

Policy and guidelines for the investigation of child sexual abuse and serious physical abuse (1995/12)

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Background

The policy and guidelines have been designed and developed with the New Zealand Children and Young Persons Services (NZCYPS) and are the basis of a joint approach in practice and procedure for investigating child abuse.

NZCYPS is a business unit of the Department of Social Welfare.

Throughout this document the word 'parent' is used to describe the role of current full-time caregiver to a child. It may include step-parent; aunt; uncle; grandparent; current live-in partner etc.

The word 'child' is used for child or young person, under the age of 17 years.

1 Guiding principles

When carrying out responsibilities in the area of child abuse, police officers are to be guided by the following principles.

1.1 The physical and sexual abuse of a child is a criminal act which should be investigated and may be prosecuted as such.

1.2 Appropriate intervention provides the ultimate key to ending the destructive consequences of child abuse.

1.3 Inter-agency coordination of reports of physical and sexual abuse is essential. NZCYPS should be notified where allegations of child abuse are made to police, and police should be notified where any disclosure of child abuse is made to NZCYPS.

1.4 An inter-agency approach to the investigation and management of child abuse cases will enhance protection of the child, accountability of any offender, and partial or full reintegration of the child into the family.

1.5 Collaborative planning and action is necessary because child abuse investigations may involve all the following systems: child protection, Family Court, Youth Court, and criminal justice system.

1.6 Child abuse investigations should be undertaken only by specially trained, experienced and selected staff.

1.7 Effective steps to end such abuse require recognition of, and sensitivity to, cultural differences especially in the choice of personnel and procedures.

1.8 Specialisation ensures an appropriate and sensitive response to the investigation of reported abuse. It also ensures effective management and cooperation between staff trained in the detection and investigation and the reporting of child abuse.

1.9 Wherever possible, the selection of personnel and procedures must be coordinated to recognise and be sensitive to the cultural diversity of the community, complainants and their families.

2 The police commitment

2.1 District Commanders shall ensure that all districts establish child abuse teams (CAT).

2.2 An experienced investigator will be appointed officer in charge: child abuse team. The O/C will be responsible for ensuring these guidelines are implemented and for liaison with the NZCYPS and other support services.

2.3 The investigation of child abuse offences shall be given a high priority. Every effort is to be made to prevent staff who investigate such crimes from being involved in other types of criminal investigation.

2.4 The primary function of the police is the investigation of offences as outlined in paragraph 2.3 above and, where appropriate, the prosecution of the offender. The primary function of NZCYPS-Serious Abuse Team (SAT) is the investigation and assessment of whether the child(ren) is in need of care and protection.

2.5 When a report of child abuse is received, the O/C: CAT is responsible for ensuring that the case is promptly reported to the NZCYPS so that the consultation regarding appropriate investigation occurs.

2.6 Each investigation will be conducted by a selected police officer and social worker who will form the basis for the investigation team, in accordance with paragraph 2.4 above. It is important the team personnel do not change during the course of an investigation.

2.7 Fundamental to the operation of the team is a commitment to consultation and joint action in accordance with local child protection protocols.

2.8 Reports of abuse made by children must be investigated.

2.9 Should a child recant, a full investigation shall continue to be made.

2.10 Those who seriously abuse children are required to be accountable for their actions. Experience indicates court ordered intervention offers the best assurance the abuse will stop.

2.11 If, in order to protect the child from further abuse, the choice is whether the alleged offender or the child must leave the home, the alleged offender should be removed, wherever possible.

2.12 The investigation team should involve and have regard to the views of the other member(s) of the child's family in relation to the protection of the child, provided these are in the child's best interest.

2.13 At the conclusion of the investigation the NZCYPS may call a family meeting, or family group conference, which may require police input.

3 Organisational structure

3.1 The District Commander shall ensure sufficient and suitable police officers are selected as members of the CAT team and that these staff are tasked to investigate reports of child abuse as detailed in paragraph 2.3. Staff may be drawn from any branch.

3.2 The O/C: CIB shall appoint the O/C: CAT. The O/C: CAT should have child abuse experience, knowledge and training, an understanding of the role of police and other specialist agencies, and the ability to liaise and build professional working relationships.

3.3 The O/C: CIB, in conjunction with the O/C: CAT shall select the CAT members and ensure they attend the child abuse introductory training course before commencing on the team.

3.4 The Criminal Investigation Branch shall, in general terms, be responsible for the investigation of abuse.

3.5 Social workers from NZCYPS will be the principal partners in child abuse investigations. In some districts it may be appropriate to include a third agency, group, or person as a partner in child abuse investigations.

3.6 In these districts the police District Commander and the area manager NZCYPS, together with the O/C: CAT and NZCYPS should reach an agreement with the third agency regarding the respective roles of the team members.

3.7 In situations where neither the social workers nor the police are of the same culture as the child, the team should consult with a suitable person, so that:

a appropriate language, procedures and persons in authority are identified before any approach to family members is made.

b where the first or preferred language of the child is other than English, or the child is unable to hear or speak but is able to communicate by sign language, a suitable qualified interpreter may also be present.

3.8 In general terms, agency responsibility for the investigation team tasks are as follows:

a protection of the child including taking court action under the Children Young Persons and Their Families Act 1989 (NZCYPS);

b investigation of criminal offences and the prosecution of the offender (police);

c crisis support, counselling and the initiation of therapy for the child, immediate family and other family members, excluding any alleged offending family member(s). (NZCYPS and/or an appropriate counselling agency selected following investigation team consultation);

d Management of the interaction between the child and the alleged offender (investigation team).

4 Selection of personnel for child abuse team (CAT)

4.1 Police personnel should be selected in regard to the following attributes and skills:

a sensitivity and interest in the area of child abuse investigations;

b investigative skills or potential investigative skills;

c communication and interview skills in sensitive situations;

d knowledge and understanding of NZCYPS and specialist agencies' roles and responsibilities and have potential to liaise and build professional working relationships with others.

4.2 It is important to realise not all police officers will be suitable for child abuse investigations or may not wish to be involved in such inquiries permanently.

4.3 As far as practicable, personnel selected should reflect the ethnic/cultural composition of the communities in which they work.

4.4 Members of CAT should not be members of the youth aid section.

4.5 Local circumstances will determine policies of staff allocation and should ensure appropriate resources are available to staff, eg, supervision, stress management.

5 Training

5.1 Specialised training of police personnel tasked to CAT is an essential prerequisite for the successful implementation of these guidelines.

5.2 All personnel selected should receive specialist training prior to undertaking child abuse investigations and receive regular on-going training.

5.3 The training and development section at the Royal New Zealand Police College has developed training courses for implementation at the RNZPC addressing:

- a** an introduction to child abuse investigations (1 week);
- b** interviewing of children, jointly with NZCYPS staff (2 weeks);
- c** advanced training for experienced members (2 weeks).

5.4 In districts the O/C: CAT will identify personnel training needs and shall be responsible for ensuring the training of CAT personnel in the district. The O/C: CAT, in consultation with the NZCYPS in that district, will facilitate joint training opportunities. District training sections must provide resources, commitment and time to ensure the training needs of CAT are achieved.

6 Support of staff

6.1 District Commanders should be aware that the potential effects of child abuse investigations are emotionally demanding on police staff.

6.2 District Commanders are to ensure CAT members receive support and undertake external clinical supervision on a regular basis.

7 Tenure

7.1 Continuity of case investigations is a necessity, however it must be kept in mind that there is a need to rotate junior staff.

7.2 The O/C: CIB has discretion to rotate members after three years' continuous service.

8 Procedures investigation management

8.1 Receipt and evaluation of complaints & 1.1 When a report of suspected child abuse is received by the police it should be referred as soon as practicable to the CAT. In-depth questioning of the child by police must be avoided at this point.

8.1.2 Where CAT personnel are not available or are unable to deal with a complaint and it is necessary that investigation or intervention proceed as a matter of urgency, then the most suitable police personnel should be tasked.

8.1.3 Except in exceptional circumstances, consultation with O/C: CAT and/or NZCYPS should take place before any action is taken.

8.1.4 The selected police officer and selected social worker(s) will be identified as the investigation team for that particular case. The same staff should follow through the whole investigation where possible.

8.1.5 The investigation team is responsible for planning the investigation. Before commencing

the investigation, all police and NZCYPS records of the child, the family, and the alleged offender should be checked.

8.1.6 Consultation shall take place early with those who can offer expertise or knowledge appropriate to the investigation, particularly with the care and protection resource panel and those who have cultural knowledge or workers involved in primary health care.

8.1.7 Where persons, other than the victim, report the abuse, these persons should be interviewed prior to proceeding further.

8.1.8 Members of the investigation team will determine who will conduct the necessary child interviews. In each case, the person most skilled at interviewing children should be the interviewer. A specialist child interviewer should be used when available. The alleged offender will always be interviewed by police.

8.1.9 When a child reports an incident of abuse, the investigation should always proceed on the assumption that it warrants a full investigation.

8.1.10 Reports of child abuse should always be given priority. Steps must be taken to begin consultation and, unless unusual circumstances exist, the investigation should commence immediately.

8.1.11 When a decision is made to begin an investigation a number of factors need to be weighed. As with any investigation there are distinct advantages in carefully planning the enquiry. The timing, location and order of interviews are crucial.

8.2 The child - initial contact.

8.2.1 In situations where there is good reason to believe the non-offending parent(s) will be supportive of the victim and would not alert the alleged offender, the non-offending parent(s) should be immediately advised and be involved in the investigation.

8.2.2 Where the child is at school at the time that the investigation team wishes to see the child, the principal's permission must be sought. In a situation where the principal indicates an unwillingness to give permission and it is not appropriate to seek parental permission, the following suggestions could be made:

- a** that a suitable staff member is present while the child is spoken to;
- b** that the investigation team undertakes to advise the parents of the investigation as soon as possible and in any event prior to the time when the child would normally arrive home.

8.2.3 Where abuse of a child is suspected but there is difficulty in gaining access in order to speak to the child and it is inappropriate to seek parental permission, consideration should be given to alerting other appropriate persons who have an understanding of child abuse. Members of the extended family or other agencies may be able to assist the child directly and ensure the child is seen at the earliest opportunity.

8.2.4 A social worker or police officer cannot uplift a child from a school or any other place without permission. Where there is sufficient concern for a child and gaining permission to interview from the appropriate person(s) might jeopardise the investigation by alerting the alleged offender, it may be necessary to seek a place of safety warrant (Children, Young Persons and Their Families Act 1989, Section 39).

8.3 Proceeding to the interview

8.3.1 Where the investigation team determines from initial questioning of a child that an

evidential interview is advisable, the child shall be referred to a specialist interviewer from police or NZCYPS for the purposes of that interview.

8.3.2 Specialist interviewers, and video interviewing facilities, are available in all major centres. Some provincial areas may 'share' video interviewing specialists and facilities.

8.3.3 Specialist interviewers are used because they are trained in:

a the use of and compliance with, the Evidence (Videotaping of Child Complainants) Regulations 1990 which outline the necessary legal procedures. Specialist interviewers are also skilled in:

- a** interviewing children in particular to relating and adapting the interview to the child or young person's needs while meeting the needs of the criminal justice system;
- b** use of simple language;
- c** the use of appropriate questioning and interview tools;
- d** techniques for handling difficult behaviours, eg, aggression, silence, withdrawal, sexualised behaviour;
- e** assessing non-verbal communication and emotional states;
- f** assessing the child or young person's cognitive competence and development level;
- g** liaison and communication.

8.3.4 Where specialist interviewers or facilities are not available to conduct an evidential interview, a police officer is to consult with the O/C district CAT team, or a suitable commissioned officer of police to determine the best course of action in the circumstances.

8.4 The interview

8.4.1 The child should, preferably, be interviewed alone, without the presence of any person who may have a vested interest. The interview should take place in a non-threatening, emotionally comfortable environment with appropriate play and interview materials available. (See para 10.1 for details).

8.4.2 The interview should be recorded on video (where the equipment is available) or alternatively in writing. Children, of or over the age of 14 and under the age of 17 years, have a choice of video interview or written statement. (See para 10.5, guidelines for use of video tapes).

8.4.3 Where video interviewing equipment is not available or the child does not consent to such means of interview, the child's disclosure shall be recorded in written statement form.

8.4.4 Interviewing must not commence without consent, where practicable. The consent of a parent or guardian is to be completed prior to interviewing. Where it is not given authority to interview should, if possible, be sought from the court. However, where the circumstances of the case are such that the endeavouring to obtain the consent would defeat the purpose of the interview or would pose a threat to the safety of the child, the interview may commence.

8.4.5 The number of interviews with any child victim should be kept to an absolute minimum. Skilled interviewing, utilising a team approach and videotaped recording, should mean only one detailed interview with the child will be necessary. In some instances however, it may be necessary to establish a trusting relationship with the child, over several interviews, before the child is able to divulge detailed information. These interviews should be videotaped where possible.

8.4.6 The interview will be monitored by the non-interviewing investigation team member. Wherever possible the police shall monitor evidential interviews carried out at NZCYPS.

8.4.7 Monitors located outside the room shall be responsible for:

- ensuring the electronic equipment is functioning;
- maintaining a written summary of the interview;
- advising the interviewer of appropriate lines of questioning.

8.5 Medical examination

8.5.1 Where a medical examination of a child is considered necessary, the child should be referred to a specialist medical practitioner for that examination.

a The doctor shall be consulted as to the time and type of examination required, based on the information received from the child.

b Where, as part of the investigation, there is a police referral for a medical assessment, the doctor's fee is a police responsibility.

8.5.2 Doctors who are members of Doctors for Sexual Abuse Care are the preferred specialists. Where they are not available doctors endorsed by CAT should be used. Unnecessary trauma may be caused by the need to re-examine a child who has previously been examined by a doctor who does not have specialised knowledge.

8.5.3 The parent, who is not the suspect, or other competent adult with whom the child is familiar, should accompany the child to the examination unless in the circumstances this is inappropriate.

8.5.4 Except for urgent medical or forensic reasons, the examination should be arranged at a time and place that is least stressful to the child.

8.5.5 The doctor is to complete a medical certificate for Accident Compensation claim purposes. The social worker is to advise parent(s) of their right to claim for ACC.

8.5.6 The doctor is to report their findings of the medical examination to the police.

8.6 Protection of the child.

8.6.1 After the interview of **the child** the investigating police officer and social worker, in consultation with any others involved in the investigation, should consider whether there is a need to provide immediate protection for the abused child and other at risk children.

8.6.2 After the interview of **the alleged offender** the investigating police officer and social worker, in consultation with others involved in the investigation, should consider whether there is a need to provide immediate protection for the abused child and other at risk children.

8.6.3 If, in order to protect the child from further abuse the choice is whether the alleged offender or the child must leave the home, the alleged offender should be removed, whenever possible.

8.6.4 Where it is undesirable for an alleged offender to return to the home, the imposition of appropriate court bail and custody conditions, including a restraining order under the provisions of the Children, Young Persons and Their Families Act 1989, must be requested.

8.6.5 In some circumstances a temporary, short-term removal of the child from the home may be necessary to protect the child. NZCYPS are to take responsibility for any such action.

8.6.6 Family/whanau should be consulted on the placement of the child.

8.6.7 Social workers must keep police fully informed of all decisions made on the child's immediate placement.

8.6.8 On-going co-ordination and liaison should be maintained. The investigating team members should ensure that the child, the non-offending parent(s) and other interested parties are kept informed of all developments.

8.7 Siblings

8.7.1 Siblings living in the same household, and other likely victims, must be interviewed separately.

8.7.2 The purpose of the se interviews is to ascertain whether they have also been abused and to obtain corroborative evidence.

8.8 The non-offending parent(s)

8.8.1 Where the offending was allegedly committed by a parent the non-offending parent should be interviewed either immediately following the child's interview or at the same time.

8.8.2 The purpose of the interview is to gather information, assess the parent's ability and willingness to protect the child, and to offer immediate support and information.

8.8.3 The support and encouragement offered to that parent at that time is vital to the child's safety and overall wellbeing.

8.9 The offender

8.9.1 The interview and any prosecution of the alleged offender is a police responsibility. NZCYPS staff should not be initiating contact with an alleged offender.

9 Legal action

9.1 Criminal charges

9.1.1 It is the responsibility of the police to decide if the evidence available is sufficient for a criminal prosecution and what charges should be preferred. Such decisions may involve consultation within the CAT and with the Crown Solicitor.

9.1.2 Charges should be laid indictable in cases where it is intended to use the videotaped interview of the child for the examination-in-chief.

9.1.3 Investigators should seek corroborative evidence wherever possible.

9.1.4 The use of an appropriately qualified psychiatric or psychological specialist (Evidence Act 1908, Section 23G(1)) shall be considered during an investigation.

9.1.5 Such specialists can produce evidence complementary to the prosecution process as outlined in Evidence Act 1908, Section 23G(2) a - c.

9.1.6 Once criminal charges have been initiated, the investigating team may be required to assist the management of criminal proceedings in two additional significant areas:

- a** victim impact report pursuant to the Victims Offences Act 1987, the investigating team shall arrange for the provision of a victim impact report from the appropriate person or agency;
- b** support of the child witness - all investigations will be carried out in a manner in which will

minimise the effect of the court process upon the child. The child and family must be supported through any trial proceedings.

9.1.7 The provisions of the Evidence Act 1908, Section 23E, which relates to "Modes in which the complainant's evidence may be given", shall be considered when deciding the least stressful method of introducing the child's evidence.

9.1.8 The child should meet the Crown Prosecutor prior to the trial, be shown the courtroom and may be given the booklet *Being a witness - going to court*.

9.2 Child protection action.

9.2.1 Where any court action in terms of the Children and Young Persons and Their Families Act 1989 is needed, the social worker will be responsible for initiating proceedings.

9.3 Family meeting.

9.3.1 Where practicable after the conclusion course of an investigation, or if deemed appropriate, during the course of an investigation, the social worker is to arrange a family/whanau meeting. The purpose of the meeting is to:

- a share information concerning the investigation;
- b ensure the child is safe from further abuse;
- c make arrangements for support and counselling of family as requested. It is not usual for police to attend, but they may do so on specific occasions.

10 Facilities and equipment

10.1 Interviewing facilities

10.1.1 The police district commander and the NZCYPS area manager will ensure there is an appropriate venue for the interviewing of children or young persons.

10.1.2 The venue is to incorporate facilities to electronically record the interview of the child.

10.1.3 The venue is to incorporate a range of items appropriate for interviewing children. These will include:

- a paper;
- b coloured felt tipped pens;
- c body diagrams;
- d counting equipment, eg, beakers;
- e any other appropriate tools the interviewers require.

10.2 Medical facilities

10.2.1 The police district commander and the NZCYPS area manager, or their nominees should jointly negotiate with the specialist medical practitioners who will undertake the medical examinations of victims, to ensure that such examinations are conducted in surroundings that are comfortable and do not threaten the child. The facility should be adequately equipped and available 24 hours a day.

10.2.2 Where no other facility exists, medical examinations may be conducted at police stations.

10.3 Video and audio equipment

10.3.1 The police district commander and the NZCYPS area manager will ensure that suitable video equipment is available for the purpose of recording the victim's interview.

10.3.2 A minimum requirement is that the video recording equipment operates in VHS hi-fi stereo that is compatible with video equipment used by police and the Justice Department.

10.3.3 Videotapes are supplied from the police national store. The purchase of supplies is police district expense.

10.4 Transcription of videotapes for criminal hearings.

10.4.1 Videotapes shall not be transcribed as a matter of course.

10.4.2 Videotapes shall be transcribed when:

- a** the video taped interview forms the basis of a prosecution;
- b** when directed by a judge;
- c** in accordance with The Evidence (Videotaping of Child Complaints) Regulations 1990.

10.4.3 Where videotapes are not transcribed, the notes taken by the monitor or a synopsis of the interview shall form the basis of the complaint.

10.4.4 Transcription of videotapes is a police responsibility.

10.4.5 Transportation of videotapes between police districts shall be by police personnel or by courier.

10.4.6 Storage of videotapes shall comply with the regulations.

10.5 Guidelines for the use of videotapes

10.5.1 Video recording of the child's interview shall be used in accordance with The Evidence (Videotaping of Child Complaints) Regulations 1990, in particular regulation 10.

10.5.2 Before being interviewed, the child should be shown the video equipment so he/she is aware the interview will be recorded.

10.5.3 Recordings of the interview are to be treated as confidential documents and subject to regulations and police rules and practices relating to documented interviews. They are to be kept by the police. They are to be viewed only by the persons involved in the investigation and those in proper supervision and command, as outlined in the regulations.

11 Statistics

11.1 To ensure police are well placed to deal with the volume and the seriousness of these complex crimes it is imperative to have accurate and up to date quality information to determine trends and develop systems to enhance investigation practices and procedures.

11.2 Police officers are to be guided by the following principles:

- a** When a report of child sexual abuse or serious physical abuse is received by any member of police an offence report shall be issued in every case with the correct child abuse offence code entered.
- b** In every case where child sexual or serious physical abuse is reported, immediate notification shall be sent to modus operandi section at Office of the Commissioner. The notification is computer generated by way of the preformat screen *SOR (Sexual Offender/Suspect Report).

11.3 The offence report shall be forwarded, as soon as possible, for the attention of the CAT.

12 Crown prosecutions

12.1 District Commanders should, in appropriate cases, employ the Crown Solicitor to represent the police in defended hearings of child abuse.

*Richard Macdonald,
Commissioner*