

RESPONDING TO SEXUAL ASSAULT ALLEGATIONS



SAFER
SCHOOLS
TOGETHER



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Please note that this Responding to Sexual Assault Allegations document was developed to assist trained multi-disciplinary Threat Assessment (TA) teams in responding to sexual assault related incidents involving students in their school communities.

Introduction

This is an interactive document. This document includes internal and external links. All external links will be underlined. This document has a Zoom In feature to make text, pages, or photos larger.

Safer Schools Together is committed to ensuring safe and caring school communities that promote mutual respect and are inclusive and welcoming places for students and staff to work, play, and learn.

Responding to Sexual Assault Allegations is intended to assist trained multi-disciplinary Threat Assessment (TA) teams in responding to sexual interference and sexual assault incidents involving students in their school communities. Sexual intimidation, sextortion, extortion, or sexual assault are identified in the by Safer Schools Together as a category for activation of the TA process.

The overall definition of sexual or indecent assault is an act of physical, psychological and emotional violation in the form of a sexual act inflicted on someone without their consent. It can involve forcing or manipulating someone to witness or participate in any sexual acts.

Every case of sexual interference also constitutes a sexual assault. However, every sexual assault of a person under 16 is not necessarily sexual interference. That is because, in the case of sexual interference, it must be proven that in touching the complainant, you were doing so with a sexual purpose in mind.

*Ensuring the continuity and integrity of the criminal investigation is essential.

TA teams need to pay careful attention to:

- Recognizing that sexual assault is a traumatic experience that can be stored at the cellular level.
- Understanding how traumatic events can affect an individual, group of individuals, an organization or system.
- Responding compassionately and thoughtfully.

This resource includes a flowchart of the steps to follow to guide a multi-disciplinary TA team in their response to incidents of sexual interference and sexual assault involving students.

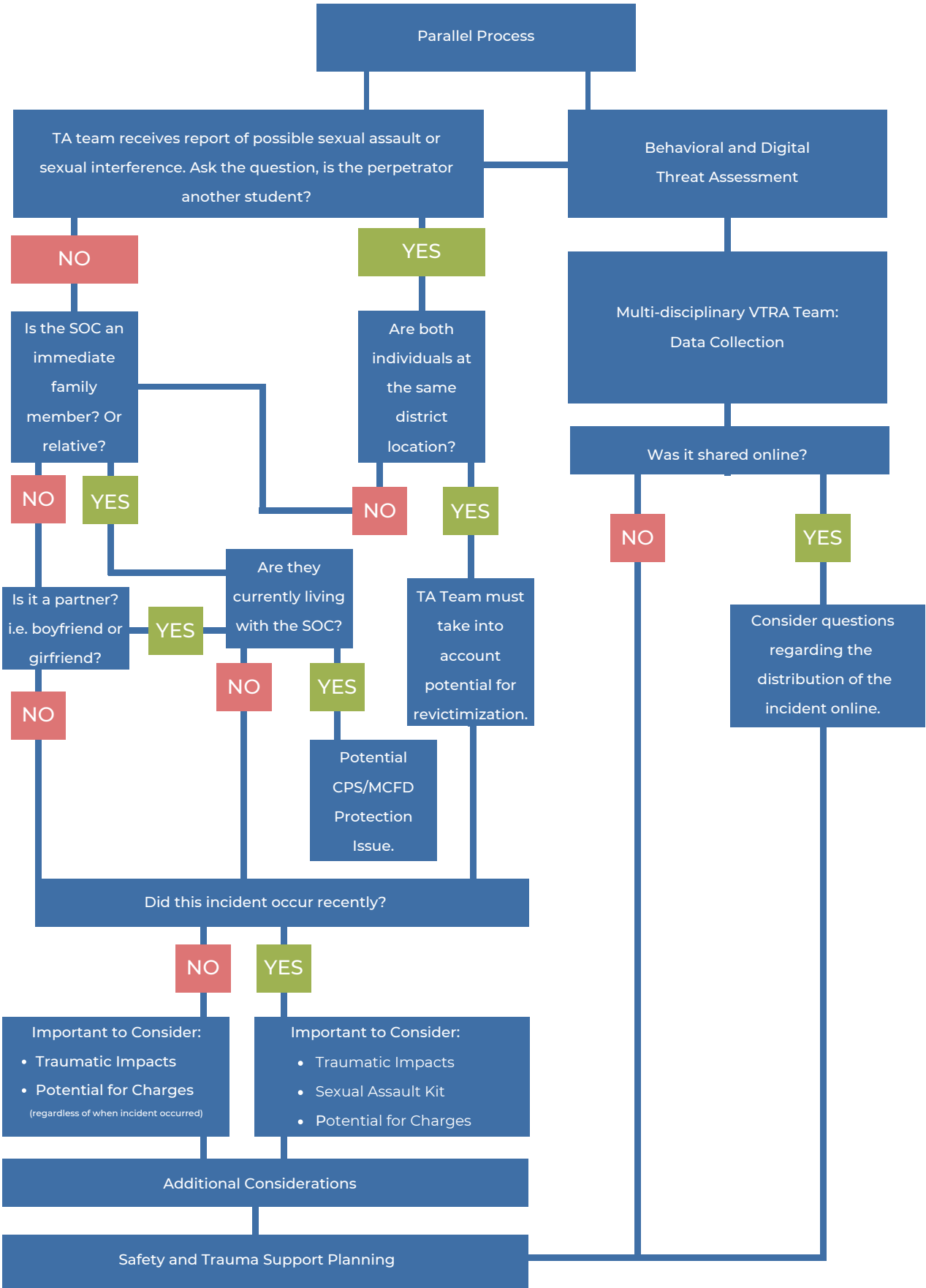
Note: In this document, the perpetrator is referred to as a Subject of Concern (SOC).

To ensure a trauma-informed response, trained multi-disciplinary TA teams must respond to a report of possible sexual interference or assault that co-occurs as a parallel process with a behavioral and digital threat assessment. The TA process helps determine the immediate safety and emotional needs of the victim and concerns regarding the SOC.



Flowchart

This flowchart is a visual representation of the parallel process to follow.



PARALLEL PROCESS

**Communication
and Incident
Management**



**Threat
Assessment**

"The better the facts, the better the assessment, the better the intervention and management plan"

Theresa Campbell

REPORT OF A SEXUAL
ASSAULT

BEHAVIORAL AND DIGITAL
THREAT ASSESSMENT

REPORT OF A SEXUAL ASSAULT OR INTERFERENCE

- Report is brought to the attention of the TA team.
- Activate Step 1 of the TA process (Initial Data Collection and Immediate Risk Reducing Interventions)
- Consider the immediate needs of the alleged victim.
- Determine if the SOC is a student or staff member.
- Address potential incident management and communication issues (i.e. the incident is high profile).

Is the SOC an immediate family member or relative?

If No

- Is the SOC a partner (i.e. boyfriend, girlfriend)?
- Did the incident occur recently?

**Historical sexual assaults do not have an expiry date to report to Law Enforcement.*

Additional Considerations:

- Advise Senior Administration of the matter.
- Create a plan for check-ins with the victim.
- Support the victim (e.g., counseling and/or referral to outside agency support).

**Advise the Indigenous support person if the student is Indigenous.*

Are both the victim and SOC currently at the same location?

If Yes, potential CPS/MCFD protection issue:

- Alleged incident occurred between family members.
- Possible case of domestic violence.
- Advise older students that they can contact law enforcement and community sexual assault programs.
- Contact CPS/MCFD first and delay notifying the family for a student under 12 if there is a risk of further harm.

Is the SOC another student?

Important to Consider:

- Traumatic impacts for the victim.
- If the incident occurred recently, a sexual assault kit needs to be administered within 72 hours.
- The potential for charges and Unescorted Temporary Absence (UTA) conditions to prevent re-victimization.

TA Team must take into account the potential for revictimization:

- Ask whether the incident has been reported to Law Enforcement.
- Are there no-contact conditions?
- Is the school aware if there are no-contact conditions? In Canada, YCJA Section 125(6) allows for the sharing of information.
- Have other timetable arrangements been considered?

Canadian TA teams, please refer to [Appendix A](#) for information pertaining to YCJA SEC. 125(6) and SEC 114-116 or link back to the [flowchart](#).

Safety and Trauma Support Planning:

- Refer to police-based victim services to victims of crime and community-based victim services for support to family and sexual violence victims.
- Develop a Trauma Support Plan for the victim.
- Ensure a Safety Support Plan is developed for the SOC even if it is determined that they will attend a different school.
- Involve the Indigenous support person if the student is Indigenous.
- Assess the level of impact on school climate/culture and the feelings of safety of students, staff and others in the school community due to increased awareness of the incident in the school community - regardless of the outcome of the investigation.
- Depending on the feelings of safety of staff or students may result in the SOC not being able to return to the school.

BEHAVIORAL AND DIGITAL THREAT ASSESSMENT

Multi-disciplinary TA Team

Data Collection:

- Assess the behavioral and digital baseline of the SOC.
- Consider the potential for other victims.
- Determine baselines of the SOC's friends/peers.
- Put appropriate interventions in place.
- Consider the feelings of safety of others impacted by the assault.

**Note: An established behavioral and digital baseline of sexualized behavior should be considered as potentially high-risk.*

Digital Management:

[Check to see if reference to the incident was posted online.](#)

If Yes, consider the following:

- Who created the content?
- Who was with them when it was shared and/or distributed online?
- Whom was it shared with?
- What social media platforms was it distributed on?
- Who is liking, commenting, sharing, distributing the content?
- Remove inappropriate content from online and other media sources.

**Important not to ask, "Was anyone with you?" - instead ask, "Who was with you?"*

- Takedown notice via Social Media Platforms.
- If a video was posted and if the account holder is known, ask them to delete the video after you have obtained a copy (except for intimate images).
- Preservation and Production Orders if there are criminal charges – led by Law Enforcement.
- Digital Millennium Copyright Act (DMCA) – reporting the account hosting the video (i.e. sexual images).
- Please contact Safer Schools Together if you have any questions or require support regarding the removal of online content - intake@saferschoolstogether.com.

Safety Support Planning For Victims

When a victim discloses dating violence, sexual assault, and/or sexual interference, the principal, or their designate, shall work with the victim, alleged perpetrator (Subject of Concern - SOC), their respective parents, and appropriate staff to create an individualized safety support plan. The safety support plan helps to increase student safety. The safety support plan should be developed in collaboration with the victim and their parent/legal guardian. A safety support plan needs to be individualized, as every victim has unique needs and challenges.

Whenever possible, face-to-face contact between the victim and the alleged SOC should be avoided or minimized as much as possible. If changes need to be made, attention should be given to the victim's preferences.

Schedule changes should be minimized whenever possible. However, if changes are needed, consider changes to the SOC's schedule before the victims.

If the SOC is charged and there are no-contact conditions that involve the school or students, the school should be provided with those conditions and determine the school's ability to ensure the environment or supervision required to meet the order's conditions. The school administrator should have been given a copy of the order.

**This document shall not be copied and shared with staff.*

The Safety Support Plan should include the following:

- The schedules of the staff person/s identified as the support system for the victim.

- Routes to and from school and routes to and from classes, class changes, etc.
- Names and contacts of peers who can help support the victim to and from classes as needed.
- A discussion of potential school-related problems/areas of concerns and strategies for increasing feelings of safety – i.e. after school activities, field trips, etc.
- A plan of action for the victim to follow if they encounter the alleged SOC outside of school in a public place, on public transportation, at the victim's home, at the home of a friend, etc.
- A list of general safety tips to assist the victim outside of school: lock doors, screen phone calls, texts, never walk alone, etc.
- A list of local resources: hotlines, community service agencies, and other services.
- Follow-up meeting dates to review the plan and to make any necessary adjustments.
- A list of behaviors that the victim should not engage in (i.e. talking to the SOC, posting information about the event on social media, sending texts to the SOC, peers/friends, etc.).

Additional Considerations

- Hold separate meetings with the victim and the SOC and their respective parents to review any legal implications.
- Clarify expectations.
- Review the school day, classes, lunch (open/closed campus situation) and activities, paying attention to potential conflicts and opportunities for face-to-face contact between the victim and the alleged SOC.
- Identify schedule overlaps (i.e. arrival/dismissal times, classes, lunch, before- and after school activities, lockers, etc.).

Behavioral Expectations Plan for the SOC – Return to School Process

The plan should include:

- A list of behaviors that the alleged SOC may not engage in (i.e. talking to the victim, sitting near the victim, sending texts to the victim, etc.).
- Schedule changes for the alleged SOC (to separate the victim and alleged SOC) including classes, lunch period, arrival and dismissal times, locker location, and extracurricular activities.
- Disciplinary consequences if the alleged SOC violates the agreement.
- Dates during which the agreement is valid; and/or date when the agreement will be reviewed.
- The plan will be developed, if possible, with input from the SOC's parent/legal guardian including names of staff members who are to implement the plan.
- Consider who will notify the staff that need to know about the plan.

Sample Safety Support Plan for the Victim

Determine Whom Will Notify the Teachers - who needs to know what and why.

Procedures for School Arrival (change in time, entrance, transportation, with whom, etc.).

Lockers - is there a gym locker as well? How and when will the student access their locker (i.e. five minutes earlier)?

Lunch - is the cafeteria safe? Can the victim experience retaliation from friends of the SOC? Can the eating schedule be changed? Who will alert lunch supervisors? Do lunch supervisors need to be informed?

School Departure (time, entrance, designated friend, etc.).

Route Changes (include places to avoid/watch for, after-school activities and team schedules, travel to and from school, class, etc.).

Let the Victim Select One Staff Member that they feel comfortable with. This staff person should be available to the student for "check-ins" and support as needed.

Additional Staff to Share the Plan With (administrators, teachers, counselors, school resource officer, noon hour supervisor, bus driver, coaches, etc.).

Support Network of Peers (to accompany the student throughout the day if necessary).

Strategies to Problem Solve - have the victim think through different ways they will react and deal with emergency situations. Where would they go? Whom would they call? Consider strategies to assess dangerousness, threats, etc.

Any Additional Special Conditions? Are there other extracurricular school activities/events which present conflicts? How will they be addressed?

Discuss with Parents/Victim Additional Needs for evenings/ weekends due to employment and/or using public transportation. If using private transport, safe parking arrangements should be considered and/or buddy system used when coming and going to work.

Sexual Assault

271 Everyone who commits a sexual assault is guilty of:

- (a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
- (b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.

Sexual Interference

151 Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of 16 years:

- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
- (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.

Invitation to Sexual Touching

152 Every person who, for a sexual purpose, invites, counsels or incites a person under the age of 16 years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person

who so invites, counsels or incites and the body of the person under the age of 16 years:

- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or
- (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.

Sexual Exploitation

153 (1) Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who:

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

Sexual Age of Consent

- The legal age of consent in Canada is 16 years old.
- Exceptions: Persons under 16 years can have consensual sex with someone close in age.
 - 12-13 year olds (two-year age difference)
 - 14-15 year olds (five-year age difference)

BC School Act - Consequences Based on the Result of a Sexual Abuse to a Student

Report of dismissal, suspension and discipline regarding authorized persons

16 (1) In this section, "authorized person" means a certificate holder or a person holding a letter of permission issued under the Teachers Act, but does not include a superintendent.

(2) If a superintendent of schools suspends an authorized person, the superintendent must without delay send to the commissioner a report regarding the suspension.

(3) If a board

(a) Suspends or dismisses an authorized person, or

(b) Disciplines an authorized person for misconduct that involves

(i) Physical harm to a student or minor,

(ii) Sexual abuse or sexual exploitation of a student or minor, or

(iii) Significant emotional harm to a student or minor,

The board must without delay notify the superintendent of schools of the suspension, dismissal or disciplinary action, and the superintendent must without delay send to commissioner a report regarding the suspension, dismissal or disciplinary action.

(4) A report referred to in subsection (2) or (3) must

(a) be in writing,

(b) be signed by the superintendent of schools, and

(c) include reasons for the action taken by the board or superintendent.

(5) The superintendent of schools must send a copy of a report referred to in subsection (2) or (3) to the authorized person who is suspended, dismissed or disciplined.

(6) If the superintendent of schools considers any conduct by, or the competence of, an authorized person to be in breach of the certification standards, the superintendent must send to the commissioner a report, in writing, regarding that conduct or competence if it is in the public interest to do so.

7)The superintendent of schools must send a copy of the report referred to in subsection (6) to the authorized person whose conduct or competence is the subject of that report.

(8) If an authorized person resigns, the superintendent of schools must

(a) report, without delay, the circumstances of the resignation to the commissioner if it is in the public interest to report the matter, and

(b) send to the authorized person who resigned a copy of the report.

(9)A superintendent of schools who has made a report to the commissioner under this section in respect of an authorized person must, without delay after being requested to do so by the commissioner,

(a) provide the commissioner all of the records available to the superintendent that relate to the matter in respect of which the report was made, and

(b) send to the authorized person a copy of the records referred to in paragraph (a).

(10)A superintendent of schools who fails to report as required under subsection (2), (3) or (8) commits an offence.

Disclosure by Peace Officer During an Investigation

Schools and Others

YCJA 125 (6) The provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to any professional or other person engaged in the supervision or care of a young person — including a representative of any school board or school or any other educational or training institution — any information contained in a record kept under sections 114 to 116 if the disclosure is necessary

(a) to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;

- (b) to ensure the safety of staff, students or other persons; or
- (c) to facilitate the rehabilitation of the young person.

Duty to Report

The Child, Family and Community Service Act (CFCSA) requires that anyone who has reason to believe that a child or youth has been or is likely to be abused or neglected and that the parent is unwilling or unable to protect the child or youth must report the suspected abuse or neglect to a child welfare worker.

Harm Does Not Have to be Proven

In section 13(1)(a) of the CFCSA, if a child is “likely” to be physically harmed, that would then trigger the duty to report under section 14(1). This wording also supports the point made previously: to trigger the duty to report, it is sufficient for someone to have a mere concern that a child might be at risk in the future.

Reporting New Concerns

It may be self-evident, but it is worth noting that, if a counsellor identifies a second, new situation where a child is again in need of protection, then the duty to report would be triggered again and the counsellor should make a second report providing information about the second situation. This would be necessary even if the counsellor knew that someone else had already filed an earlier report. In effect, information about a second situation where a child may be in need of protection simply triggers the duty a second time.

Case Law example of not reporting

In *H. (P.H.) v. Adams*, 41, the Supreme Court of BC was dealing with a case where one young boy had touched another young boy's genitals while they were attending a school program. The mother then sued the school and the teacher. In dismissing the mother's claim, the Court observed that "whether or not the sexual touching of one six-year-old boy by another six-year-old boy in a school could be categorized as 'sexual abuse,' it is not the type of activity contemplated by the child welfare statutes." As such, the Court found that neither the school nor the teachers involved had a legal duty to report such conduct to the authorities.

D.M.C.A.

The Digital Millennium Copyright Act (DMCA) was signed into law by President Clinton on October 28, 1998. The legislation implements two 1996 World Intellectual Property Organization (WIPO) treaties: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. The DMCA also addresses a number of other significant copyright-related issues.

ICDTA

Resources, training, and modules for school staff, threat assessment teams, and law enforcement.

Safer Schools Together

Resources and training for school staff, threat assessment teams, and law enforcement.