Smithers and area

Sexual Assault Protocol

January 2009

TABLE OF CONTENTS

Protocol Participants and Contact Information... 4

Sexual Assault Information.. 5

Statement of Principle.. 6

Statement of Purpose.. 6

Coordinated Policies and Procedures

RCMP 7

BV District Hospital 9

Ministry of Children and Family Development 10

Victim Services 11

Appendix A: Flowcharts & Decision Trees

RCMP..13

BV District Hospital...14

Ministry of Children and Family Development...16

Victim Services...17/18

Appendix B: Legislation and other Guiding Documents

1. Privacy...19
2. Infants Act B.C. (Right to Confidential Health Care)........................20
3. Child, Family & Community Service Act B.C. (Child Protection) ..21/22
4. Criminal Code of Canada Bill C-2 (Age of Consent)..............................23
5. Criminal Code of Canada Bill C-2 (Testimonial Aids)....................24/25

6. Third Party Report..26/27

7. BC Women's Hospital: SAC – Youth: Consent & Confidentiality...28-30

8. BV District Hospital Sexual Assault Guidelines: November 2008...31-36

9. BCASVACP Records Mgmt Guidelines Sec. IX – Child Clients............37

Appendix C:

Community Education (Handout envelope of resources given to sexual assault victims at the hospital)..38

Protocol Signatures..39

Protocol Participants

Smithers RCMP Based Victim Assistance Program

Coordinator – Deb Chatfield
Smithers RCMP
P.O. Box 2020, Smithers, BC V0J 2N0
Phone: 250-847-9374 Fax: 250-847-9383

Specialized Victim Assistance Program

Coordinator – Wanda Watts
Northern Society for Domestic Peace
P.O. Box 3836, Smithers, BC V0J 2N0
Phone: 250-847-9000 ext. 229 Fax: 250-847-8911
www.domesticpeace.ca

Passage Transition House Phone: 250-847-2595

Smithers RCMP

Staff Sergeant – Sheila White
P.O. Box 2020, Smithers, BC V0J 2N0
Phone: 250-847-3233 Fax: 250-847-9383

BV District Hospital

Charge Nurse – Anna Harrison
Dr. Sheila Smith
P.O. Box , Smithers, BC V0J 2N0
Phone: 250-847-2611 Fax: 250-847-6240

Ministry of Children and Family Development

Team Leader – Gretchen Woodman
P.O. Box , Smithers, BC V0J 2N0
Phone: 250-847-7727 Fax: 250-847-7811

After Hours Social Worker:
Helpline for Children: 310-1234

Sexual Assault

Sexual assault is any form of unwanted sexual contact. It can include kissing, touching, grabbing, exploiting, and intercourse. Sexual assaults are acts of violence where sex is a weapon.

Sexual Assault is a crime under the Criminal code of Canada, and there is no Statute of Limitations on reporting it, so it can be reported to RCMP at any time – even many years after the incident. However, the more time that has elapsed between the incident and the reporting, the more difficult it may be to prosecute. Over time people's memories fade, sometimes important witnesses have passed away or have moved and can't be located, sometimes the location of the offender is unknown – many factors can affect the likelihood of being able to investigate thoroughly, receive charge approval, and have a successful outcome at trial.

Women, men and children of all ages, classes, sexual orientations, and ethnic backgrounds are sexually assaulted. Sexual assault victims are not to blame for what happened to them, even if:

- their attacker was an acquaintance, date, friend or spouse;
- they have been sexually intimate with that person or with others before;
- they were drinking or using drugs;
- they froze and did not or could not say 'no' or were unable to fight back;
- they were wearing clothes that others may see as seductive;
- they were alone on the street at night;
- they began making out and then wanted to stop.

Survivors may be concerned about STDs, HIV, pregnancy, and/or physical injuries as a result of the assault. They may also have varying emotional and psychological consequences – some of which may be long-reaching and long-lasting. Every victim of sexual assault will respond in their own unique way. The following range of reactions may occur, even long after the incident:

- Shock
- Disorientation
- Disbelief
- Fear
- Confusion
- Embarrassment
- Shame
- Anger
- Depression
- Powerlessness
- Anxiety and Stress
- Suicidal ideation

Statement of Principle

As a group of practitioners and professionals working with victims of sexual assault, we share the belief that:

1. Victims of sexual assault have the right to access those persons and services which will assist them in maintaining their physical, financial and emotional well-being. Issues of safety and risk will be the highest priority.

2. Victims of sexual assault have the right to confidential, sensitive, and respectful services.

3. Employees of government and community agencies can, through collaboration, minimize the silo effect of our mandates and help to create a more seamless process for victims of sexual assault, as well as a more effective outcome for our agencies.

4. The decisions that we make while working with victims of sexual assault will be thoughtful, and will have taken into account the at-times competing interests of the agencies involved, as well as the victim's unique context. We will seek to find the 'highest' result for both the victims of sexual assault, and the goals of our agencies.

5. Children and youth who have been sexually assaulted may experience a traumatic reaction. They are very vulnerable to re-victimization by the system and should be worked with in a sensitive and supportive manner. For the purposes of the protocol we define a 'child' as up to 13 years old, and a youth as ages 14 to 18.

6. As a unified group we can effect change that will benefit victims of sexual assault and our community as a whole.

Statement of Purpose

- **To develop and maintain effective working relationships among the key players who are involved with sexual assault victims and their files.**

- **To learn more about each other's mandates, procedures, services, and limitations.**

- **To establish initiatives and implement strategies which will enhance the delivery of services, as well as enhance the process and outcome of our agency goals.**

- **To identify gaps and barriers, and purposefully and creatively seek to bridge them.**

- **To share information and provide support for each other.**

- **To provide comprehensive and coordinated services to victims of sexual assault.**

- **To establish 'best practices' in how we work together, and in the agreements that we make**.

RCMP

PROCEDURES FOR RCMP INVESTIGATING SEX ABUSE

The goal of this protocol is to more effectively handle complaints of sexual assault/abuse cases, to produce a better product for the protection of the victim and successful prosecution of the offender.

Child Victims:

1. The police will conduct a prompt, detailed and thorough investigation in every case of alleged child sexual abuse. Case files will be carefully maintained and updated in accordance with current policy. The reasons for not proceeding at any stage will be recorded in detail. This will be reviewed by a supervisor before an investigation can be concluded.

2. Whenever possible, specially trained and/or skilled officers should be designated to investigate all cases of alleged child sexual abuse.

3. Whenever possible, the same police officer who conducted the initial investigation should remain with the case for its duration.

4. The interview with the child should take place at the earliest possible time following disclosure and the number and duration of interviews conducted with the child should be kept to a minimum.

5. Where police are the first to receive a report involving child sexual abuse (all child/youth under the age of 19), they will inform the Ministry of Children and Family Development within the investigating officer's current work shift.

6. Wherever practical, interviews with the child should be conducted jointly with the Ministry of Children and Family Services and should be audio and video taped.

7. The police will share with the social worker information solicited during an interview relevant to the social worker role in ensuring protection of the child. Where action is taken to bring the matter before a judge under the Family and Child Service Act, the police officer may be called to give evidence at this proceeding.

8. Police will refer victim and non-accused family members to Police Based Victim Services.

9. Whenever possible, the police should provide to the victim and non accused family members information regarding
   - (a) case file number, police name and/or number and telephone number;
   - (b) immediate steps that will be taken in relation to the case;
   - (c) what to expect during the investigation and court process;
   - (d) how to obtain further information about the progress of the case;
   - (e) appropriate social services, legal services and medical or therapeutic agencies.

10. Where a criminal offence involving child sexual abuse is believed to have been committed, police should ensure immediate protection of the child and of other children, wherever legal grounds exist for such action, by arresting the alleged offender pending a bail hearing. Where the police exercise their power to release the accused, the Ministry of Children and Family Services should be notified immediately.

11. In every case of child sexual abuse, consideration should be given to a medical examination of the victim.

Adult Victims:

1. Investigations dealing with adult victims will also be investigated promptly. The investigator will determine if a medical examination is required, based on the evidence available or the disclosure made by the victim or victims. When the report comes from the hospital staff, an investigator will be assigned and will promptly liaise with the staff to obtain full particulars of the incident. The investigator will take the appropriate action to ensure a prompt and complete investigation is conducted.

2. The investigating officer will inform the victim of Police-Based victim services and will refer his/her case with permission. If the victim refuses the referral, the attending officer will provide the victim with an information card with contact numbers.

3. In cases where the incident is reported by a third party, i.e., hospital staff, and the victim is not willing to cooperate with the police, this will be completely documented on the file by the investigator. In some cases, the victim may be unsure to what extent they wish to cooperate with the investigation. All available resources should be utilized by the investigator to enlist the victim's cooperation to at least be able to document who the offender is. This will be completed even when charges are not being considered at the present time. This will provide a retrievable record for the police, should the victim later change her/his mind. Of utmost importance for the police is to keep the protection of the public in mind at all times. Should the offender be likely to offend again in the future, the police will have a profile developed to assist in the future. The mandatory completion of the RCMP Viclas booklet will assist in this regard. In all cases where it is suspected the suspect may reoffend, every attempt should be made to have the victim cooperate, to possibly prevent any reoccurrence.

4. Where the victim is willing to cooperate to the extent of allowing physical evidence to be gathered, but not immediately willing to proceed through the court, the investigator will gather and secure the available evidence. This evidence may consist of clothing from the victim or medical evidence gathered by the medical staff. By the police taking custody of this evidence it will be properly preserved for any later court action. The retention period and subsequent analysis of the evidence will be left to the discretion of the investigator, once again keeping in mind the police duty to protect the public. A supervisor will also be consulted in this decision, with documentation on the file. Each case will have to be assessed on an individual basis.

5. Third Party Reporting procedures have been agreed to by Specialized Victim Assistance staff and RCMP. An officer at the Smithers Detachment has been designated by the Non-Commissioned Officer In Charge to receive all TPR reports. Please see Appendix B:6-THIRD PARTY REPORT for details.

BV District Hospital

Sexual Assault Protocol:

1. An Emergency Record is generated:
    a. Coded as **Level 11** if sexual assault occurred within 2-hours
    b. Coded as **Level 111** if sexual assault greater than 2-hours but under 12-hours

2. Patient should wait for the Doctor in a quiet, private area. Please ensure patient feels safe. Patient should not be left alone.

3. A nurse must remain in the room during a Sexual Assault Examination even if there is a Victim Support Person present.

4. On the ER form, document **Sexual Assault Examination** as reason for visit
    a. **CONSENT FOR EXAMINATION MUST BE SIGNED PRIOR TO SEXUAL ASSAULT EXAM (Consent for Treatment Form)**
    b. Do full set of vitals (including height and weight)
    c. Current medications
    d. Allergies
    e. Immunization status
    f. Pertinent medical history
    g. Menarche history
    h. Time and date of incident
    i. Determine if any immediate medical attention is required (i.e. hemorrhage, broken bones, abrasions etc.)
    j. Ask patient **not** to eat, drink, take any medications or void until after exam (if legal evidence is to be obtained internal/external specimens may be required). If pt needs to void obtain specimen in C&S container
    k. Ask patient **not** to remove any clothing, bathe or shower (if legal evidence is to be obtained internal/external specimens may be required)
    l. OTHER POINTS TO CHART
        i. Law enforcement involvement (reported or not reported and why – i.e. – patient preference
        ii. Treatment given
        iii. Medication given
        iv. Any other relevant nursing care (referrals etc)
        v. Name of RCMP officer (if evidence collection involved)
        vi. Patient Information Package given
        vii. Plans for follow up care/treatment
        viii. Specimens stored

Note: the nurse is not to document any details of the assault: that is the role of the Sexual Assault Examiner (@ BVDH this is the examining doctor).

See Appendix B:8 – BV District Hospital Sexual Assault Guidelines – for details on all sexual assault procedures.

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT

Sexual Abuse / Sexual Assault Report

1. When the Ministry (MCFD) receives a report of sexual assault/sexual abuse of a person under the age of 19, it is immediately assessed.

2. If out-of-home abuse (offender does not have access to the victim and/or other persons under the age of 19), the matter is referred to the RCMP for investigation. MCFD will offer support services and link victim and family to services within the community.

3. If in-home abuse (offender has access to the victim and/or other persons under the age of 19), the matter is reported to the RCMP and a joint-investigation is coordinated between the two agencies. The victim is interviewed. Other possible victims are also interviewed, i.e. siblings. Interviews may be done by the social worker, RCMP officer, or both. The RCMP is investigating whether or not a criminal act has occurred. MCFD is investigating the non-offending parent(s) ability to protect the victim and any other children in their care from future harm. The joint investigative process may include a referral to the SCAN clinic in Prince George depending upon the complexity of the situation.

4. Victim is assessed by a physician.

5. RCMP will interview the alleged offender.

6. MCFD interview non-offending parent to see if they can ensure the victim's safety and provide support.

7. Five scenarios are possible:
    a. Alleged offender is removed from the home.
    b. Non-Offending parent and children leave the home.
    c. Possibility that the family remains together with strict expectations and guidelines.
    d. Child resides with extended family or friends (Kith & Kin Agreement).
    e. Child(ren) is removed from the parent's care.

8. Offer of services to one or all family members.

9. If the offender is under 19 years of age, MCFD provides Youth Justice Services through Youth Probation, with a focus on offender rehabilitation.

Victim Services

Program Policies and Procedures in sexual assault cases:

Specialized Victim Assistance Program (SVAP):
SVAP, located in Northern Society for Domestic Peace, offers confidential support and information for people of all ages, both male and female, who have been victimized by sexual assault, domestic violence, or criminal harassment. Clients may or may not choose to report their victimization to the RCMP. Emotional support, victim's rights and criminal justice system information are provided during one-to-one client-centered meetings. Liaison and advocacy, court orientation and accompaniment, safety planning, referrals and assistance with forms such as Victim Impact Statements and Crime Victim Assistance Program applications are offered. The service area includes Moricetown, Smithers, Telkwa, Houston, and outlying areas. SVAP may attend the hospital at the request of hospital staff during regular work hours Monday through Thursday.

Police Based Victim Services (PBVS)
PBVS, located in the Smithers RCMP office offers crisis intervention and support services to all client groups, and refers victims of sexual assault, domestic violence and criminal harassment to SVAP and other community resources for long term support. We occasionally assist victims of sex assault with emotional support, safety planning, and criminal justice system support and information about victim's rights. PBVS clients are also victims (or family members of victims) of common assault, crime or trauma, sudden death, and missing persons. The service area includes Moricetown, Smithers, Telkwa, Houston, and outlying areas. PBVS provides crisis support to victims only at the request of the RCMP and may attend at the hospital for those clients 24 hours per day, 7 days per week.

Victim Service Worker's Role:
Both SVAP and PBVS programs are available in Smithers. The 2 programs are closely connected and the workers are able to cover for each other.
In sexual assault cases, victim service workers may:
* Be called by the police or hospital staff to provide crisis intervention and support
* Provide information, emotional support, and practical assistance throughout the process
* Provide information and support with respect to related services, such as medical examinations
* Assist with the development of safety plans and prevention strategies
* Prepare survivors for the court experience
* Assist survivors with Crime Victim Assistance Program forms and Victim Impact Statements
* Provide accompaniment to appointments and to court wherever possible and appropriate
* Address the needs of diverse survivors, such as language interpretation, other culturally specific services, and access and communication assistance for survivors with disabilities
* Keep survivors informed about the criminal justice process & ensure that Bill C-2 testimonial aids have been considered by the Crown Counsel. See Appendix 1:5 for details on Bill C-2.
* Wherever possible, provide additional assistance to victims, such as transportation
* Communicate and liaise with other community-based and system-based service providers
* Refer survivors and family members to other services that may help them to move through the justice system, to address any special needs that victim service workers are not able to assist with, and to deal with the emotional and physical aftermath of sexual assault
* Wherever possible and appropriate, provide follow-up after the formal process is complete.

REFERRALS and REPORTING:

Children and Youth: When the SVAP worker has a child under the age of 14 disclose sexual assault while in session, the worker will consult with the Executive Director, then report the incident to either the RCMP or MCF, whichever is most appropriate given the situation and the identified risks. Depending on the circumstances, the (safe) caregiver may be supported by the SVAP worker to make the report. Safety concerns will be the highest priority. Where risk is high and immediate, reporting to the RCMP will be most appropriate in order to obtain swift intervention. See Appendix 1 - #3 for Child Protection Legislation.

When the SVAP worker has a youth between the ages of 14 and 18 disclose sexual assault while in session, the worker will consult with the Executive Director, then report the incident to either the RCMP or MCF, if it is deemed appropriate to do so, given the factors of the situation. Discussions to determine current levels of safety and the youth's understanding of their situation and the consequences of both reporting and not reporting will take place. The youth's wishes will be considered when determining whether or not to report to MCF or the RCMP. The rationale for reporting/not reporting will be documented. A report to MCFD is necessary if the SVAP worker determines that the youth is at risk of further sexual abuse or exploitation (e.g. sexual assault perpetrated by a family member residing in the same home as the youth). A report to MCFD is also necessary if the SVAP worker determines that ***other children*** are at risk although the youth is not. See Appendix 1 - #2 for Consent to Confidential Health Care Legislation.

Adults: When an adult discloses sexual assault to the SVAP worker, they will be supported to examine their choices, and the risks and consequences of each choice. The decision to report or not report to the RCMP is the client's, and the worker will support them regardless.

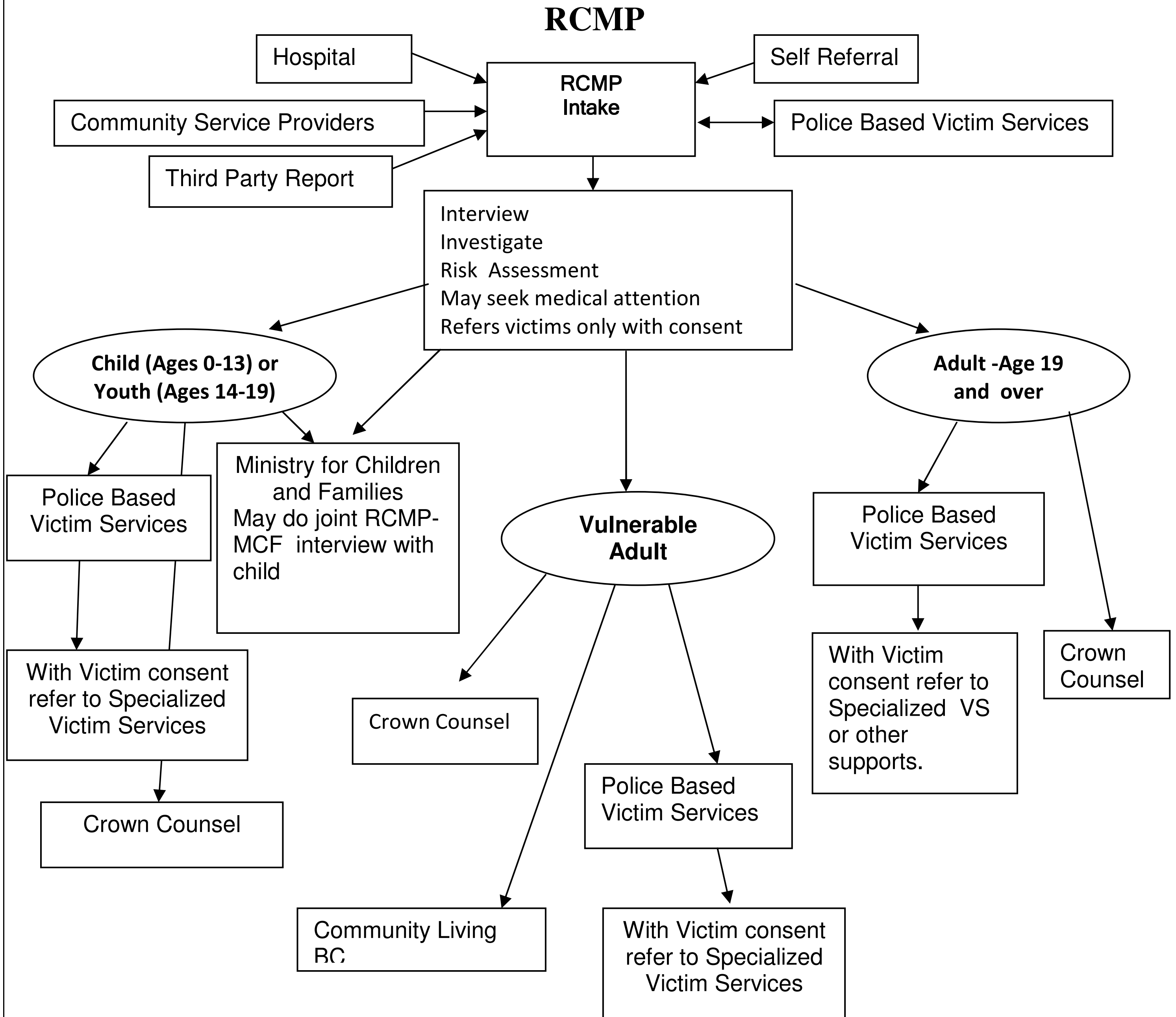
When the adult sexual assault client wishes the SVAP worker to accompany them to report to the RCMP, SVAP will call the RCMP to determine an appropriate time to come in with the client. SVAP will explain the limitations of their involvement during the interview.

Third Party Reporting is an option for an adult victim who does not wish to report their sexual assault to the RCMP. Third Party Reporting is a statement made on a form filled out by the client, outlining the incident and giving as many details as possible, but not revealing the identity of the victim. The original form is sealed into an envelope by the client, and delivered to the RCMP by the SVAP worker. This report is recorded by the RCMP. The RCMP may have further questions, but the victim has the right to be involved to whatever degree they choose in answering further questions.

Medical: When the sexual assault client has not had medical attention after a sexual assault, the SVAP worker will strongly encourage them to do so. If the client wishes, the SVAP worker will call a doctor's office to make an appointment, or accompany them to the hospital.

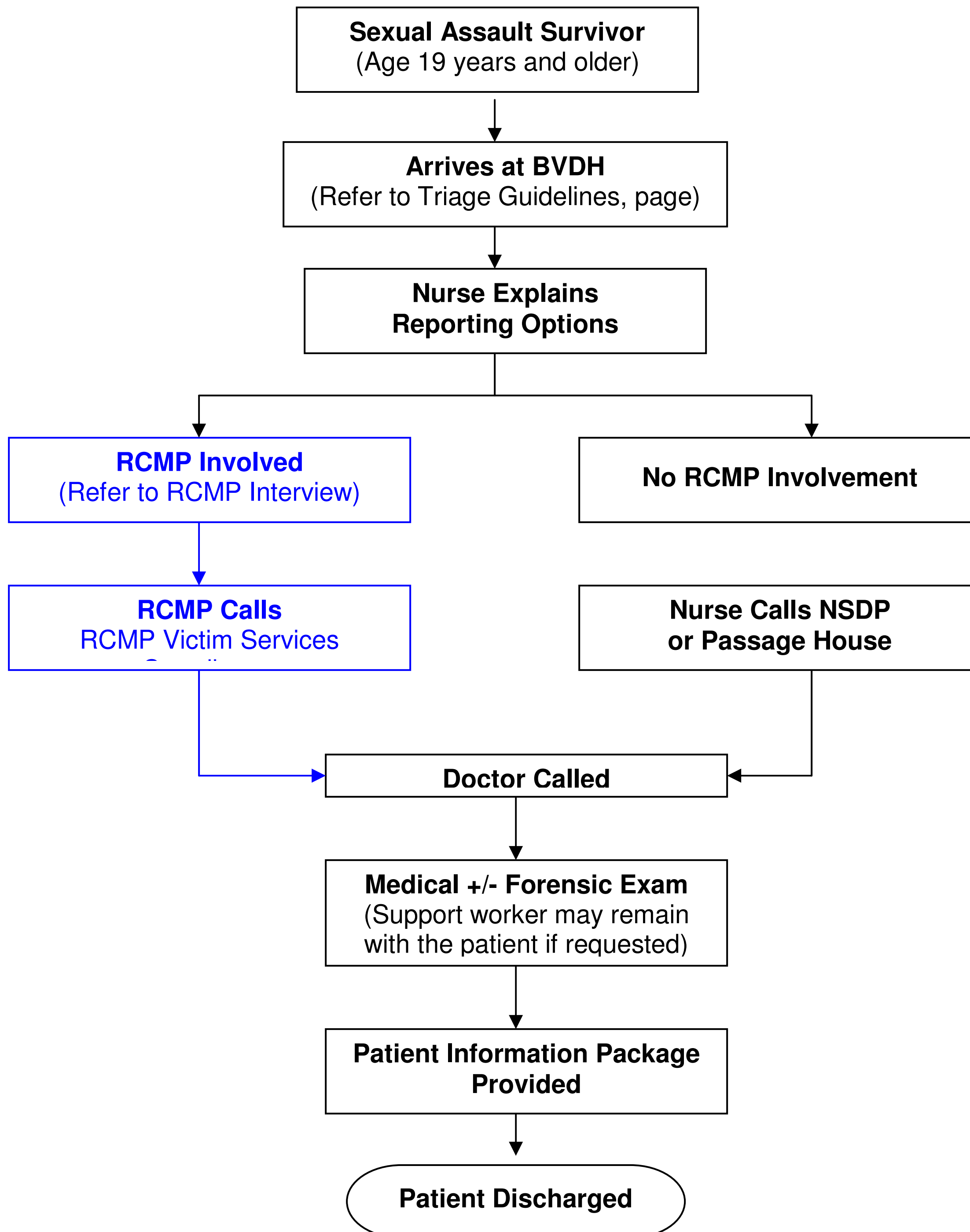
CONFIDENTIALITY – All file notes will be made with the knowledge that files can be subpoenaed to court. No personal judgments or comments will be noted. Permission to consult with others will always be obtained in writing from the victim, except in the case of child sexual assault or youth sexual assault where it is determined a report must be made without the youth's permission. The Northern Society for Domestic Peace Confidentiality will be explained to, and signed off by, the client. Clients will be advised of the limits of confidentiality.

APPENDIX A: Flowcharts & Decision Trees



B.V. District Hospital Decision Tree

Sexual Assault Survivors Age 19 and Older



B.V. District Hospital Decision Tree

Sexual Assault Survivors Less Than 19 Years of Age

Arrives at BVDH
(Refer to Triage Guidelines)

↓

Child Sexual Assault Survivor
(Less than 19 years)

Child Survivor
(14 years to 19 years of

↓

Nurse Calls Doctor

- **Patient Wants to Report Assault**
  ↓
  Nurse Calls RCMP & MCFD
  ↓
  RCMP Calls RCMP Victim Services Coordinator
  ↓
  Medical +/- Forensic Exam
  (Support worker may
  ↓
  Patient Information Package Provided
  ↓
  Patient Discharged

- **Patient *Does Not* Want to Report Assault**
  ↓
  Nurse Calls NSDP or Passage House
  (If patient consents)
  ↓
  Medical +/- Forensic Exam
  (Support worker may
  ↓
  Patient Information Package Provided
  ↓
  Patient Discharged

Child Survivor
(Under 14 years of age)

↓

Nurse Calls Doctor and RCMP or MCFD

↓

Medical +/- Forensic

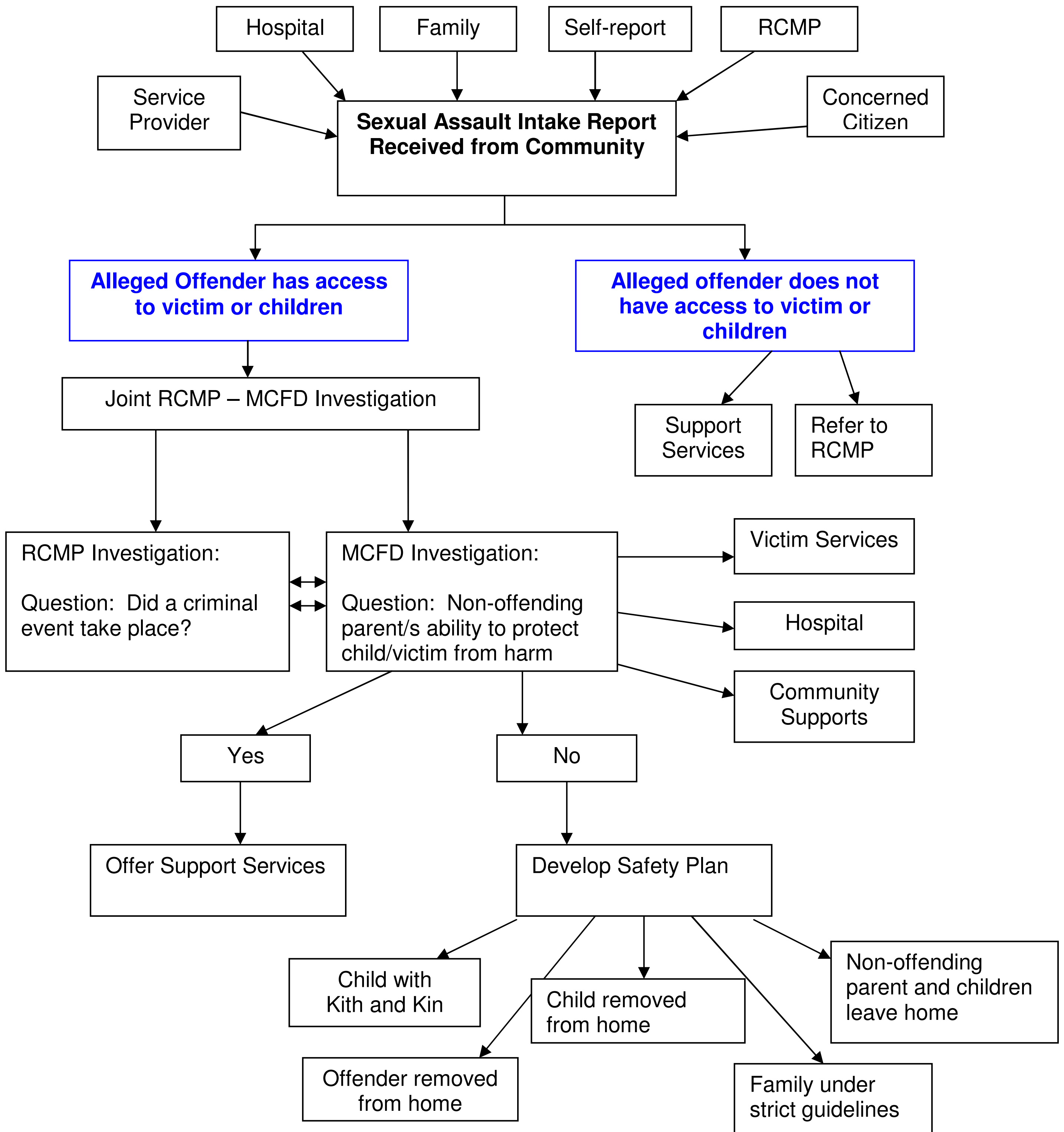
Smithers Phone Numbers:

RCMP 250-847-3233

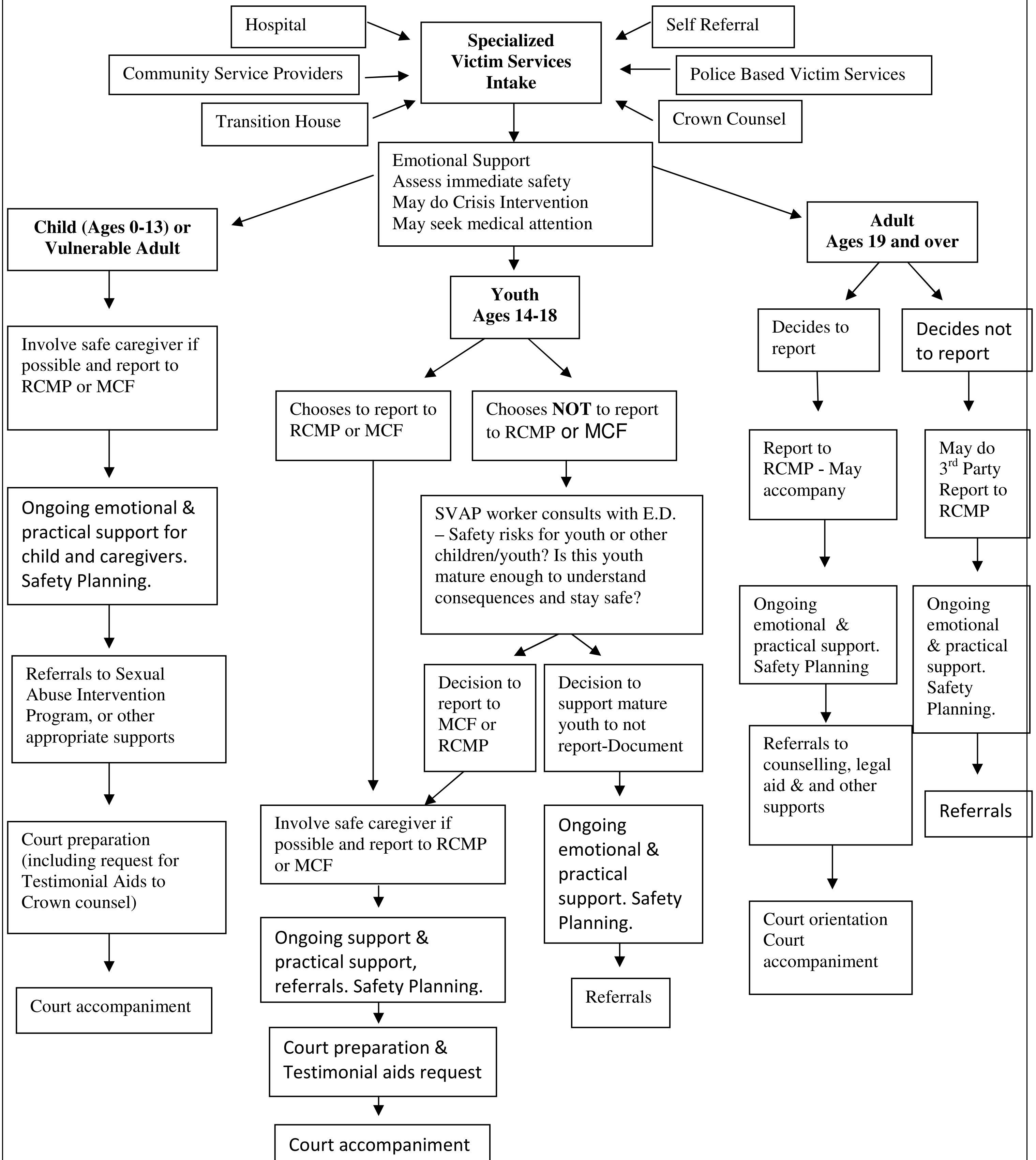
MCFD 250-310-1234 or
1-800-663-9122

NSDP 250-847-9000

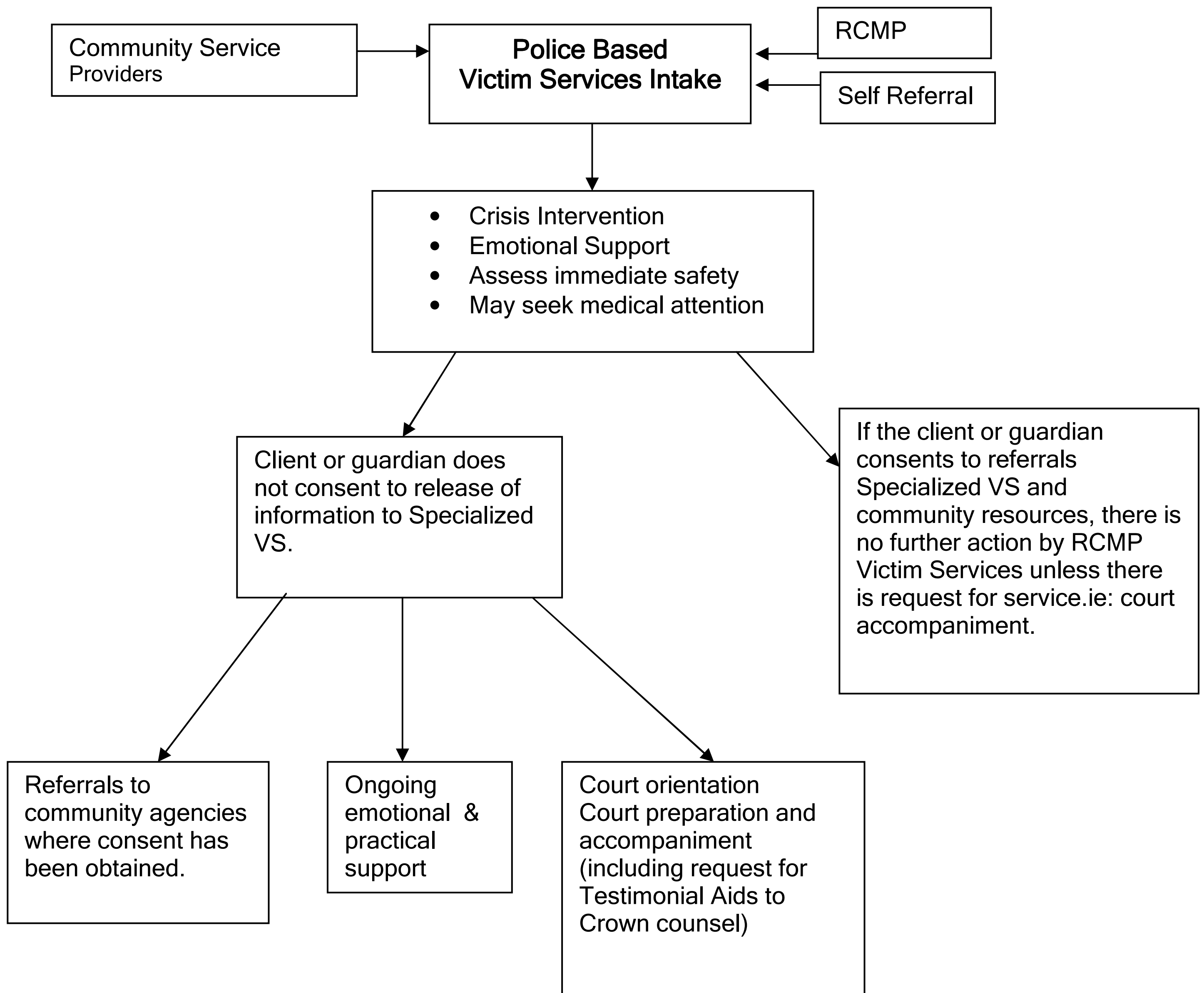
Ministry of Children and Family Development



Specialized Victim Assistance



RCMP Based Victim Assistance



APPENDIX B: Legislation & Other Guiding Documents

1.PRIVACY

Program Type	Privacy Legislation	Client File Ownership
RCMP Based Victim Services	Freedom of Information and Privacy Act	RCMP
Specialized Victim Assistance Program	NSDP Policy Applies PIPA	Northern Society for Domestic Peace
RCMP	Freedom of Information and Privacy Act	RCMP
BV Hospital	Freedom of Information and Privacy Act	BV District Hospital
Ministry of Children and Family Development	Freedom of Information and Privacy Act	MCFD

2. Infants Act B.C. (Right to Confidential Health Care):

Part 2 — Medical Treatment

Consent of infant to medical treatment

17 (1) In this section:

"health care" means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of health care;

"health care provider" includes a person licensed, certified or registered in British Columbia to provide health care.

(2) Subject to subsection (3), an infant may consent to health care whether or not that health care would, in the absence of consent, constitute a trespass to the infant's person, and if an infant provides that consent, the consent is effective and it is not necessary to obtain a consent to the health care from the infant's parent or guardian.

(3) A request for or consent, agreement or acquiescence to health care by an infant does not constitute consent to the health care for the purposes of subsection (2) unless the health care provider providing the health care

(a) has explained to the infant and has been satisfied that the infant understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care, and

(b) has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests.

TAKEN FROM The Act.

3. Child, Family and Community Service Act B.C. (Child Protection and Duty to Report):

Part 3 — Child Protection

Division 1 — Responding to Reports

When protection is needed

13 (1) A child needs protection in the following circumstances:

(a) if the child has been, or is likely to be, physically harmed by the child's parent;

(b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;

(c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;

(d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;

(e) if the child is emotionally harmed by the parent's conduct;

(f) if the child is deprived of necessary health care;

(g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;

(h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;

(i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;

(j) if the child's parent is dead and adequate provision has not been made for the child's care;

(k) if the child has been abandoned and adequate provision has not been made for the child's care;

(l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

(1.1) For the purpose of subsection (1) (b) and (c) and section 14 (1) (a) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be,

(a) encouraged or helped to engage in prostitution, or

(b) coerced or inveigled into engaging in prostitution.

(2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe

(a) anxiety,

(b) depression,

(c) withdrawal, or

(d) self-destructive or aggressive behaviour.

Duty to report need for protection

14 (1) A person who has reason to believe that a child needs protection under section 13 must promptly report the matter to a director or a person designated by a director.

(2) Subsection (1) applies even if the information on which the belief is based

(a) is privileged, except as a result of a solicitor-client relationship, or

(b) is confidential and its disclosure is prohibited under another Act.

(3) A person who contravenes subsection (1) commits an offence.

(4) A person who knowingly reports to a director, or a person designated by a director, false information that a child needs protection commits an offence.

(5) No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.

(6) A person who commits an offence under this section is liable to a fine of up to $10 000 or to imprisonment for up to 6 months, or to both.

(7) The limitation period governing the commencement of a proceeding under the *Offence Act* does not apply to a proceeding relating to an offence under this section.

TAKEN FROM The Act.

4. Criminal Code of Canada: Bill C-2 (age of consent to sexual activity):

The *Tackling Violent Crime Act* took effect on 1 May 2008, making the current age of consent 16.[1]

There exist two close in age exemptions, depending on the age of the younger partner. A youth of twelve or thirteen can consent to sexual activity with an individual no more than two years older than them. A fourteen- or fifteen-year-old can consent to sexual activity with a partner who is no more than five years older than them, or to whom they are married. (Marriages are permitted for those above 16 in English-speaking Canada, and above 16 for males and 14 for females in Quebec.) Neither exception applies if the accused was in a position of trust or authority towards the victim, the victim was in a relationship of dependency with the accused, or if the relationship between the accused and victim is found to be exploitative.

Although Canada is a federation, the criminal law (including the definition of the age of consent) is in the exclusive jurisdiction of the federal government, so the age of consent is uniform throughout Canada. Section 151 of the Criminal Code of Canada makes it a crime to touch, for a sexual purpose, any person under the age of 16 years. Section 153 then goes on to prohibit the sexual touching of a person under 18 by a person in three circumstances: if he or she is in a "position of trust or authority" towards the youth, if the youth is in a "relationship of dependency" with him or her, or if the relationship is "exploitative". The term "position of trust or authority" is not defined in the Code but the courts have ruled that parents, teachers, and medical professionals hold a position of trust or authority towards youth they care for or teach. For determining whether or not a relationship is "exploitative", s. 153 (1.2) of the Code provides that a judge can consider how old the youth is, the difference in ages between the partners, how the relationship evolved, and the degree of control or influence that the older partner has over the youth.

Where an accused is charged with an offense under s. 151 (Sexual Interference), s. 152 (Invitation to sexual touching), s. 153(1) (Sexual exploitation), s. 160(3) (Bestiality in presence of or by child), or s. 173(2) (Indecent acts), or is charged with an offense under s. 271 (Sexual assault), s. 272 (Sexual assault with a weapon, threats to a third party, or causing bodily harm), or s. 273 (Aggravated sexual assault) in respect of a complainant under the age of fourteen years, it is not a defense that the complainant consented to the activity that forms the subject-matter of the charge.

TAKEN FROM: http://en.wikipedia.org/wiki/Ages_of_consent_in_North_America#Canada
2008 Aug 12

5. Criminal Code of Canada-Bill C-2 (Testimonial Aids)

2. FACILITATING TESTIMONY:
A major objective of Bill C-2 is to provide measures to facilitate young persons under age 18 or other vulnerable witnesses testifying in court. Before this legislation, the onus was on Crown Counsel and-or the witness to demonstrate the need for aids to testimony. Now s. 486 of the Code articulates a presumption in favour of witnesses under 18 having the aids made available to them upon application. The onus shifts to the defense to demonstrate that the aids should not be used because they would interfere with the administration of justice.

2.1 Closed circuit television and other devices:
The following examples of "accommodation" are provided for in the Bill:

The Witness may testify:

- Behind a screen
- From a different room (closed circuit TV)
- From behind another device that protects the witness from seeing the accused

The criteria for determining to whom these aids are available is outlined in the Code s.486.2(1):

"a witness who is under the age of eighteen years or a witness who is able to communicate evidence but may have difficulty doing so by reason of a mental or physical disability…"

And Code s. 486.2(2): If a witness is 18 or over the aid may be permitted if "…the order is necessary to obtain a full and candid account from the witness."

For witnesses under 18, or those with a disability, the law states that a judge 'shall' on application order that the witness testify outside the courtroom or behind a screen or other device. However, with witnesses over 18 and without a disability that affects their ability to testify, the judge 'may' order an accommodation if it is needed. The court will look at the age of the witness, whether there is a disability, the nature of the offence, the nature of the relationship with the accused, and other relevant circumstances in deciding whether the aid is necessary.

Judge Shall Order:
It is presumed that the accommodation is necessary to obtain a full and candid account from the witness:

- Witnesses under age 18, any offense
- Witnesses with mental or physical disabilities that affect the witness' ability to testify

Judge May Order:
The Crown must show that the accommodation is necessary to obtain a full and candid account from the witness:

- Witnesses age 18 and over, any offence
- Cases where there is a high risk to the witness or a high level of fear exists

2.2 Support Person Present
Under Section 486.1(1) witnesses may be able to testify with a support person of their own choice. Previously this option was only available to witnesses under age 14 where specific

charges were being tried and where the court felt it was necessary for the proper administration of justice.

It's important to note that for witnesses under 18, or with a disability, the law states that the judge 'shall' on application order that they have a support person present and close to them. However, with applications for other witnesses the judge 'may' order that they have a support person present and close by if it is required to receive a full and candid account. Again, it is important that workers discuss this with the Crown Counsel when supporting clients.

2.3 Previously Recorded Statement (Code s. 715.1(1)(2)

A victim or witness under the age of 18 or who has a physical or mental disability which affects their ability to communicate, may be able to use a previously recorded video statement as part of their evidence when they testify. This has been the case since 1988 but was specific to certain crimes. It is now available in any criminal court proceedings.

This does not mean the young person would not have to testify. They would still have to take the stand (with a screen, etc if requested) and 'adopt' their videotaped statement. They may also be cross-examined upon their videotaped statement. However, it may prevent them from having to tell their entire story once again on the witness stand.

2.4 Procedure for Applying for Accommodations

The Crown prosecutor needs to apply to the judge for an order to allow the witness to use aids to testimony. Workers and counselors can assist by communicating with Crown when they see the need for the use of aids and by providing information on the witness' disability or level of fear. Witnesses can also apply to the judge on their own behalf.

In some cases, the presumption is in favor of the witness being able to use the aid. This means that the onus is on the defense to prove that the use of aids to testimony would 'interfere with the proper administration of justice' rather than the Crown needing to prove that they are necessary.

TAKEN FROM: BCASVACP – A Quick Reference Guide to Bill C-2 Amendments to the Criminal Code – An Act for the Protection of Children and Other Vulnerable Witnesses 2006.
www.endingviolence.org

6. Third Party Report:

For many years, communities throughout BC have attempted to address the fact that very few victims of sexual assault report to the police, particularly those from communities such as Aboriginal women, new immigrants and women in the sex trade.

For the general population, sexual assault is among the most under-reported crime in Canada, with only 8% of sexual assaults reported to police (Stats Canada 2003). For some groups of women, particularly those with fears and concerns about the justice system, the numbers are even lower. These victims are least likely to report to police.

Some communities in BC have attempted to address the problem of low police reporting by creating a process whereby a victim can report to police anonymously, through a third party. In collaboration with police, a process is developed whereby a community agency that specializes in responding to sexual assault accepts information from a victim about a sexual assault and passes that information on to the police without disclosing the identity of the victim. This "Third Party Report" can be an option for adult victims who would not otherwise provide information to the police. Once the report is made, it enables the police to review the information, look for and evaluate trends, create a profile of the assailant, and/or take other actions such as instituting patrols in the area. Third Party Reporting can also set up a process whereby police can contact the agency if they would like to follow up with the victim. For example, if other victims have come forward with similar reports that suggest a serial offender, the police may ask the agency to find out whether the victim who made the Third Party Report might be willing to talk to an investigator.

THIRD PARTY REPORTING - THE PROCESS:

If the adult victim is not willing or able to attend at the RCMP station, or meet with a police officer, and all other options have been explored, the Third Party Reporting option can be used at the victim's request.

- Using the standardized form the SVAP worker will read the 'Information about Third Party Reporting' section on the coversheet of the form to the client and ensure that the information contained there is understood.
- The SVAP worker will complete the front page with the victim's personal and contact details and attach an in-house tracking number. This front page is detached from the main report and retained by SVAP. The victim will sign the front page and the worker will witness the signature.
- The SVAP worker will enter the tracking number onto the TPR main report and enter the community agency contact information.
- The victim will fill out the TPR form with the information that s/he is comfortable in providing, placing it in the envelope provided by the SVAP worker. If the victim has anything else pertaining to the incident that they would like the RCMP to have, this also can be placed in the envelope. The victim will seal the envelope and then hand it to the SVAP worker.

- The SVAP worker will retain the cover sheet in a TPR file, and take the only copy of the TPR form, in its sealed envelope, to the RCMP office and give it to the officer designated to receive TPRs.

The RCMP will communicate back to the SVAP worker the result of any preliminary investigation. This preliminary investigation will not involve interviewing the survivor.

If the RCMP, after reviewing the report, wishes further contact with the survivor they will initiate contact through the SVAP worker. The SVAP worker will contact the survivor and forward the RCMP request to meet with her/him. The worker will act as the intermediary until direct contact is established between RCMP and the survivor. The decision whether to engage with police will rest with the victim.

After the TPR has been made, the SVAP worker will ensure that support continues and that the victim is connected with an STV counselor and/or other resources.

TAKEN FROM: BCASVACP Third Party Reporting @ www.endingviolence.org

7. BC Women's Hospital: Sexual Assault Center protocol:

B. YOUTH: CONSENT & CONFIDENTIALITY

PROTOCOL:

Consent

Youth[1] seeking health care for sexual assault have the legal right to consent to or refuse any and all aspects of their own health care (INFANTS ACT, [RSBC 1996] CHAPTER 223, Part 2, Section 17(1)). Health care providers may not obtain consent for any aspect of a youth's health care from any person other than the youth (including parents, guardians, and law enforcement personnel).

Health care and consent options available to youth following a sexual assault are the same as those available to adults, including the right to confidentiality.

Confidentiality[2]

Health care for sexual assault is provided to youth in a confidential manner. The fact that such health care has been provided, and details pertaining to the health care, may only be disclosed to another person[3] when consent to do so is obtained from the youth.

RATIONALE:

Consent

Health care procedures such as physical examination, history taking, and forensic evidence collection have the potential to be very invasive, particularly following a sexual assault. Therefore, the chances of causing further harm to the patient are significant if such procedures are undertaken without the patient's full and informed consent. Youth are capable of, and have the legal right to consent to health care provided that they fully understand the nature, consequences, and foreseeable benefits and risks of the health care (INFANTS ACT, [RSBC 1996] CHAPTER 223, Part 2, Section 17(1)). Comprehensive and unbiased information concerning health care options, the opportunity to consent to or decline each of the options, and support for decisions that are made, are central to the provision of health care that is respectful and supportive of youth.

Confidentiality

1 This protocol focuses on youth 13 and older because the SAS does not provide sexual assault care for youth under thirteen. To learn how the Infants Act applies to children under thirteen, please go to the following link: http://www.qp.gov.bc.ca/statreg/stat/I/96223_01.htm#section17

2 This protocol pertains to BC Women's SAS only. Other organizations, including police, have their own protocols regarding confidentiality. BC Women's SAS cannot guarantee confidentiality if youth report to police, or if other organizations are involved in their care.

3 Use of the term "other person" in this protocol includes, but is not limited to, those in a position of authority (including parents, guardians, law enforcement and school personnel).

Youth are sexually assaulted at a rate of approximately four times that of adults. At the same time, they face many more barriers to accessing services, including a potential lack of assurance that confidentiality will be safeguarded. A recent survey conducted by the McCreary Centre Society found that 62% of BC youth lack confidence in the confidentiality of their health care. Lack of assurance that confidentiality will be safeguarded is one of the main reasons the vast majority of youth who have been sexually assaulted choose not to access health care. Inability to safely access sexual assault care can lead to serious long-term health impacts such as pregnancy, sexually transmitted infections, mental health issues, substance use, and suicide. Consequently, confidentiality is a key principle underlying the provision of safe and accessible health care to youth who have experienced a recent sexual assault.

Do health care providers have an obligation to inform Child Protection Services (MCFD) when youth are sexually assaulted?

No. A report to MCFD is necessary only if the health care provider determines that the youth is at risk of further sexual abuse or exploitation (e.g. sexual assault perpetrated by a family member residing in the same home as the youth).

For more information about the Child, Family and Community Service Act and its relevance to youth who have been sexually assaulted, please contact BC Women's SAS at (604) 875-2881.

PROCEDURES:

1. Speak with the youth alone, in a private setting. In age appropriate terms, explain that the health care she is about to receive will remain confidential[4].

2. Explain that she has the right to consent to or decline all available health care options, and that you will support her choices.

ADDITIONAL CONSIDERATIONS

Parents/Guardians

1. If the youth arrives at the hospital with a parent, guardian, or support person, ask the youth, in private, if she would like that person to remain inside or outside of the examination room while you conduct the interview and/or examination. Adhere to her wishes and communicate them to the parent, guardian or support person. If the youth chooses to have them wait outside, reassure them that youth are often embarrassed, and that the need for privacy is very common.

2. If the youth arrives at the hospital alone, inform her that parental consent for treatment is not required, but that parents, guardians or other support people (e.g. friend, Rape Crisis Centre Worker) can be contacted at her request.
3. If the youth chooses to contact a support person, she should be provided with access to a telephone as soon as possible, particularly if she would like someone to attend during the interview/examination. A SAS provider can make the telephone call if the youth prefers.

4 See footnote 2 above.

4. If the youth chooses not to contact a support person, assure her that she will have access to treatment and that confidentiality will be maintained.

5. Provide the youth with a copy of the handout "Has Someone You Care About Been Sexually Assaulted?" (See Appendix 7). This handout offers practical suggestions that may be of assistance should she decide to disclose the assault to others at a later date.

Family Physicians

1. If the youth chooses not to inform her family physician about a sexual assault ***remove the Family Practitioner Copy of the M14 form*** (otherwise the family physician will be automatically notified)**.**

> *FACT*
> ***Many youth who are sexually assaulted choose not to inform their family***

Police

1. As outlined above, youth have the right to consent to or decline having their health care information shared with police. If youth are considering reporting to police at the hospital, inform them that police may or may not be able to maintain confidentiality with respect to parents, guardians, etcetera.

> *FACT*
> ***Youth have the right to consent to or decline having their health care information shared with police.***

Written consent is required to:

a) inform police that a youth has received health care for sexual assault
b) discuss health care findings with police
c) collect forensic evidence
d) store forensic evidence
e) transfer forensic evidence to police

2. SAS staff will offer all youth the same options regarding police involvement, whether or not police transport youth to the hospital.
   a. If the youth chooses to report to police and police have not yet been contacted, dial 911 and request that police attend the hospital to initiate an investigation and take custody of any forensic evidence that may be collected.
   b. If police are already at the hospital and the youth does not consent to disclosing health care findings or transferring forensic evidence (see #1 above), inform the police that information and evidence will not be provided to them at this time. Police should be invited to contact the SAS Coordinator at (604) 875-2881 if they would like further information concerning consent protocols.

3. Options regarding police involvement and forensic evidence collection will be reviewed with youth, in private, by SAS staff.

4. If the youth chooses to report to police and would like forensic evidence collected and transferred into police custody, police will remain outside of the examination room while the examination is being conducted.

TAKEN FROM: BC Women's Hospital, Sexual Assault Center, Youth: Consent & Confidentiality Protocol.

8. BV District Hospital Sexual Assault Guidelines

APPENDIX A
PROCEDURE

History

1. **Police Interview**
   If police arrive with the survivor, ensure s/he wishes to involve them before speaking with the RCMP regarding the details of the case. If the survivor consents to RCMP involvement, the Sexual Assault Examiner (SAE) interviews the police before the exam in order to guide the medical examination and to minimize repetitive questioning of the survivor. The SAE may also ask police for any information they might have regarding injuries and potential sites of DNA evidence. In addition, the following should be obtained re: the RCMP officer investigating the case:

   - Name, badge number, detachment and telephone number
   - Police case number
   - Nature of allegation

2. **Sexual Assault Examiner Interview**
   The main purpose of the Sexual Assault Examination is to provide good, supportive patient care. Be sure that the patient understands that s/he can refuse care and treatment and that the examination can be stopped at any time. Explain the purpose of the exam and proceed with the procedure are follows:

   - Obtain informed consent for procedure.
   - Clarify assault history and record on Sexual Assault (SA) record
     - Nature of allegation: injury sites, seminal, saliva or blood deposit sites
     - Symptoms related to the assault (e.g. tenderness, headache)
     - Activities since the assault which may alter the evidence (e.g. urinating, bathing, change of clothes, douching).
   - Obtain gynecological history
     - Contraception
     - Last menstrual period
     - Most recent consensual intercourse; note this on the SA record only if intercourse occurred within the past 10 days.
     - Current gynecological problems and/or treatment (surgical or medical)
     - Pregnancy
   - Obtain a general medical history
   - Allow a support person to remain with the survivor if s/he wants.

Physical Examination (as per *Sexual Assault Kit*):

1. **Prepare the patient for physical examination:**
   - Confirm consent
   - Exercise universal precautions for protection of self and to preserve evidence
   - Using the instructions from the SA kit explain to the patient the procedure for disrobing and collection of clothing and specimens for evidence. Ensure that the patient is aware that all clothing collected for evidence will not be returned.

2. **Evaluate the survivor's emotional state**
3. **Document Injuries**

   Common Injuries from Sexual Assault
   - Tender spots on scalp – indicative of hair pulling
   - Finger or thumb shaped bruises on neck
   - Bruising around the mouth
   - Round bruises or finger shaped bruises on upper arm(s)
   - Parallel linear abrasions on shoulders, breasts or peri-genital areas
   - Bruising inner, upper thigh(s)
   - Bruises, abrasions, laceration around vaginal or anal opening
   - Bite marks

COLLECTION OF FORENSIC EVIDENCE

Forensic Sample Collection Notes

- Label all samples with patient name, date, site, and Examiner's initials.
- Cut the end off of the plastic sleeve that holds the swab and ensure the swab handles are short enough to prevent the swab head from protruding through the open end of the sleeve.
- Seal paper envelopes including the corners with scotch tape.
- Never seal envelopes with saliva.
- Staple the large forensic evidence envelope closed.
- Wear gloves throughout the exam.
- Be certain that you have the patient's consent to collect forensic evidence.
- Record samples collected on SA Record Form and forensic evidence envelope.

1. **Trace (Body) Evidence:**
   Check the patient's body for trace evidence such as fibres, wood, hair and dirt. Remove evidence with gloved fingers or a pair of forceps and place it inside a paper envelope.

2. **Bite Marks (Saliva) and Semen Stains**
   Bite marks and semen stains should be swabbed using the double swab wet - dry technique. First, moisten a swab with distilled water and swab the desired area, then dry the area using a second dry swab. Both swabs should be placed inside a single plastic swab sleeve and labeled appropriately.

3. **Examine and collect evidence from specific areas <u>RELEVANT</u> to allegation**

   Mouth
   - <u>Document Trauma</u> to lips or mucous membranes. Observe soft/hard palate for tenderness and petechiae.
   - <u>Oral Swab</u>. If relevant, swab the groove between the teeth and gum and the spermatozoa. Place the swab inside the plastic swab sleeve and label appropriately.

   Genitals
   - <u>Document Trauma</u>. Do a thorough observation recording all injuries on a diagram or traumagram. (toluidine blue and/or a colposcope can be used to highlight injuries prior to inserting a speculum). Pay careful attention to the introitus, looking for cuts, tears, swelling and bruising, often at the 5:00 and 7:00 o'clock positions. There may be superficial redness, abrasions, mucosal tears, bleeding or splits in the skin.

- Document Tenderness. Note patient's response when touching a tender area (e.g. patient pulls away or grimaces when area touched).
- **Pubic Hair Examination**. Examine the pubic hair for any secretions. **Cut** any hair that may be matted with secretions (make sure you have consent). Place the cutting in a sterile urine specimen container and label appropriately.
- **Pubic Hair Combing**. Pubic hair should be combed **(not plucked)** to remove any loose hair or other debris. Comb the hair over a paper towel and fold the paper towel with the comb inside. Place the folded towel into an envelope.
- External Genital Swab. Swab the external genitalia and place the swab inside the plastic swab sleeve. Semen or saliva may have dried; if necessary, moisten the swab using sterile water prior to swabbing the area.
- Vaginal Swab Thoroughly swab the interior of the vagina with two separate swabs. Place the swab inside the plastic swab sleeve and label it appropriately.
- Cervical Swab. Swab the cervix and place the swab inside the plastic swab sleeve.
- Vaginal Washing. With the speculum inside the vagina, insert 2-3 mL of sterile saline into the vagina. Aspirate the liquid into a pipette and place the fluid into a sterile urine container and label it appropriately. Securely close the container and place it into the Ziploc bag in the SA kit.
- Reassure the patient about your findings and inform her that, it there are cuts, they will heal within a few days.

Anus/Rectal Swab

- Document trauma to the anal area. Swab the anal region. Semen or saliva may have dried; if necessary, moisten the swab using **sterile water** prior to swabbing the area. Place the swab inside the plastic swab sleeve and label it appropriately.

Optional Procedures:

- Toluidine Blue stain (1%), which can be applied to the external genital area (especially the introitus between 5:00 and 7:00 o'clock), labia, fourchette, and perineum with a Q-tip and gently wiped off with K-Y Jelly. This staining can expose fine blue lacerations invisible to the naked eye. The stain should be done after collecting the genital swab.
- A colposcope can be used to magnify injuries on the external genitalia and anal regions. Injury detection increases about 80% using a colposcope. Do this before using a speculum to avoid examination-induced abrasions.

Facts about sperm retrieval:

Normally 90% of sperm are motile at the time of ejaculation (Polson) but the possibility of recovering sperm varies. The upper limit for survival in the vagina is 48-hours; for the cervix it is between 3 and 7 days; for the mouth is 6-hours; and for the rectum 24-hours.

Finger Nail Clippings

- If the survivor indicates she/he may have scratched the assailant, fingernails should be clipped and placed into a small paper envelope.

4. Finger Prick (Patient DNA)

Options for collecting DNA typing of the survivor (in order of preference):

a) **Blood finger prick**: a finger prick sample the size of a quarter is spread onto a gauze or cloth square stapled on a 3" x 5" file card. This cloth is air dried and then placed in a

labeled envelope.

or

b) **Buccal swab**: rub swab vigorously on inside of cheek in order to obtain epithelial cells. Place the swab inside the plastic swab sleeve and label it "*Buccal Swab of Patient's DNA*".

or

c) **Blood tube**: if venipuncture is required for a drug/alcohol screen, a drop of blood for DNA can be taken simultaneously from the venipuncture site or vacuutainer and spread onto a gauze or cloth square which is stapled on a 3" vacuutainer and spread onto a gauze or cloth square which is stapled on a 3" x 5" file card. This cloth is air dried and then placed in a labeled envelope.

5. **Toxicology** (see Appendix B)

6. **After the exam**
   Allow the patient to shower if s/he wishes. If needed there is some clothing available in the marked box under the counter in the ER Medication Room.

7. **Forensic Sample Management / Chain of Evidence**
   - If there is RCMP involvement follow the instructions in the SA kit to ensure the chain of custody is complete.

8. **Hospital Lab tests (note: the following tests are not part of forensic material)**
   - STD tests not done unless clinically indicated
   - Patient should be offered prophylactic STD treatment
   - Patient should be encouraged to see her family physician or health clinic for follow-up care and testing.

COLLECTION OF BLOOD AND URINE SAMPLES TO TEST FOR PRESENCE OF DRUGS AND ALCOHOL WHEN PATIENT IS REPORTING TO POLICE/RCMP

PROTOCOL

If a patient believes that she/he may have been forcibly drugged and wants to report the sexual assault to the police, at the patient's request the Examiner may collect blood and urine to be tested for the presence of drugs and alcohol. These samples are transferred immediately to the police as part of the forensic examination.

Note: If the patient is unsure about reporting the sexual assault to the police, blood and urine samples can be collected and stored for up to 6 months.

RATIONALE

As part of a legal investigation, a patient may want to give blood and urine samples to the police to analyze for the presence of drugs and/or alcohol. If the patient discloses in her/his assault history that she/he experienced a blackout, amnesia or any other symptoms or history of a possible forced drugging, then a forensic drug screen can be considered. These samples are given to the police for testing at the Provincial RCMP Forensic Lab.

PROCEDURE

Ascertain from the patient whether she/he has decided if she/he wishes to report the assault to the police. If the patient is reporting the assault to the police, and would like to have blood and

urine collected for a forensic drug/alcohol screen test, then the following procedure should be adhered to:

1. Explain the blood and urine collection procedure. Obtain consent (see Appendix C) from the patient for a blood and urine forensic drug-screening test. Consent for a forensic drug-screening test is part of the standard consent for a sexual assault exam. Be sure to inform the patient that any drugs she/he ingested voluntarily will show up in the forensic drug screening tests done by the police.

2. **BLOOD COLLECTION FOR DRUGS AND ALCOHOL**: Check the expiry date on blood tubes. By phlebotomy, collect 2-gray stopper tubes of blood. Be sure to use the betadine solution swab provided in the kit. ***(Do not use an alcohol swab as it may interfere with the drug screening tests).*** Blood tube must contain the preservative Sodium Fluoride and Potassium Oxalate.

3. Place a printed label flag-like around each tube of blood. The label must include; the patient's name, the date, the time of collection, and the Examiner's initials.

4. **URINE COLLECTION FOR DRUGS**: Collect a sample of urine from the patient. Ask the patient to provide as much urine as possible.

5. Place a printed label on the outside of the urine container. The label must include; the patient's name, the date, the time of collection, and the Examiner's initials.

6. Place the urine container and blood tubes into the plastic Biohazard Transport Bag. Close bag securely.

7. Once the 2 blood tubes and 1 urine container are in the plastic Biohazard Transport Bag, complete the *"Forensic Drug Screen Requisition Form"* and put it inside the outside pocket of the Blood/Urine Transport Bag.

8. Place the Biohazard Transport Bag and requisition into the brown Forensic Evidence Kit together with the other dry forensic evidence.

9. If there was no dry evidence collected, then place the Biohazard Transport Bag and requisition into an unused Forensic Evidence Kit.

10. Complete the information found on the Forensic Evidence Kit. This includes the patient's name, the Examiner's name, and the date of collection and a list of contents.

11. Take the red security seal from the SA kit and write, the patient's name, the date of collection and the Examiner's name. Remove the backing from the security seal and place it over the kit.

12. Together with the case Police Officer, complete the **Chain of Custody Information** on the back of the Forensic Evidence Kit and on the SA record. Hand over the envelope to the Officer. Remind the Officer that there are liquid samples as part of the evidence and that the Forensic Evidence Kit must be stored in a refrigerator or freezer.

13. Inform the patient that the results of these tests will be given to her/him by the police/RCMP, not the SA Examiner.

PATIENT FOLLOW-UP CARE

1. Offer the following STD prophylactic medications for gonorrhea, Chlamydia and syphilis:
   - Cefixime 400 mg PO stat

- Azithromycin 1.0 gram stat
- If the patient is allergic to these antibiotics or is pregnant or lactating, check CPS or (see Appendix D)

2. Offer the Emergency Contraceptive Pill if the patient is at risk. Do not prescribe if there has been no vaginal penetration.
   - Plan B (2 pills, repeat in 12 hours)
   - Dimenhydrinate 50 mg (Gravol) to prevent nausea and vomiting (see Appendix E)

3. Obtain patient's written consent for receiving a blood product. Offer HBIG immune serum, for Hepatitis B prophylaxis. (See Appendix F)

4. Offer Hepatitis B vaccine if indicated and provide follow-up sheet with dates to follow-up at Public Health Unit for future inoculations. (See Appendix H)

5. Offer small dose of benzodiazepine for treatment of anxiety, if needed.

FOLLOW-UP PROCEDURES:

1. Review medical follow-up with patient and reassure her/him that counseling is available if she/he needs someone to talk to.

2. Suggest that the patient set up an appointment in one week with her family physician (if the physician is being informed of the assault) or another health care clinic. Discuss STD follow-up.
   Consider the following.
   - HIV testing in 6 weeks, 12 weeks and 24 weeks. HIV serology is not done routinely at the time of the exam. Direct patient to appropriate testing facility in order to ensure in-depth pre and post testing counseling. (See Appendix I)
   - Syphilis testing in 6 to 8 weeks.
   - Gonorrhea and Chlamydia cultures may be obtained at follow-up visit.

3. Ask if the patient wants a follow-up call from the Sexual Assault Counselor (NSDP) (indicate on the *SA Record*). Ensure that s/he has a copy of the information containing the contact information for the Smither's area.

4. If the patient is reporting to the police, ensure that she/he has the names of the police officers and the case number.

5. Provide follow-up package to patient.

6. Ensure that patient has a safe trip home, or is accompanied by:
   - rape crisis worker
   - police
   - victim support worker
   - family/friend

   Ensure they are going to a place they feel safe and are not alone. You may also need to assist her/him to secure temporary emergency housing.

PATIENT TEACHING:

Review medical follow-up with patient and reassure her/him that counseling is available if she/he needs someone to talk to.

Taken from BV District Hospital Sexual Assault Guidelines November 2008.

9. BCASVACP Records Management Guidelines: Section IX – Records Management Issues Related to Clients Who Are Children

In order to consent to services/counselling, clients must have legal capacity. The *Age of Majority Act* provides that by age 19 individuals can make decisions affecting their welfare, including health care decisions. According to the *Infants Act* and case law, anyone under 19 is also capable of consenting to health care if the service provider: " is satisfied the infant understands the nature and consequences and the benefits and risks of a particular plan of care and" has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests. The service provider should also ensure that the consent is voluntary and not the result of undue pressure. Technically, anyone under 19 — even someone as young as 10 years of age — can consent to treatment or health care (including support services /counselling) provided they understand the nature and consequences of treatment and the associated benefits and risks, and provided the care is in their best interests.

In *practice*, 12 years of age is often used by public agencies and service providers as a benchmark to help determine whether a child has the legal capacity to consent. In its policy and procedure manual, for example, the BC Children's Hospital has determined that patients 12 years of age and older are usually competent individuals. This means that generally they can give consent for any plan of care without the need to consult with their parents. In addition to the child's age, the following factors are often considered to decide whether young clients are capable of consenting:

- the child's developmental level and maturity
- the nature, complexity and duration of the plan of care (If the service or intervention is long term or very involved, more maturity may be required for a child to understand the nature, consequences, and associated risks and benefits.)
- the child's ability to agree voluntarily (Does the family situation interfere with the child's ability to make independent decisions? For example, is the child expected to go along with her/his parents' wishes in order to receive emotional or financial support?)

If the basic criteria for capacity to consent have been met, the service provider must then take steps to ensure the child makes an informed decision about the services they are to receive. This would involve:

- providing the child with information that a reasonable person would require to understand services being offered and to make a decision
- providing information about the nature and purpose of the services and any risks and benefits associated with them that a reasonable person would want to know about
- discussing alternatives to the services being offered
- responding to questions about the services (Bryce & Sandor, 2002)

While it is possible to provide services to a "mature minor" without the parents' consent or knowledge, it may be appropriate to involve a non-abusive parent in some way. This will depend upon the circumstances and the type of service being provided. It is important to note that apart from consent issues, other general comments about information necessary for the intake process for adults would apply equally here. For example, there may be a need for safety planning or risk assessment related to mother and child when services are being provided to the child.

TAKEN FROM BCASVACP Records Management Guidelines for Specialized Victim Assistance Programs 2006 @ www.endingviolence.org

APPENDIX C: Community Education

Included in the BV District Hospital handout package for victims of sexual assault:

- Booklet – Have You Been Sexually Assaulted? (Rape Victim Services – BVDH)
- Brochures:
  - Sexual Assault (CCWS)
  - You Can Help Prevent Sexual Assault (CCWS)
  - Child Sexual Abuse: Strategies for Prevention (CCWS)
  - Child Sexual Abuse: Information for Parents (CCWS)
  - Specialized Victim Assistance Program (NSDP)
  - What is a Third Party Report? (NSDP)
  - Police-Based Victim Services Program (RCMP/NSDP)
  - Passage Transition House (NSDP)
  - Options for Sexual Health (Northern Health Authority)
  - Do You Need Help? (Smithers & Area Resources card)

Protocol Signatures

Sheila White, Staff Sergeant RCMP	Date
Anna Harrison, Charge Nurse BV District Hospital	Date
Sheila Smith, MD BV District Hospital	Date
Gretchen Woodman, Team Leader Ministry of Children and Family Development	Date
Wanda Watts, Program Coordinator Specialized Victim Services	Date
Debora Chatfield, Program Coordinator Police Based Victim Services	Date