

**AFP**

Better Practice Guide on Sexual offence and child abuse investigations and first response

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Disclosure and classification: This document is classified OFFICIAL and is intended for internal AFP use. Disclosing any content must comply with Commonwealth law and the AFP National Guideline on information management.

Compliance: This instrument is part of the AFP's professional standards framework. The AFP Commissioner's Order on professional standards (CO2) outlines the conduct expected of AFP appointees. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the *Australian Federal Police Act 1979* (Cth).

This document is a functional governance instrument as defined in the AFP Commissioner's Order on governance (CO1).

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Introduction

This better practice guide sets out the requirements for:

- responding consistently when dealing with child abuse and sexual offences against children and/or adults;
- requesting forensic medical examinations for victims of suspected sexual and/or physical abuse; and
- taking Emergency Action for children or young persons.

Guideline Authority

This guideline was issued by the Chief Police Officer for the ACT using power under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under s. 69C of the Act.

Policy

The primary objectives of the investigation of sexual offences are to:

- lawfully gather evidence;
- identify and charge offenders; and
- achieve a successful prosecution

However, the needs and welfare of the victim are paramount. ACT Policing (ACTP) adopt trauma-informed and victim-centric principles. That means members ought to be guided by their victim's desired outcomes and ensure victims' rights, as found in Part 3A of the [Victims of Crime Act 1994](#) (ACT) and the [BPG on Victim's Rights \(ACT\)](#), are kept at the forefront of their minds. A whole of government approach is undertaken which utilises internal and external stakeholders.

SACAT investigations

The Sexual Assault and Child Abuse Teams (SACAT) sit within the Sexual Offence and Child Abuse (SOCA) portfolio of Criminal Investigations (CI). SACAT are primarily responsible for investigating:

- the penetration, to any extent, of the genitalia or anus of a person by any part of the body of another person or by an object;
- the introduction of any part of the penis of a person into the mouth of another person (fellatio);
- cunnilingus;
- sexual offences committed in circumstances which suggest a serial offender; and
- Child abuse (physical assaults), acts of indecency and sexual offences on children (under 12 years of age).

JACET investigations

The ACT Joint Anti-Child Exploitation Team (JACET) is responsible for investigating:

- offences relating to internet crime, in particular child abuse material and grooming offences;
- the dissemination of Child Abuse Material (CAM)/Child Exploitation Material (CEM) by adults over internet-based platforms; and
- the production and capture of CAM/CEM.

Reports regarding the dissemination of CAM/CEM by persons under the age of 18 years (for example, the exchange of images by children over messaging applications) will be assessed on a case-by-case basis. The SACAT/JACET Team Leaders or the CI Reception Officer (CIRO) will determine whether:

- SACAT/JACET or Major Crime investigate the matter independently;
- CI provides assistance; or
- the matter will remain at patrol level for investigation.

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:

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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.

Receipt of complaint & first response

The following principles apply to the investigation of numerous offences, but are particularly important when investigating offences relevant to child abuse and sexual offences in the ACT.

First responding members attending such incidents should ensure:

- the victim is engaged in a respectful, empathetic and tactful manner at all times. Remember, victims of such crimes can find the investigative/evidence collection process exceptionally traumatising and it takes a significant level of courage for most victims to report to police.
- the victim is not judged. It is not the role of an investigator or first responder to assess the credibility of a complaint. It is the role of the police to objectively collect inculpatory and exculpatory evidence.
- the victim's safety and welfare takes priority. If a victim requires

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If a victim is to

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- the first responder's Team Leader is briefed. The Team Leader must brief the CIRO if the matter is to be referred to CI.
- Members must accurately record their involvement in a case note entry and ensure the relevant case result text is updated and correct prior to the matter being handed over to CI.

Sources of available evidence include, but are not limited to:

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FREEDOM OF INFORMATION ACT 1982

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s 47E(d)

The following activities present the most significant threat to the preservation of evidence in a sexual assault investigation and should be avoided:

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s 47E(d)

Forensic medical examinations

During business hours, members should organise interviews and medical assessments through the s 47E(d) formally known as the s 47E(d)

s 47E(d) or a child requiring an assessment, or s 47E(d)
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 s 47E(d), 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) or s 47E(d)

Medical attention not required

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

- during business hours (8am–4pm Monday to Friday), at s 47E(d) and outside business hours, at s 47E(d) or the hospital at which the victim has presented (if applicable).

A victim 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 s 47E(d) doctor or on-duty worker is advised the child is being brought to hospital.

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s 47E(d)

However, this may not always be practicable or in the best interests of the victim. 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.

s 47E(d)

To refer children for FME's, members should:

- Make initial referral by phoning s 47E(d) on (02) s 47E(d) (following speaking to a SACAT Team Leader or the CIRO);
- Arrange for representatives from CYPS and/or ACTP to accompany the child to the s 47E(d) and
- Complete a written referral using the following AFP Forms:
 - SACAT – Referral for Counselling s 47E(d)
 - SACAT – Referral for Medical Examination s 47E(d)

A victim aged 15 years and over

ACTP members must refer people 15 years of age and above to s 47E(d) for examination as follows:

- during business hours: the s 47E(d) Nurse Coordinator or Medical Coordinator on (02) s 47E(d)
- after hours: the on-call s 47E(d) doctor.

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.

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](#).

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.

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.

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).

Finalisation Processes and Restorative Justice

Members should give consideration to whether any alleged offender, including any young person, is eligible for a Restorative Justice (RJ) referral. Additional information on RJ, specifically eligibility, and the process for completing a referral is located within the Restorative Justice Standard Operating Procedure.

Participation in RJ is voluntary – victims and offenders have the right not to participate and may withdraw their consent at any stage of the process. In doing so, they should be made aware that the offence will be cleared by other means, at the case officer's discretion.

ACTP's policy position is to refer all eligible young persons and ACTP have an undertaking to refer 25% of all eligible 18-25 year old Aboriginal and Torres Strait Islander offenders/young persons.

The 25% minimum diversion target is consistent with the ACT Government commitment to reduce recidivism by 25% by 2025. Regardless of the minimum expectation, ACTP will endeavour to refer all eligible alleged offenders/young persons to Restorative Justice where possible, acknowledging that individual circumstances may override the policy of pro-active referral.

ACTP has the discretion to refer any offender for a less serious offence involving a victim (who has suffered harm) to RJ either as a diversion (diversionary conference) or together with court proceedings.

Eligible offences	Criteria as defined in the <u>Crimes (Restorative Justice) Act 2004</u> (ACT) The Act applies to both less-serious and serious offences committed by an adult/young persons and must involve a victim. All Commonwealth offences are currently not eligible. Eligible sexual offences and punishments are defined as: Less serious sexual offence – means an offence under the <u>Crimes Act 1900</u> (ACT), that is punishable by a term of imprisonment of 10 years or less. Exceptional circumstances must also exist. Serious sexual offence* – a term of imprisonment of more than 10 years. * These offences are only eligible for referral to RJ by the ACT Courts.
Exceptional circumstances	– the offence is deemed less serious as defined above; – the offence had a low subjective impact (as disclosed by the victim away from the influence of the offender) combined with an absence of premeditation; and – the offence is not a pattern of coercion and controlling behaviours and/or a lack of history of sexual offending family violence or violence related offences may be considered to constitute 'exceptional circumstances'

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.

Other contacts Children and Youth Protection Services

(02)		South
(02)	s 47E(d)	North
(02)		Intake

Request for historical reports/information should be sent to s 47E(d) @act.gov.au.

Further advice

Queries about the content of this document should be referred to Superintendent Criminal Investigations or the Crime Manager – Sexual Offences & Child Abuse.

Resources

Legislation

- Children and Young People Act 2008 (ACT)
- Crimes Act 1900 (ACT)
- Victims of Crime Act 1994 (ACT)

ACT Governance

- Standard Operating Procedure for Police attendance at deaths
- Better Practice Guide on Criminal Investigations response and notification
- Standard Operating Procedure on Interviewing Vulnerable Witnesses
- Standard Operating Procedure on Restorative Justice
- Better Practice Guide on Victim's Rights (ACT)

ACT forms

- Emergency Action (Child & Y P Act 2008)
- SACAT – Referral for Counselling s 47E(d)
- SACAT – Referral for Medical Examination s 47E(d)

Shortened form

Shortened form	Full form
ACT	Australian Capital Territory
ACTP	ACT Policing
AFP	Australian Federal Police
s 47E(d)	
CI	Criminal Investigations
s 47E(d)	
FME	Forensic Medical Examination
MEK	Medical Examination Kit
RJ	Restorative Justice

SACAT	Sexual Assault and Child Abuse Team
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Definitions

Term	Definition
Act of indecency	Act of indecency in the first, second and third degree, along with act of indecency with young person and with your person in special care are all defined in Part 3 of the Crimes Act 1900 (ACT). Act of indecency without consent, contrary to section 60 of the <i>Crimes Act 1900</i> (ACT), is defined as follows: A person who commits an act of indecency on, or in the presence of, another person without the consent of that person and who is reckless as to whether that other person consents to the committing of the act of indecency.
Chief Executive	Means the Chief Executive of the Office of Children, Youth and Family Support.
Child	Means a person who is under 12 years of age.
Child abuse	Means the non-accidental physical injury, neglect, emotional abuse, including psychological harm or sexual exploitation of children and young people.
Concerns interview	Means an interview conducted where there is no clear allegation and the victim is interviewed to see what, if anything, is disclosed.
Disclosure statements	Means a statement from the first person the victim told about the alleged assault.
Historical sexual assault	Means sexual assaults that occurred more than six months ago.
Indecent exposure	As defined in the Crimes Act 1900 (ACT) as follows: A person who offends against decency by the exposure of his or her person in a public place, or in any place within the view of a person who is in a public place, commits an offence.
Medical assessment	Means the 1 hour full paediatric evaluation of a child's health status which may include physical and forensic examinations.
Penetration	Is defined in Part 3 of the Crimes Act 1900 (ACT).
Young person	A person who is 12 years of age or older, but, for the purpose of the: – Crimes Act 1900 (ACT), is not yet 16 years of age – Children and Young People Act 2008 (ACT), is not yet 18 years of age.

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Introduction

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- taking Emergency Action for children or young persons.

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Policy

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- lawfully gather evidence;
- identify and charge offenders; and
- achieve a successful prosecution.

However, the needs and welfare of the victim are paramount. ACT Policing (ACTP) adopt trauma-informed and victim-centric principles. That means members ought to be guided by their victim's desired outcomes and ensure victims' rights, as found in Part 3A of the [Victims of Crime Act 1994](#) (ACT) and the [BPG on Victims' Rights \(ACT\)](#), are kept at the forefront of their minds. A whole of government approach is undertaken which utilises internal and external stakeholders.

SACAT investigations

The Sexual Assault and Child Abuse Teams (SACAT) sit within the Sexual Offence and Child Abuse (SOCA) portfolio of Criminal Investigations (CI). SACAT are primarily responsible for investigating:

- the penetration, to any extent, of the genitalia or anus of a person by any part of the body of another person or by an object;
- the introduction of any part of the penis of a person into the mouth of another person (fellatio);
- cunnilingus;
- sexual offences committed in circumstances which suggest a serial offender; and
- Child abuse (physical assaults), acts of indecency and sexual offences on children (under 12 years of age).

JACET investigations

The ACT Joint Anti-Child Exploitation Team (JACET) is responsible for investigating:

- where the internet has been used to facilitate the sexual exploitation of children;
- the dissemination of Child Abuse Material (CAM)/Child Exploitation Material (CEM) by adults over internet-based platforms; and
- the production and capture of CAM/CEM.

Reports regarding the dissemination of CAM/CEM by persons under the age of 16 years involving blackmail/threats, also referred to as 'sextortion' will be assessed on a case-by-case basis. The SACAT/JACET Team Leaders or the CI Reception Officer (CIRO) will determine whether:

- SACAT/JACET or Major Crime investigate the matter independently;
- CI provides assistance; or
- the matter will remain at patrol level for investigation.

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:

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s 47E(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.

To refer a job to SACAT, a Team Leader can call the SACAT CIRO between 8am – 6pm, 7 days a week, on s 47E(d). Outside of these hours, contact the CIRO through the DOM in ACT Communications.

Advice can always be sought at any time by contact s 47E(d) @afp.gov.au.

Domestic and Family Violence

There will be instances where sexual offending is reported in the context of Domestic and Family Violence. These matters will be of interest to the ACTP Domestic and Family Violence Investigations Unit (DFVIU).

A representative of the DFVIU will be invited to attend the SOCA Management Committee (MC) meeting which is held weekly. At this meeting, new investigation referrals are discussed, triaged and allocated to a case officer. During this process, discussions will be held between SOCA and DFVIU to ensure that intersections are identified.

Where SOCA is investigating offending that has occurred in the context of Domestic and Family Violence, the DFVIU will be consulted and updated when necessary.

Receipt of complaint & first response

The following principles apply to the investigation of numerous offences, but are particularly important when investigating offences relevant to child abuse and sexual offences in the ACT.

First responding members attending such incidents should ensure:

- the victim is engaged in a respectful, empathetic and tactful manner at all times. Remember, victims of such crimes can find the investigative/evidence collection process exceptionally traumatising and it takes a significant level of courage for most victims to report to police.

- the victim is not judged. It is not the role of an investigator or first responder to assess the credibility of a complaint. It is the role of the police to objectively collect inculpatory and exculpatory evidence.

- the victim's safety and welfare takes priority. If a victim requires s 47E(d)
s 47E(d) If a victim is to be transported to hospital, a member should s 47E(d)

- the brief circumstances of the alleged offence are established (a more detailed account can be obtained under evidence-in-chief provisions at a later time. Notebooks, photographs, video, sketches or Body Worn Cameras can be used to record:

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s 47E(d)

- the wishes of the victim are ascertained regarding the presence of a friend, relative or support agency (e.g. the Canberra Rape Crisis Centre). However if the person nominated by

s 47E(d)

- the crime scene is secured in accordance with section 210C or 210D of the [Crimes Act 1900](#) (ACT) and steps are taken to s 47E(d)

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s 47E(d)

- the first responder's Team Leader is briefed. The Team Leader must brief the CIRO if the matter is to be referred to CI.
- Members must accurately record their involvement in a case note entry and ensure the relevant case result text is updated and correct prior to the matter being handed over to CI.

Sources of available evidence include, but are not limited to:

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s 47E(d)

The following activities present the most significant threat to the preservation of evidence in a sexual assault investigation and should be avoided:

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s 47E(d)

Forensic medical examinations

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

If the victim does *not* have injuries requiring medical attention, an FME should be considered and sought in accordance with the age of the victim following the processes below. Before the victim has any contact with a hospital, doctor, or member of s 47E(d) 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.

A victim 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 s 47E(d) doctor or on-duty worker is advised the child is being brought to s 47E(d)

During business hours, members should organise medical assessments through the s 47E(d) s 47E(d) formerly known as the s 47E(d) for a child requiring an assessment. s 47E(d)

s 47E(d) However, this may not always be practicable or in the best interests of the victim. 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.

s 47E(d)

To refer children for FME's, members should:

1. Make initial referral by phoning s 47E(d) on 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 s 47E(d) and
3. Complete a written referral using the following AFP Forms:
 - SACAT – Referral for Counselling s 47E(d)
 - SACAT – Referral for Medical Examination s 47E(d)

A victim aged 15 years and over

ACTP members must refer people 15 years of age and above to s 47E(d) for examination (after speaking with SACAT or the CIRO) as follows:

- during business hours: the s 47E(d) urse Coordinator or Medical Coordinator on (02) s 47E(d) or (02) s 47E(d)
- after hours: the on-call s 47E(d) doctor.

If the victim does not have any injuries requiring medical attention, the preference of s 47E(d) is that the FME is conducted at s 47E(d) However, if a victim presents to s 47E(d) s 47E(d) will attend and conduct the FME there.

It is important to note that a victim can undergo an FME at either [s 47E\(d\)](#) at any time, regardless of their intention to report the matter to Police.

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.

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 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](#).

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.

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.

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.

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).

Finalisation Processes

In the ACT, as previously mentioned we are guided by a victim-led and trauma-informed approach, whereby a victim can decide to not proceed with the investigation and/or Court process.

However, the victim can choose to have the investigation re-opened and the investigation resumed at any point in time.

To allow for this, it is important that the following evidence items are **not** disposed of *in the event of 'Complaint withdrawn by victim'*, even if the case is being finalised:

- -
 -
 -
- s 47E(d)

This is in line with the National Guideline on Property & Exhibits, whereby seized items can be retained while they are required for investigation of an offence.

If the case has been finalised for other reasons, including when Court processes have been completed, the items can be disposed of as appropriate.

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.

Restorative Justice

In all cases where charges are considered, Police should have regard to the [ACTP Policy Statement – Decision to charge a person in the ACT](#).

Members should give consideration to whether any alleged offender, including any young person, is eligible for a Restorative Justice (RJ) referral. Additional information on RJ, specifically eligibility, and the process for completing a referral is located within the Restorative Justice Standard Operating Procedure.

Participation in RJ is voluntary – victims and offenders have the right not to participate and may withdraw their consent at any stage of the process. In doing so, they should be made aware that the offence will be cleared by other means, at the case officer's discretion.

ACTP has the discretion to refer any offender for a less serious offence involving a victim (who has suffered harm) to RJ either as a diversion (diversionary conference) or together with court proceedings.

Eligible offences	Criteria as defined in the Crimes (Restorative Justice) Act 2004 (ACT) The Act applies to both less-serious and serious offences committed by an adult/young persons and must involve a victim. All Commonwealth offences are currently not eligible. Eligible sexual offences and punishments are defined as: Less serious sexual offence – means an offence under the Crimes Act 1900 (ACT), that is punishable by a term of imprisonment of 10 years or less. Exceptional circumstances must also exist. Serious sexual offence* – a term of imprisonment of more than 10 years. * These offences are only eligible for referral to RJ by the ACT Courts.
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Exceptional circumstances	– the offence is deemed less serious as defined above; – the offence had a low subjective impact (as disclosed by the victim away from the influence of the offender) combined with an absence of premeditation; and – the offence is not a pattern of coercion and controlling behaviours and/or a lack of history of sexual offending, family violence or violence related offences may be considered to constitute 'exceptional circumstances'
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Other contacts Children and Youth Protection Services

(02)		South
(02)	s 47E(d)	North
(02)		Intake

Request for historical reports/information should be sent to s 47E(d) @act.gov.au.

Further advice

Queries about the content of this document should be referred to Superintendent Criminal Investigations or the Crime Manager – Sexual Offences & Child Abuse.

Resources

Legislation

- [Children and Young People Act 2008](#) (ACT)
- [Crimes Act 1900](#) (ACT)
- [Victims of Crime Act 1994](#) (ACT)

ACT Governance

- [Standard Operating Procedure for Police attendance at deaths](#)
- [Better Practice Guide on Criminal Investigations response and notification](#)
- [Standard Operating Procedure for Interviewing Vulnerable Witnesses](#)
- [Standard Operating Procedure for Diversionary Conferencing and Restorative Justice](#)
- [Better Practice Guide on Victim's Rights \(ACT\)](#)

ACT forms

- [Emergency Action \(Child & Y P Act 2008\)](#)
- SACAT – Referral for Counselling s 47E(d)
- SACAT – Referral for Medical Examination s 47E(d)

Shortened form

Shortened form	Full form
ACT	Australian Capital Territory
ACTP	ACT Policing
AFP	Australian Federal Police
	s 47E(d)
CI	Criminal Investigations
DFVIU	Domestic and Family Violence Investigations Unit
	s 47E(d)
FME	Forensic Medical Examination
MC	Management Committee
MEK	Medical Examination Kit
RJ	Restorative Justice
SACAT	Sexual Assault and Child Abuse Team
SOCA	Sexual Offences and Child Abuse

Definitions

Term	Definition
Act of indecency	Act of indecency in the first, second and third degree, along with act of indecency with young person and with your person in special care are all defined in Part 3 of the Crimes Act 1900 (ACT). Act of indecency without consent, contrary to section 60 of the Crimes Act 1900 (ACT), is defined as follows: A person who commits an act of indecency on, or in the presence of, another person without the consent of that person and who is reckless as to whether that other person consents to the committing of the act of indecency.
Chief Executive	Means the Chief Executive of the Office of Children, Youth and Family Support.
Child	Means a person who is under 12 years of age.
Child abuse	Means the non-accidental physical injury, neglect, emotional abuse, including psychological harm or sexual exploitation of children and young people.
Disclosure statements	Means a statement from the first person the victim told about the alleged assault.
Historical sexual assault	Means sexual assaults that occurred more than six months ago.

Indecent exposure	As defined in the Crimes Act 1900 (ACT) as follows: A person who offends against decency by the exposure of his or her person in a public place, or in any place within the view of a person who is in a public place, commits an offence.
Medical assessment	Means the 1 hour full paediatric evaluation of a child's health status which may include physical and forensic examinations.
Penetration	Is defined in Part 3 of the Crimes Act 1900 (ACT).
Young person	A person who is 12 years of age or older, but, for the purpose of the: – Crimes Act 1900 (ACT), is not yet 16 years of age – Children and Young People Act 2008 (ACT), is not yet 18 years of age.

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FREEDOM OF INFORMATION ACT 1982



Functional Governance Better Practice Guide

Child abuse and sexual offence investigations

Date of initial endorsement:	3 May 2017
Date of last review:	24 January 2019
Endorsed by:	Chief Police Officer - Crime
Owner:	Chief Police Officer - Crime
Contact:	Superintendent – Criminal Investigations
Identifier:	DCPOC034
IPS Status	Pending

Disclosure and classification

This document is classified For Official Use Only and is intended for internal AFP use. Disclosing any content must comply with Commonwealth law and the AFP National Guideline on information management.

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the [Australian Federal Police Act 1979 \(Cth\)](#).

This document is a functional governance instrument as defined under s.4 of the [AFP Commissioner's Order on Governance \(CO1\)](#).

Definitions

AFP	Australian Federal Police
s 47E(d)	
CI	Criminal Investigations
s 47E(d)	
FME	Forensic Medical Examination
SACAT	Sexual Assault and Child Abuse Team
Act of indecency	Is defined in Part 3 of the Crimes Act 1900 (ACT) .
Child abuse	Means the non-accidental physical injury, neglect, emotional abuse, including psychological harm or sexual exploitation of children and young people.
Child	Means a person who is under 12 years of age.
Chief Executive	Means the Chief Executive of the Office of Children, Youth and Family Support.
Concerns interview	Means an interview conducted where there is no clear allegation and the victim is interviewed to see what, if anything, is disclosed.
Disclosure statements	Means a statement from the first person the victim told about the alleged assault
Historical sexual assault	Means sexual assaults where enough time has passed to inhibit the collection of forensic evidence from the victim.
Medical assessment	Means the 1 hour full paediatric evaluation of a child's health status which may include physical and forensic examinations.
Penetration	Is defined in Part 3 of the Crimes Act 1900 (ACT) .
Young person	A person who is 12 years of age or older, but, for the purpose of the: Crimes Act 1900 (ACT), is not yet 16 years of age Children and Young People Act 2008 (ACT), is not yet 18 years of age.

Guideline Authority

This guideline was issued by the Chief Police Officer for the ACT using power under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under s. 69C of the Act.

Introduction

This practical guide sets out the requirements for:

- responding consistently when dealing with child abuse and sexual offences against children and/or adults
- requesting forensic medical examinations for victims of suspected sexual and/or physical abuse.

Policy

The primary objectives of the investigation of sexual offences are to:

- lawfully gather evidence
- identify and charge offenders
- achieve a successful prosecution.

However, the needs and welfare of the victim should be taken into consideration. The AFP abides by the governing principles stated in s. 4 of the [Victims of Crime Act 1994](#) (ACT) in relation to the treatment of victims. Accordingly, a whole of government approach is undertaken which utilises internal and external stakeholders.

SACAT investigations

The Sexual Assault and Child Abuse Teams (SACAT) are primarily responsible for investigating:

- all sexual assaults involving penetration (by any means) or cunnilingus, committed in a manner which suggests the incident is a single event
- sexual assaults committed in circumstances which suggest a serial offender
- child abuse, sexual or serious physical offences committed on a child or young person
- all sexual offences committed on a child or young person that relate to incest or paedophilia
- historical sexual offences that require the commitment of resources for a lengthy period
- offences relating to internet crime, in particular child pornography and grooming offences.

Either SACAT or other nominated Criminal Investigations (CI) members will lead investigations relating to the above offences, including coordinating all medical assessments, forensic examinations and victim/witness statements.

SACAT team leaders or the CI Reception Officer will determine whether:

- SACAT investigates the matter independently
- assistance is required from other CI resources
- the matter is investigated by a joint SACAT/patrol team or SACAT/CI response team
- the matter is referred to the respective patrol for investigation.

Other investigations

The responsibility for investigating all other offences which include acts of indecency and assault lies with the following:

Patrol level

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s 47E(d)

Crime Team level

- indecent exposure in circumstances suggesting a serial offender with intent to commit further acts (i.e. attempt penetration)
- acts of indecency where there has been touching under the clothing of a person under 12 years of age or where circumstances suggest intent to commit further acts
- assault occasioning grievous bodily harm of a person over 12 years of age

In the case of the death of a child refer to the [Standard Operating Procedure for Police attendance at deaths](#).

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)). Reporting is done via [Supportlink](#).

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
- after hours, the Criminal Investigations Reception Officer and
- the Office of Child and Youth Protection Services via mandatory reporting requirements.

Serious and urgent matters should be reported in the first instance using the mandatory reporting line 1300 556 728 (24 hours).

Other cases should be reported via [Supportlink](#).

Any updates including the progress or outcome of an investigation should be emailed to

s 47E(d)

@act.gov.au.

Other contacts Children and Youth Protection Services

(02)		South
(02)	s 47E(d)	North
(02)		Intake

Request for historical reports/ information should be sent to s 47E(d) act.gov.au.

Emergency Action

Members should seek advice from the Office of Children, Youth and Family Services prior to taking emergency action. Contact numbers are available from Police Operations.

Members must use the 'Emergency Action (Child & Y P Act 2008)' form (AFP Forms) to record the action taken.

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

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.

Receipt of complaint

A member who receives an initial complaint of sexual assault/child abuse must obtain and record the following information:

- personal details of the complainant and victim, including:
 - name
 - date of birth
 - address
 - contact telephone numbers

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-
-

s 47E(d)

Where practicable, the member should:

- provide any necessary instructions to assist in preserving evidence
- explain what police require the complainant to do.

Historical sexual assault

These reports may not require the attendance of a patrol. The member must take sufficient details of the complaint including:

- contact details

- when the alleged incident(s) occurred
- brief circumstances of the incident(s) to determine the nature of the offences being reported.

When investigating a matter referred to police via the Office of Child and Youth Protection Services 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).

First response

First response to child abuse and sexual assault matters should normally be the responsibility of patrol teams. However, Criminal Investigations (CI) teams may be required to perform this role, for example, in response to referrals from client agencies.

Members should contact the on-call CI Reception Officer for authorisation to call out Sexual Assault and Child Abuse Team members, if required.

s 47E(d)

Procedures for first response members can be found in the 'Aide Memoire on Child Abuse and Sexual Offence First Response Procedures (ACT Policing)' located in the AFP Investigator's Toolkit ('ACT specifics' section).

For more information refer to the [Better Practice Guide on Criminal Investigations response and notification](#).

Interviews and assessments

During business hours, members should organise interviews and medical assessments through the

s 47E(d)

s 47E(d)

Forensic medical examinations

Before the victim has any contact with a hospital, doctor, or member of

s 47E(d)

s 47E(d)

or

s 47E(d)

members must either:

- obtain the consent of the parent or guardian
- 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 Sexual Assault and Child Abuse Team (SACAT) team leader or the Criminal Investigations Reception Officer, medical examinations must be organised and coordinated by a member of SACAT.

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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) or the s 47E(d)

Medical attention not required

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

- during business hours (8am–4pm Monday to Friday), at s 47E(d) s 47E(d)
- outside business hours, at:
 - the hospital at which the victim has presented, if applicable
 - Winchester Police Centre, if the victim did not present at a hospital.

Under 15 years

Where urgent medical attention is required, members should ensure the s 47E(d) doctor or on-duty worker is advised the child is being brought to hospital.

s 47E(d)

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

s 47E(d)

To refer children for medical examinations, members should

1. Make initial referral by phoning (02) s 47E(d)
2. Arrange for representatives from the Office of Children, Youth and Family Services and/or police to accompany the child to the s 47E(d)
3. Complete a written referral using the following AFP Forms:
 - SACAT – Referral for Counselling s 47E(d)
 - SACAT – Referral for Medical Examination s 47E(d)

15 years and over

SACAT/ACT Policing team members must refer people 15 years of age and above to s 47E(d) for examination as follows:

- during business hours: the s 47E(d) Nurse Coordinator or Medical Coordinator on (02) s 47E(d)
- after hours: the on-call s 47E(d) doctor.

Further Advice

Queries about the content of this document should be referred to Superintendent Criminal Investigations.

Resources

Legislation

- [Children and Young People Act 2008](#) (ACT)
- [Crimes Act 1900](#) (ACT)
- [Victims of Crime Act 1994](#) (ACT)

ACT Governance

- [Standard Operating Procedure for Police attendance at deaths](#)
- [Better Practice Guide on Criminal Investigations response and notification](#)

ACT forms

- [Emergency Action \(Child & Y P Act 2008\)](#)
- SACAT – Referral for Counselling [REDACTED] s 47E(d)
- SACAT – Referral for Medical Examination [REDACTED] s 47E(d)

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