainant and/or send them the link to the pamphlet online

<https://www.police.act.gov.au/crime/sexual-assault>

- Canberra Rape Crisis Centre (sexual offences):

- Police only number: s.47E(d)

- Website: <https://crcc.org.au/>

- Domestic Violence Crisis Centre (FV only):

- 02 62800 900

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- Show/give everyone on the training a sexual assault information pamphlet for their kit bag. Ask who has not seen/reviewed this document (to raise hands). Talk through pamphlet. Including the QR code on the back of the pamphlet and how it links to the ACTP page. This pamphlet enables the messaging we (ACTP) irrespective of what area we work in to deliver a consistent set of messaging to victim/comps in this space. This in turn will help you do your job and help you better support a victim of a very of a very serious crime type (sexual assault/offences)
- Click on the link to the ACTP sexual assault page – show them the links and explain they are able to send the link for the pamphlet and/or ACTP page to their victim/comp (via email or text message with the job number) or at least, tell them about its existence.
- The pamphlet is currently available in five different languages; English, Thai, Hindi, Simplified and Traditional Chinese.
- If your victim requires support, offer CRCC/DVCS. The above number (for CRCC) is a police ONLY number, do not give it to your victim. Call them and arrange them to contact your victim for them! ALL the information re support agencies (these and more) are listed under 'support' on the ACTP SA drop down box on the ACTP website.

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 **Information and support to help you, help your victim!**

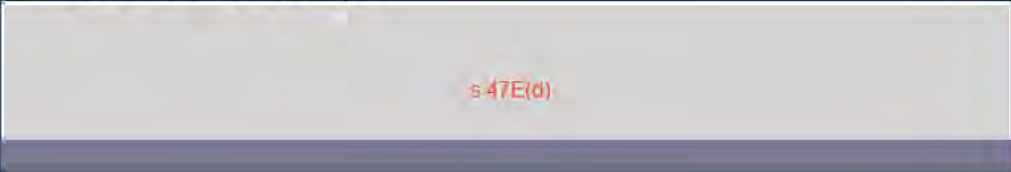
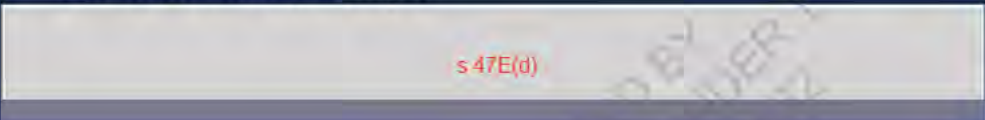
- Historical sexual assaults; sexual assaults that occurred more than six months ago
https://forms.afp.gov.au/online_forms/actpolicing_reporting_sexual_assault

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- Reporting historical sexual assaults online is an option for victim, via the ACTP website. A historical SA is a sexual assault that occurred more than 6 months ago.
- This is an if your victim prefers, NOT if you prefer!
- ENSURE a victim is removed from the FO when reporting to police – consider how you would like your family member/friend to be treated by police if they were the victim of a sexual offence!!!
- We (ACTP) has come under immense scrutiny for taking complaints of sexual offences in the FO (in front of people signing in for bail/waiting for the volley to sign stat decs) and refusing to take a complaint of SA due to it being historic; this is NOT ACCEPTABLE. This is an option only, it is about how you say/mention it to your victim.

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 **Information to help you do your job!**

- SOCA HUB page:

s 47E(d)
- Wraparound referral - MUST be completed for all sexual offence/s

s 47E(d)

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-SHOW them all the SOCA HUB page and WHERE it is; everything relevant to sexual offences and child abuse to help you do your job! Explain the teams, how to seek advice/refer matters, what you MUST do before you end shift (highlighting they are the case officer until the matter is accepted and allocated), all of the different links to help them with these matters and seven videos at the bottom of the page which they could watch on night shift to better understand how they can help victims of sexual offences and child abuse offence/s.

-SHOW them where the Wraparound referral is found (by searching (Wraparound on the HUB or via the SOCA HUB page). EXPLAIN it is MANDATORY, whether a victim consents or declines, for EVERY sexual offence allegation/matter. This is irrespective of whether the victim wants to make a formal statement or not.

Help is there; ask for it!

- Your Sergeant is there to help you – call them for advice first
- The DOM is there to help you – your Sergeant should call them for advice – s 47E(d)
- Between 8a – 6p everyday; The SACAT CIRO (who is a SACAT TL) is there to help - your Sergeant should call them for advice
- Other times; The CIRO (obtain contact details through ACT Communications) - your Sergeant should call them for advice/to refer a matter
- The SOCA hub page has heaps of advice/guidance to help you!

MEDICAL EXAMINATIONS – ADULTS

- Immediate health, safety and welfare of your victim comes first. If your victim requires immediate medical attention – take them to the Emergency Department or call ACTAS.
- Forensic and Medical Sexual Assault Care (FAMSAC)
 - Victims 15 years or older can be considered competent for medical consent (pending maturity)

s 37(2)(b), s 47E(d)

- Make sure your victim knows what the next steps are for police engagement and has a contact point
- **YOU** are the case officer until you are advised otherwise
- All referrals to FAMSAC referrals must go through the DOM or a SACAT member (contact SACAT CIRO or the CIRO via the DOM)

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MEDICAL EXAMINATIONS - CHILDREN

- Immediate health, safety and welfare of your victim comes first. If your victim requires immediate medical attention – take them to the Emergency Department or call ACTAS.
- Paediatric Forensic Medical Service (PFMS), previously Enhanced Child Health Service (ECHS)/Child at Risk Health Unit (CARHU)
 - Examinations are conducted as s 47E(d) by Paediatricians
 - What are in the best interests of the child and their welfare?
 - Out of hours consultation is possible but rare – remember the child needs to feel safe and physically well/rested for the examination.
 - s 47E(d)
 - All referrals to PFMS must go through the DOM or a SACAT member (SACAT CIRO or CIRO via the DOM)

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Show ACTP SOCA hub page and BPG on sex offences



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TIMEFRAMES FOR FORENSIC SAMPLE COLLECTION

Time Frames for collection of biological samples, working (theoretical maximum)

s 37(2)(b), s 47E(d)

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s 37(2)(b) s 47E(d)

BEFORE YOU END SHIFT

- Ensure your victim:
 - Is safe
 - Has a point of contact and a way forward – set realistic expectations
 - Is referred to support services – ensure a **Wraparound referral is submitted** (HUB) whether the person consents or declines
- Thorough and accurate PROMIS/IMS case write up
- Evidence is stored accessibly – physical and digital

Remember: you as the original case officer/informant are the contact point (even if the CIRO has accepted the matter) until the matter has been referred/you have provided a briefing to the member who is becoming the case officer/informant and they have agreed for the matter to be transferred into their name. WHY? Some historic matters are reviewed and allocated (following the CIRO accepting them) at the SOCA MC meeting every Wednesday, which means the victim needs a point of contact until the matter is allocated. YOU are that contact until that takes place.



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What you must do for a sexual offence investigation before you end shift!

Before you transfer/SACAT accepts an investigation, the following must be completed by YOU as the original case officer/member responsible for the job:

- Review your job and make sure the results text and case note entry (detailing your/your partners actions prior to hand over) are up to date/have been completed;
- Ensure all complainant/victim/witness/suspect entities have been added and linked appropriately;
- Ensure all complainant/victim/witness/suspect contact details are correct and are reflected in the results text;
- Complete a Wraparound referral (mandatory whether the comp/victim consents or declines) and upload to the case log- Wraparound referrals can be found [here](#)
- Provide the ACTP SOCA user group access to your BWC footage, enabling the SACAT case officer to have access to it;
- Ensure any seized or moved items have been added to PROMIS and physically provided/accessible to the new case officer;
- Upload a scanned copy of your and your partners notebook entries to the case log; and
- Place a line in your results text reflecting your TL referring the matter via the CIRO, the fact it was accepted and who the new case officer is (i.e.: Referred and accepted via the CIRO. This matter is to be further investigated by . from SACAT). Then transfer the matter to the new case officer (if accepted by the CIRO).

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UNCLASSIFIED Affirmative consent legislation; recent changes

- In 2022, the *Crimes (Consent) Amendment Act 2022* (ACT) was created to update the *Crimes Act 1900* (ACT) to align with contemporary community understandings and expectations of consensual sexual activity. The Act outlines that people have a right to choose to not participate in sexual activities.
- The amendments shifted the principle, meaning and definition of sexual consent from something that is presumed can be negated, to something that is unassumed, and must be given.
- This is a communicative model of consent – one which is underpinned by principles of agency, autonomy and responsibility and is based on a culture of healthy, respectful relationships. For more information, see the [Crimes \(Consent\) Amendment Act 2022](#) (ACT).

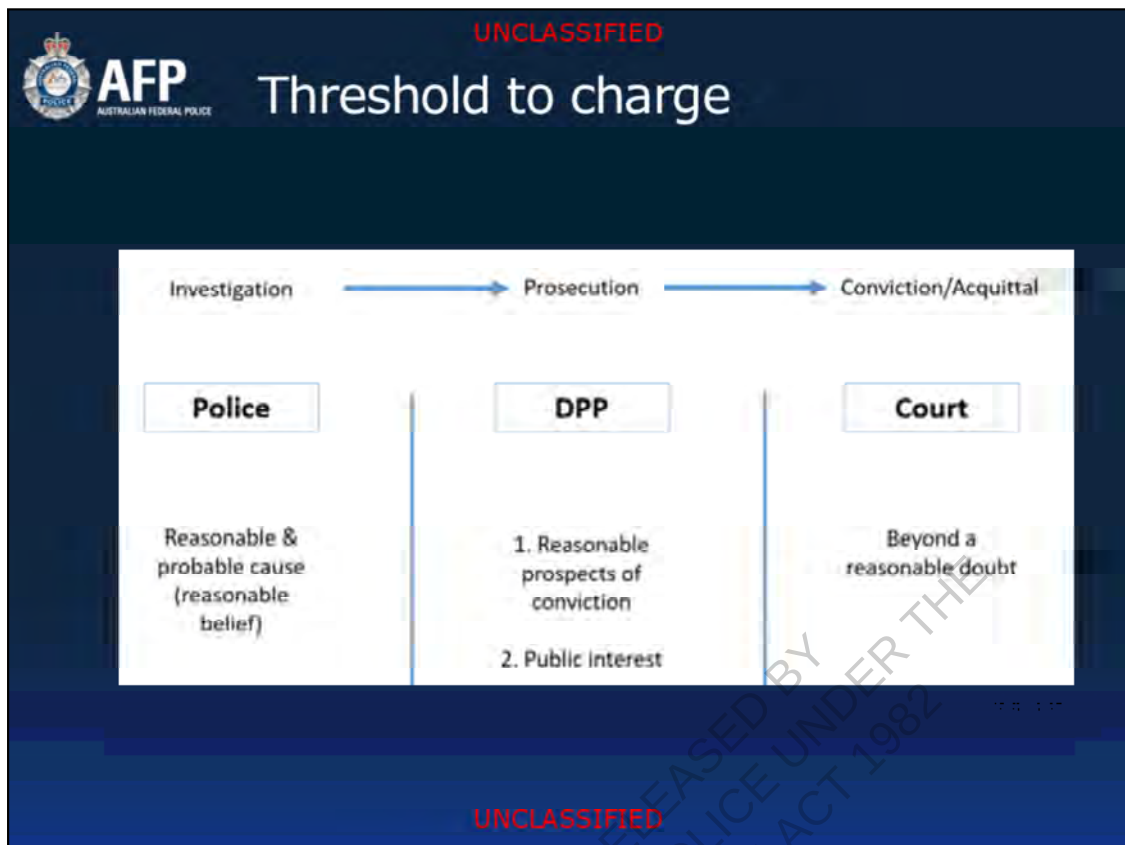
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Be aware of this legislative change.

Sexual violence v Family violence

- Different policies, governance and guidelines:
- **Sexual violence:** trauma informed/victim centric approach – no action is taken without a formal statement (EICI).
- **Family violence:** pro-arrest, pro-charge and presumption against bail. Action can be taken without a formal statement (FV EIC).

Two very different policies.



Prior to Operation COVINA ACTP/AFP did not have an official 'threshold to charge' document. This is being worked on by the ACTP Executive as one of the ten ACT Government Board of Inquiry recommendations. ACTP's threshold is reasonable belief with respect to charging. We must work within our lane not get ahead of ourselves and work within a Prosecutor's lane.

Threshold to charge

Reasonable belief:

This concept can be unpacked with the following two-part test:

1. Do you hold an honest belief that the probability of the accused's guilt is such that a charge is warranted; and
2. Is there a sufficient basis on the material present for this belief.



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ASK FOR HELP WHEN YOU NEED IT!

- If you need advice, speak to your Sergeant, sooner rather than later
- Experienced Detective Sergeants are only a phone call or email away
- In conjunction with your Team Leader, consult with the:
 - DOM: s 47E(d)
 - CIRO (via the DOM)
 - SACAT CIRO: s 47E(d)
 - SACAT Team Leaders
 - s 47E(d) @afp.gov.au (for non urgent enquiries, not referrals)

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Sexual Offences and Child Abuse

Local Procedures Training

s 47E(c)

SOCA Project Officer and Investigative Oversight

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**ACT
Policing**

LEX 5426

28 May 2025

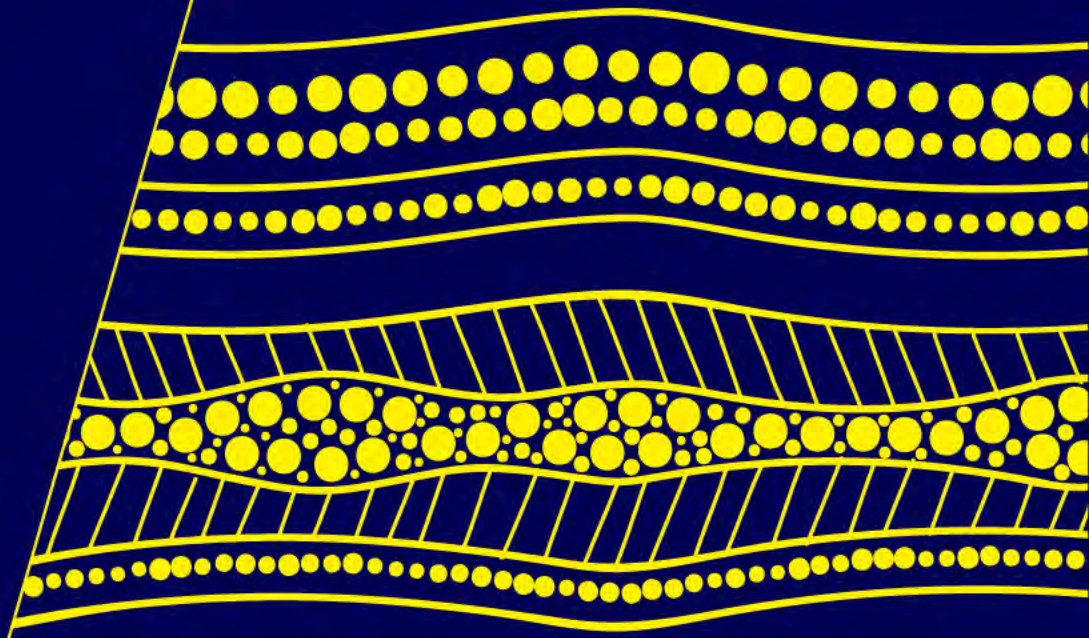
police.act.gov.au

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Acknowledgement of Country

The Australian Federal Police acknowledges the Traditional Owners and Custodians of Country throughout Australia and acknowledges their continuing connection to land, sea and community.

We pay our respects to the people, the cultures and the Elders past, present and emerging.



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- 02 Myths & Misconceptions vs Facts & Figures
- 03 First Response – Doing It Well
- 04 Legislation – key points to know
- 05 Pop Quiz

01

Who are we?

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SOCA

SOCA = Sexual Offences and Child Abuse

SACAT = Sexual Assault and Child Abuse Team

JACET = Joint Anti-Child Exploitation Team

CSORT = Child Sex Offenders Registry

HSAP = Historical Sexual Assault Program

Operation Foster = Review team for SAPR matters



SACAT

- Sexual offence with penetration (includes cunnilingus and fellatio)
- Child abuse (assaults and sexual offences) on children under 12
- Circumstances which suggest a serial offender
- Child abuse material indicating contact offences

JACET

- Dissemination of CAM/CEM over internet-based platforms by adults
- Where the internet has been used to facilitate the sexual exploitation of children
- For under 16yo cases, must be an extortion element.

GDs/Patrol jobs

- Acts of indecency (unless <12)
- Child assaults on persons over 12
- Intimate image offending/revenge port
- Indecent exposure

02

Myths and Misconceptions vs Facts and Figures

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Victims will report rape and sexual offences immediately

The majority of victims who experience sexual offences delay disclosing and/or reporting or never disclose/report their experiences.

Common reasons include:

- » Shame
- » Confusion, guilt, or shock about the offence
- » Fear of the offender and of consequences of reporting
- » Protecting an offender they know
- » Fear that they will not be believed and
- » They may not recognise what they have experienced as a sexual offence or may blame themselves for what has occurred.

Real rapes are committed by strangers.

A common rape myth relates to a belief that victims are often attacked violently by strangers and that this is 'Real Rape'. This is actually very rare.

The majority of rapes are committed by someone known to the victim, often in a familiar residential location. They are often committed by family members, within intimate partner relationships or another known person.

Victorian law is clear that consent to a sexual act with the same person at some time in the past is not an indicator of consent in the future.

One person's word is not enough to convict for rape; there needs to be witnesses or more evidence

Most rapes or other sexual offending occurs away from public view such as in a residence so victims and offenders are often the only witnesses to the crime(s).

Sexual offences do not require additional evidence in order to be taken seriously by police. Judges will instruct juries about how to consider these issues.

Facts and Figures

What we think we know:

- 17% of women; 4.3% of men aged over 15 have been the victim of a sexual assault
- 13% of women report sexual assault – even less for men
- Childhood sexual abuse:
 - Women 23 years to report
 - Men 25 years to report
- Under reporting and delayed reporting – reasons why?
 - Shame;
 - Guilt and self-blame;
 - Social barriers;
 - Worried about being believed.

03

First response – doing it well

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First response



Where?

- Wherever your victim is comfortable!
- Not in the Front Office.

How?

- Compassion and empathy
- How would you want to be treated?
- Give them a pamphlet
- Don't answer questions you don't know the answer to

Witness credibility is a jury consideration, not yours!

First response

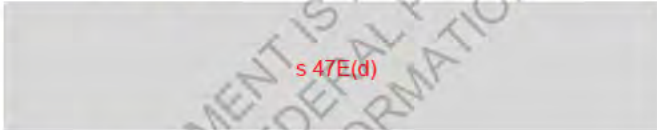


How?

- What does victim-centric and trauma informed actually mean?
- s 47E(d)
- Collect the evidence – BWC and explain why.
- Listen to your victim – be quiet, let them talk.

First response

But what do I say????

- “I’m sorry you have had this experience” or similar
-  s 47E(d)
-
- Then stop.

First response



Key Considerations

- Take a breath
- Is your victim safe?
- Medical – does your victim need urgent treatment?
- Crime Scenes

s 47E(d)

First response



Support to help you, and your victim

- ACTP Sexual Assault information pamphlet – also available online
- SOCA Pocket Guide – available through PROMIS Mobile Guides
- ACT [SOCA Hub Page](#) and [Investigators Toolkit](#)
- Historical Online Reporting – historical only!
- CRCC
 - Police only number: 02 s 47E(d)
 - Crcc.org.au
- DVCS for FV only

First response



How do I refer a job to SACAT?

- Between 8am – 6pm, 7 days a week – s 47E(d)
- After 6pm – general s 47E(d)
- Can always call for advice, or email s 47E(d)
- SOCA Hub Page!

Medical Examinations and Timeframes

- FAMSAC:
 - Over 15yo/adults
 - Preference is s 47E(d)
 - [REDACTED] s 47E(d)
 - [REDACTED]
- PFMS
 - Under 15yo
 - [REDACTED] s 47E(d)
 - Business hours only
 - Arranged through DOM/CIRO

s 47E(d)

First Response



Before you end shift

- Make sure your victim is safe
- Victim has a point of contact and expectations from here
- Wraparound referral is completed – even if declined consent
- PROMIS write-up completed
- Evidence is shared with SACAT if appropriate.

Useful Contacts

- DOM: 02 s 47E(d)
- CIRO: via the DOM
- SACAT CIRO: s 47E(d)
- SACAT TLs s 47E(d) @afp.gov.au

04

Legislation and policy 'need to knows'

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Consent to a sexual act means informed agreement to the sexual act that is:

- Freely and voluntarily given; AND
- Communicated by saying or doing something

Crimes Act 1900 (ACT) - Section 50B

- Updated in 2022.
- Consent is no longer something that is presumed which can be negated;
- Consent is now unassumed, and must be given.
- Communicative model of consent – acknowledges that people have a right to choose not to participate in sexual activities.
- Communicated by “doing something” – doesn’t have to be vocal “no”.

Sexual violence vs Family violence

Sexual violence:

- Trauma informed, victim centric approach
- No action is taken without formal statement (EICI) from victim
- Victim has right to not proceed, and Police will abide by this.

Family violence:

- Pro-arrest, pro charge, pro-intervention approach.
- Action can be taken without a formal statement (FVEIC).

Threshold to charge



Reasonable Belief

1. Do you hold an honest belief that the probability of the accused's guilt is such that a charge is warranted; and
2. Is there a sufficient basis on the material present for this belief.

05

Pop Quiz!

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THE AUSTRALIAN FEDERAL POLICE UNDER THE
FREEDOM OF INFORMATION ACT 1982

1

Sex worker

A sex worker attends the Front Office, and states a client failed to pay for their sexual services. They are wanting to report a rape.

What do you do?

2

Netflix and chill

You attend a job where a woman states she met a guy on Tinder, and she went to his place to "Netflix and chill".

He had sex with me – I didn't say no, but I didn't want to.

What questions would you ask/not ask?

3

CYF Referral

A CYF referral comes in at 4pm on a Friday. SACAT are not able to attend, and have asked for a welfare check.

Child came to school with bruises, and said dad punched him, but has gone home for the day.

What do you do?

4

Drunk caller

You attend a job in the city in the early hours of a Sunday morning.

The person is still intoxicated, but states they have been sexually assaulted.

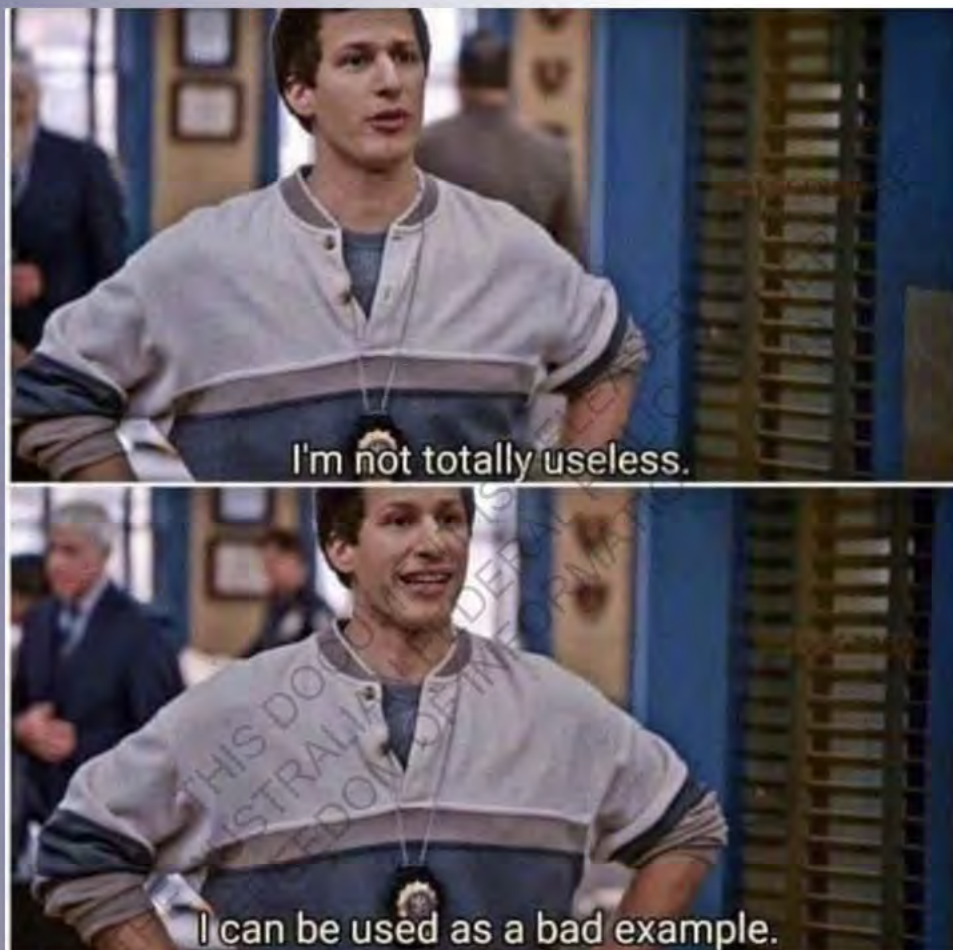
What would you do?

5

What not to do



Questions / Thank you



Policy statement

Decision to charge a person in the ACT

The purpose of this policy statement is to set out the principles and considerations which govern a decision by an officer of ACT Policing to charge a person with a criminal offence against ACT law¹. A reference to a decision to charge means deciding to lay an information or file a court attendance notice to commence criminal proceedings against a person.

The discretion to charge

A police officer has a duty to enforce the criminal law, however they are afforded a wide discretion in how that is achieved. A police officer is not obliged to charge a person with a criminal offence.

The exercise of the power to charge a person is discretionary power of police. In each case, an officer must exercise their professional judgment to determine whether to lay a charge, having regard to the individual facts and circumstances of the case.

Legal framework

Reasonable suspicion is the minimum threshold for laying charges in the ACT.

Section 26 of *Magistrates Court Act 1930* (ACT) provides that:

An information may be laid before a magistrate in any case where a person has committed or is suspected of having committed, in the ACT, an indictable offence or an offence that may be dealt with summarily as provided in section 19.

Section 41C(1) of the *Magistrates Court Act 1930* (ACT) provides:

If an authorised person suspects, on reasonable grounds, that a person has committed an offence, the authorised person may serve a court attendance notice on the person.

The threshold for arrest in the ACT is also that a police officer suspects on reasonable grounds that a person has committed, or is committing an offence².

It is therefore appropriate that, once a reasonable suspicion is held, the decision to charge requires further consideration, and for a charge to be laid only where there is reasonable basis to do so having regard to the factors set out below.

¹ This policy document only applies to charging for ACT offences. Members considering charging a person with a Commonwealth offence in the ACT should refer to [the Prosecution Policy of the Commonwealth](#).

² *Crimes Act 1900* (ACT) s 212(1)

Should charges be laid?– factors for consideration

In exercising the discretion as to whether or not to lay a charge, an officer should take into account the following (non-exhaustive) considerations:

A. The sufficiency of the evidence against the person

- the truth and reliability of the available evidence, including:
 - the nature and extent of any corroborative evidence such as eyewitnesses, audio visual recordings, images, forensic evidence, complaint evidence and evidence of consistent statement
 - any evidence which shows a complainant or another witness's evidence to be unreliable, and
 - any evidence which is exculpatory, that is, evidence which is inconsistent with the person having committed the offence.
- an assessment of the evidence as a whole:
 - evidence should not be assessed in a fragmented way by looking at each individual piece of evidence in isolation.
- an objective consideration of the evidence, excluding:
 - bias
 - imagination
 - speculation
 - suspicion, and
 - surmise.

B. The exclusion of improper purposes

In making a decision to charge, police must act in accordance with the [AFP Values and Code of Conduct](#). A person should only be charged with an offence for the purpose of having them put before a court to be dealt with according to law.³

- A decision to charge or not to charge should not be made for a collateral purpose, including:
 - only for the purpose of questioning or conducting a forensic procedure
 - obtaining a tactical benefit in an unrelated proceeding or investigation, or
 - for political advantage or to avoid disadvantage or embarrassment to the Government.
- A decision to charge or not to charge a person must *never* be motivated, influenced, or affected, in any way or to any extent, by factors such as:
 - personal feelings concerning the alleged offender including:

³ [New South Wales v Robinson](#) (2019) 266 CLR 619.

- a desire to harm the person
 - a desire to cause the person ill-will or suffering
 - a desire to intimidate or harass the person
 - feelings of spite or malice towards the person
 - a grudge held against the person
- a previous personal or professional association between the officer and the person
- personal feelings concerning the complainant
- opinions expressed by others generally, and by journalists or media commentators in particular, about the person, be those opinions about the person's guilt or otherwise.
- A decision to charge or not to charge must also not be influenced by inappropriate reference to the:
 - race
 - religion
 - gender identity
 - sexual orientation
 - national origin
 - political associations, activities or beliefs

of the person or any other person involved.

C. The wishes of the complainant or victim

Police should act in accordance with applicable governance on victim's rights, and should consider any request that an offence be referred for restorative justice.

D. The availability and likely effectiveness of diversionary measures

In determining whether to exercise their discretion to lay a charge the officer should also consider whether in all of the circumstances, one of the following actions might be appropriate:

- taking no formal action
- a police caution (see [Standard Operating Procedures on Police Criminal Cautions](#))
- referral to a restorative justice process (see [Standard Operating Procedure on Diversionary Conferencing/Restorative Justice](#)); or
- referral to a drug diversion program (see [Standard Operating Procedure on Alcohol and Other Drug Diversion Referral Procedures](#))
- issue of an infringement notice for an infringement notice offence (see [Standard Operating Procedure on Criminal Infringement Notices](#)), or
- if the person is intoxicated in a public place, taking the person to a Sobering Up Shelter (see [Better Practice Guide on Sobering Up Shelter](#))

Threshold to charge

Date: 10 April 2025

Learning outcomes

- Understand the threshold for charging under ACT Policing guidelines.
- Apply discretion effectively when determining whether the threshold to charge has been met.
- Identify Key considerations in assessing the threshold for charging decisions.

Background

The ACT Government established a Board of Inquiry into the Criminal Justice System in the ACT (the Inquiry) following the discontinuance of the trial of R v Lehmann in 2022. The purpose of the Inquiry was to examine the conduct of criminal justice agencies involved in this trial.

In his final report, the Inquirer, Walter Sofronoff found on the issue of the legal test for laying charges:

...that ACT Policing (ACTP) seek a level of confidence beyond a reasonable suspicion before charging a person, but ACTP has no policy to define what that level should be.

There is no guideline to illuminate the factors that should inform an assessment of whether evidence has met the threshold to charge. In the absence of such published guidance, the decision whether to charge becomes susceptible to the idiosyncratic ideas of individual officers

This finding led to the inquiry's first recommendation:

...that in consultation with the ODPP, the ACTP formulate a policy to define the threshold to charge and the considerations which should inform a police officer's application of the threshold to a given case. I recommend that the ACTP implement training to ensure a consistent understanding among police officers about the threshold to charge and how it should be applied to evidence gathered during an investigation. This training should be provided periodically.

Legislation

The Magistrates Court Act 1930 (ACT) – [Section 26](#) Laying of Information states:

An information may be laid before a magistrate in any case where a person has committed or is suspected of having committed, in the ACT, an indictable offence or an offence that may be dealt with summarily as provided in section 19.

The inquiry's findings in relation to the legislation relevant to commencement of criminal proceedings found that:

- a) The imposition of a duty upon Police to make careful inquiry into the circumstances of offending before bringing a charge against an accused person was dangerous to public welfare; and

- b) If there was apparently good ground to suspect that an offence had been committed, it was the duty of Police to lay a charge, no longer represented the law
- c) S26 of the *Magistrates Court Act 1930 (ACT)* reflected that out-of-date view
- d) The existence of suspicion was not, of itself, sufficient to justify the laying of a criminal charge; and
- e) No Police officer would lay a charge today simply because that officer held a suspicion of guilt.

Discretion

When assessing whether to lay charges it is important to remember that a police officer has a duty to enforce the law, however they are afforded a wide discretion in how that is achieved. A police officer is not obliged to charge a person with a criminal offence.

The power of a police officer to charge a person is discretionary. In each case, an officer must exercise their professional judgment to determine whether and what charges to lay, having regard to the individual facts and circumstances in each case.

Policy

In exercising the discretion as to lay or not lay a charge, an officer should consider the following (non-exhaustive) considerations:

- A. The sufficiency of the evidence against the person
 - the truth and reliability of the available evidence, including:
 - o the nature and extent of any corroborative evidence such as eyewitnesses, audio visual recordings, images, forensic evidence, complainant evidence and evidence of consistent statement
 - o any evidence which shows a complainant or another witness's evidence to be unreliable, and
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Questions – Pass Mark 100%

Question 1

s 47E(d)

Question 2

s 47E(d)

Question 3

s 47E(d)