

Sexual Crimes Review Municipal Police Forces

Policing Standards and Contract Management Branch
Department of Justice and Public Safety

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“The trial of the accused is merely a side show. The trial of the investigation is the main event.”

Mr. Justice David Watt, Ontario Court of Appeal

Overview

In New Brunswick, there are nine municipal/regional police forces (municipal police forces) and in 2016 there were 432 municipal police officers. New Brunswick’s population according to the 2016 Census is 741,101. New Brunswick is Canada’s only bilingual province and as such, all police services are offered in the official language of the individual’s choice.

Pursuant to paragraph 1.1(2)(c) of the New Brunswick *Police Act*, the Minister of the Department of Justice and Public Safety (JPS) may establish a system of inspection and review of municipal police forces. The *Policing Standards – New Brunswick* are issued as ministerial directives pursuant to subsection 1.1(3) of the *Police Act*. The Standards set out the police force Quality Assurance (QA) program in ORG 5 with the current QA Program in place since 2013.

The QA Program operates on an annual cycle, beginning in the fall when the provincial priorities are given to the chiefs of police by Policing Standards and Contract Management (PSCM) branch of JPS. The chiefs of police, in collaboration with PSCM conduct a fall risking exercise that examines the provincial priorities as well as establishing force specific risks requiring review. In January, municipal police forces begin their reviews using select review guides created by PSCM and submit all documentation to PSCM by the end of February. PSCM conducts an internal risking exercise to determine whether any municipal police force will undergo an on-site visit. All municipal police forces participate in a debriefing session which is followed by written feedback from PSCM regarding the QA review. Any recommendations are documented and tracked through an action plan.

While the QA program follows a cyclical process, it is flexible enough to respond to any newly identified risk activities facing municipal police forces. The program examines facts and realities facing modern day law enforcement agencies to identify gaps as well as best practices.

Objective

The purpose of this QA Review was to ensure that reported sexual crime incidents, both founded and unfounded were thoroughly and adequately investigated and scored according to the Uniform Crime Reporting (UCR) survey, a mandatory reporting survey submitted by Canadian police services to the Canadian Centre for Justice Statistics (CCJS) on a monthly basis. Sexual crimes investigations are complex and an area of high risk and have been appropriately added to the QA Program as a review activity in 2017. It should be noted that reference to “sexual crime” throughout this report is inclusive of all sexual crimes (UCR 1300 series) and not limited to sexual assaults (UCR 1330).

Data for the reporting period of 2010-2014 was collected from all nine municipal police forces who were responsible for the investigation of 33.9% of all sexual crimes in the province of New Brunswick, with the remaining 66.1% being handled by the RCMP. This report is intended to summarize and analyze the findings of the municipal police forces review, identify gaps, and present recommendations that would improve police performance in the investigation of sexual crime.

Globe and Mail article “*Will the police believe you?*”

A Globe and Mail (Globe) article titled “*Will the police believe you?*” resulted from a 20-month investigation into sexual assault investigations conducted by police services across Canada. The Globe collected data from 870 police services across Canada for the years 2010-2014.

The Globe article read, in part:

“National policing data, compiled and reviewed by The Globe as part of its 20-month investigation, reveal that one of every five sexual-assault allegations in Canada is dismissed as baseless and thus unfounded. The result is a national unfounded rate of 19.39 per cent – nearly twice as high as it is for physical assault (10.84 per cent), and dramatically higher than that of other types of crime.

True unfounded cases, which arise from malicious or mistaken reports, are rare. Between 2 per cent and 8 per cent of complaints are false reports, according to research from North America, the United Kingdom and Australia. The Globe’s findings suggest that police in Canada are closing a disproportionate number of rape cases as unfounded, a phenomenon that distorts the country’s crime statistics.

Inflated unfounded rates create the impression that police receive fewer complaints of sexual assault than they actually do. In turn, that gives the appearance that more complaints lead to an arrest.

According to The Globe’s data, 42 per cent of sex-assault complaints lead to a charge (Statistics Canada, which has data from all jurisdictions, reports 44 per cent). When unfounded cases are factored in as complaints, however, the charge rate drops to 34 per cent.

In addition, The Globe’s data show vast discrepancies in unfounded rates between jurisdictions across Canada – inexplicable swings from city to city, province to province, regardless of size and demographics – which suggest that complainants of sex assault in some parts of the country are far less likely to be believed than in other parts.

...

When complaints of sexual assault are dismissed with such frequency, it is a sign of deeper flaws in the investigative process: inadequate training for police; dated interviewing techniques that do not take into account the effect that trauma can have on memory; and the persistence of rape myths among law-enforcement officials.

“What does unfounded mean to you? What does unfounded mean to anybody? It means ‘You’re lying.’” says Ottawa criminologist Holly Johnson, who has extensively studied that city’s unfounded cases. She believes that high rates send a message that police don’t believe large numbers of complainants, “which reinforces damaging myths that women lie about sexual victimization, and could act as a deterrent to already low reporting.”

Sets of data were provided to the Globe directly from eight of the nine New Brunswick municipal police forces; Grand Falls Police Force did not provide statistics to the Globe.

According to the Globe’s findings, Canada’s national average of unfounded complaints was 19.39% with New Brunswick having the highest rate at 32% and ranging from the Fredericton Police Force (FPF) with 16% to the Saint John Police Force (SJPF) at 51%. SJPF identified to the Globe that the SJPF scoring of unfounded files was being applied incorrectly and they were examining the problem.

Scope

As a result of the Globe’s article, the Canadian Association of Chiefs of Police (CACP) issued a statement dated February 10, 2017 and reads, in part:

“...

Moving forward, the Canadian Association of Chiefs of Police (CACP) wish to encourage all police services to review practices around sexual assault investigations as many currently are. In addition, I am requesting the CACP Victims of Crime Committee and our Crime Prevention, Community Safety and Wellbeing Committee to recommend standards for training (including trauma-informed investigation), procedures and policies based on best practices, and share them throughout the policing community,

In addition, I am requesting the Police Information and Statistics Committee examine how statistics are recorded and reported to Statistics Canada and make recommendation on how reliable and consistent statistical information may best be collected.

...”

All nine New Brunswick municipal police forces agreed to review their sexual crime investigations.

It is unclear from the Globe article whether the Globe examined sexual crimes outside of sexual assaults (UCR 1330), however the Globe’s article focuses on incidents of “rape” and adult women as the victim group. Supplemental data concerning adult women (19 years of age and up) who were reported victims of unfounded sexual crimes can be found in Appendix A). There are a variety of factors in sexual crime incidents that impact the nature and complexity of investigations, for example:

- sexual crimes involving children;
- victims undergoing intrusive medical examinations to collect physical evidence;
- historical sexual crime cases;
- intimate partner violence sexual crimes;

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- stranger offenders versus known offenders;
- incidents involving online exploitation;
- individuals with disabilities;
- individuals with mental health issues;
- individuals who are homeless; and
- incidents involving a crime scene to be examined.

JPS determined that the municipal police forces review would consist of all sexual crimes in the 1300 UCR series that includes, but is not limited to, and in addition to sexual assault incidents, offences that only apply to those under the age of sixteen, for example, sexual interference and invitation to sexual touching.

On February 21, 2017, municipal police forces were directed by JPS to review all sexual crimes (from the entire 1300 UCR series) for the reporting period of 2010-2014 and to report their results using the QA guide/matrix to JPS. Municipal police forces were tasked with examining all unfounded complaints for the initial purpose of verifying the offence investigated (scoring) and the incident clearance status (for example: unfounded, cleared by charge, cleared otherwise or inactive). Once this was completed, municipal police forces reviewed all unfounded sexual crime complaints using the matrix and review guide. A random sample of all founded sexual crime complaints (for the purpose of this report, “founded” files will include files as cleared by charge, cleared otherwise and inactive) was selected using the statistical sampling table and these files were also reviewed using the PSCM matrix and guide.

AGENCY	Globe reported % unfounded	% unfounded after provincial review	# of Sexual Crimes 1300 UCR 2010-2014	Average # of sexual crimes reported to police per year	# unfounded after review 2010-2014	Average # of unfounded sexual crimes per year
EPF	22%	7.84%	51	10.2	4	0.80
GFPP	N/A	6.67%	45	9	3	0.60
WPF	22%	13.16%	38	7.6	5	1.00
FPF	16%	10.87%	414	82.8	45	9.00
SJPF	51%	14.60%	877	175.4	128	25.6
KRPF	37%	19.64%	56	11.2	11	2.20
MPF	28%	20.20%	99	19.8	20	4.00
BNPP	38%	4.55%	66	13.2	3	0.60
BCP	39%	10.00%	100	20	10	2.00
TOTALS	32%	11.95%	1746	349.2	229	45.8

TABLE 1 - It is unclear whether the Globe considered only sexual assault complaints (1330 UCR Code) or the entire 1300 UCR series. The total number of files reviewed by the municipal/regional police forces was 691, which included all unfounded sexual crimes (229 files) from the 1300 UCR series and a sample from the founded sexual crime files (462 files). This table represents a result of the reviews conducted by all New Brunswick municipal/regional police forces.

Tracking of Recommendations

The focus of any review is to ensure the management of selected risk activities is in compliance with the *Policing Standards – New Brunswick*, the Municipal/Regional Police Forces Operational and Administrative Manuals (Operational Manual and Administrative Manual, respectively) and legal requirements. Recommendations made in this report will be tracked to completion by PSCM. An action plan will be developed for each recommendation by PSCM in collaboration with the NBACP, the New Brunswick Police Commission, and relevant stakeholders.

A snapshot of the reviewed activity is summarized in this report (see table 3) and includes a rating based on the following scale:

Rating	Description
Needs Improvement (NI)	Practices and controls are not adequate to ensure the objectives are achieved effectively in this activity.
Meets Expectations (ME)	The activity's management meets current provincial policing requirements. Any issues/opportunities for improvement noted are not major in that they do not affect the ability to achieve its objectives.
Good Practice (GP)	Practices within the activity reviewed are noteworthy and should be recommended for implementation in other municipal police forces.

Findings - Sexual Crime Investigations

As stated previously, the objective of the New Brunswick review was to ensure that appropriate investigative procedures and established protocols are followed, documented and that where appropriate, charges are recommended to the Crown prosecutor's office. In addition, the reviews examined the UCR offence classification for consistency and accuracy. Reviews were completed by all nine New Brunswick municipal police forces and submitted to JPS. Policing Consultants Jennifer Smith and Rick Votour, who created the review guide and matrix, were engaged in the sexual crime reviews of all municipal police forces to some extent. The findings and recommendations from the overall review have been divided into four categories:

1. data integrity;
2. victims;
3. investigation and oversight; and
4. policing standards and operational policy.

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Summary of Findings				
TABLE 3				
Item	NI	ME	GP	Comments
NI – Needs Improvement ME – Meets Expectation GP – Good Practice				
Data integrity				
Unfounded files				All NB municipal police forces interpret and classify files differently. Consistency and adoption of CCJS standards and guidelines is critical. A provincial coordinator should be identified. See recommendations #1 and 2
Standards, policies, and QA Program				Municipal police forces are expected to comply with the UCR Survey rules and guidelines. Integrity of data will be added to the QA program as a risk activity and recommended as a provincial priority for fall of 2017. See recommendation #3
Classification of offence				Classification of offences will strengthen with additional UCR training, sexual crime investigations training, and the continued work by the Versadex Users Group. See observation #1
Validators				Some NB municipal police forces have identified civilian validators, trained by CCJS. Ensures consistency within the agency. See good practice #1
Versadex Users Group				Versadex Users Group is working towards standardization of RMS practices and guidelines, including collection of CCJS data. See good practice #2
Victims				
Police interviewers				A victim-centered approach should be explored in NB, along with identifying training required for investigators. See recommendations #4, 5, and 6
Victim services program				This is a trend the review team has seen for the past four years and is evident with this review. Either a referral is not occurring or not being articulated. <i>Policing Standards</i> SS1 mandates referrals. See recommendation #7
Sensitivity to victims				Overall, municipal police officers treat victims with dignity and respect. Training officers on trauma response is recommended above. See observation #2
Victim updated				Ensuring complainants / victims are kept updated are a priority for municipal police forces. See observation #3
Victim statements				Municipal police officers make a concerted effort to ensure interviews / statements are taken or an attempt is made to do so. See observation #4
Social Development				Municipal police forces in NB are fully compliant with mandatory reporting practices. See good practice #3
Investigation & oversight				
Elements of the offence				Training should include elements of the offences and issue of consent. Should be given by a subject matter expert. See recommendation #8
Supervisory oversight				A lack of written direction by supervisors is noted; supervisors should ensure that investigators have interviewed all relevant witnesses. See recommendation #9
Exhibit handling				Municipal police forces in NB are well trained in exhibit handling. QA review of exhibits completed of police forces in last 4 years. See observation #5
Crime scene examination				Small number of cases requiring crime scene examination. Police have the requisite skills, experience and technology. See observation #6
Medical records				Municipal police forces obtain medical records when they exist and are relevant to furthering their investigation. See observation #7
Use of specialized units/investigators				7/9 municipal police forces have the capacity to investigate complex crime and are responsible for investigating the majority of sexual crimes in their jurisdiction. Investigations of this kind in NB are generally investigated by experienced and trained investigators. See good practice #4
Policing standards and operational policy				
Standards & policies				Provincial protocols, standards and policies should be established by the Policing Standards Policy Committee. See recommendation #10
QA practices				Sexual crime investigations are a risk activity included in the municipal police forces QA program. Improvements will be made to the review guide. See recommendation #11
Policy Committee				Represents all police agencies; responsible for <i>Policing Standards</i> , and NB municipal operational and administrative policing policy. See good practice #5

Data integrity

Objective:

To ensure that municipal police forces are consistently and adequately scoring offence classification as per the UCR Survey.

Findings:

The Globe reported the rate of unfounded sexual assaults in New Brunswick to be 32%. This review determined the actual rate of unfounded sexual crimes over a period of five years was 11.95% for municipal police forces. The discrepancy between the Globe calculations and the New Brunswick review is directly related to incorrect and inconsistent scoring of the investigations at the point of case conclusion. As stated earlier in this report, the Globe analyzed data collected from police forces before the sexual crime investigations were verified for accuracy. The Globe probe alerted municipal police forces in New Brunswick to the consequences of inconsistent application of rules for using the unfounded code. All municipal police forces, to varying degrees, incorrectly used the code unfounded. The Chief of the Saint John Police Force alerted the Globe to the inaccurate data at the moment he released the file outcomes for his agency. The rate initially reported for Saint John was 51%. A review of all sexual crime files with the correct application of the rule for using unfounded resulted in a recalculated rate of 14.6% for Saint John. In fact, every municipal police force saw a reduction in the percentage rate of unfounded files once the review was completed.

The national standards according to the UCR Survey issued February 14, 2017 by CCJS, Statistics Canada, indicates that the criteria for clearing incidents as unfounded is as follows:

“Unfounded:

*An incident is “unfounded” if it has been determined through police investigation that the offence reported did not occur, nor was it attempted and therefore **no violations of the Criminal Code or other federal statute took place at that time or location.**”*

It should be stated at the outset that an unfounded clearance does not mean the police do not believe the complainant or the victim despite the Globe’s assertion in their news articles. Unfounded means that an investigation has been completed resulting in the determination, based on fact that the incident did not occur.

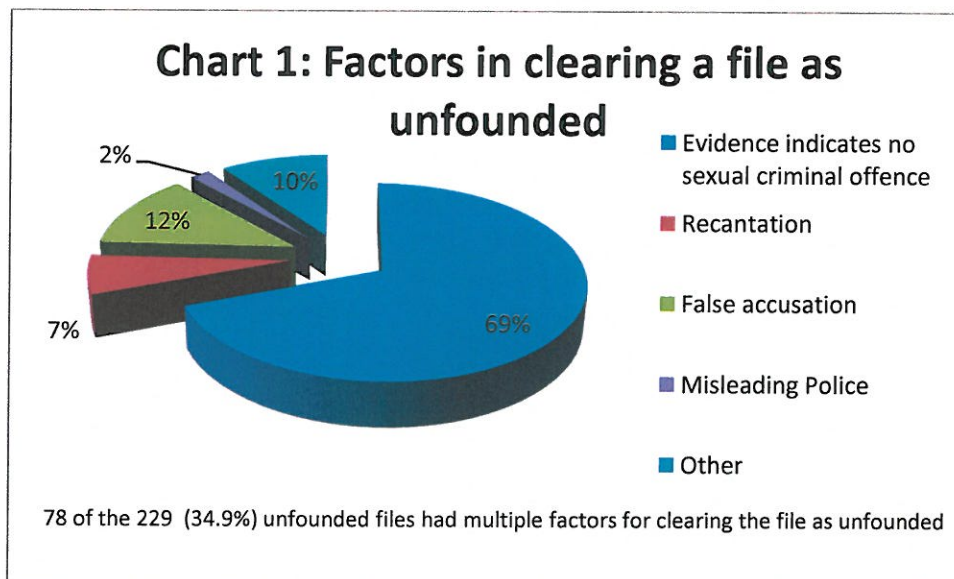
While the definition for unfounded by Statistics Canada is very clear, New Brunswick municipal police forces were using this case conclusion outcome on files that were difficult to substantiate with the available evidence.

Who is responsible for ensuring the correct classifications are made? In some instances municipal police forces use a civilian validator who has been specifically trained to ensure the accuracy of the data being sent to CCJS. This provides consistency for that agency and is considered a good practice with one exception; if the investigating officer does not produce a well-articulated investigative file, especially comments justifying case closure, the validator can make incorrect assumptions.

In other municipal police forces, the scoring and clearance of files is completed by more than one individual and this can lead to inconsistency within the agency. Since inconsistencies in data

submitted to CCJS is widespread across the province, crime data in general cannot be relied on as accurate enough to analyse with a level of confidence. The systematic analysis of police gathered data or statistics is critical not only to law enforcement but also to government, partner agencies, victim advocate groups, academics and the business community.

Municipal police forces were asked to identify all the factors that were considered when deeming a file as “unfounded” from the following list: evidence indicates that no criminal offence occurred; victim recantation; false accusation; misleading the police; and other. In the majority of cases (69%), the evidence, through investigation, indicated that a crime had not occurred. False accusations (12%) resulted from investigations where evidence was obtained to support that a false accusation was made. The results are included in chart 1 below.



The offence of sexual assault under section 271 of the *Criminal Code* is designated by UCR code 1330 and accounts for an average 75.8% of reported sexual crimes to the municipal police forces in New Brunswick. National studies on victimization show that only 5% of sexual assaults experienced by Canadians 18 years and older in 2014 were brought to the attention of police.

The majority of investigative files that review teams found coded incorrectly as unfounded complaints should have been coded as inactive. In other words, the investigation had gone as far as it could, there was insufficient information to lay a charge and avenues of investigation had been exhausted. Inactive files can be reactivated if new information comes forward. Since inactive files are at their core “unsolved” crimes, statistically they impact a law enforcement agency’s clearance rate. The PSCM review team reviewed dozens of investigations that were scored incorrectly as unfounded because there was no *prima facie* case of sexual assault.

It was not unusual for police to consult with the Crown Prosecutors’ office for an opinion on evidence collected in cases where pre-charge screening of the investigation could be an issue. Where the Crown was of the opinion that evidence collected had little chance of a conviction in a court of law the police would conclude the file as unfounded. Clearly if the police were seeking a Crown opinion the file should never be scored unfounded.

Complicating the investigation of sexual crimes is the fact that incidents are often reported to police by a third party which presents challenges and complications for police investigation. It is important to recognize that 3rd party reported incidents of sexual crime are very prevalent to police versus victim reported incidents.

Data entry errors extended to other areas of the police records management systems (RMS), for example, the inconsistency in assigning the role played by various parties to the incident. It is significant to note that each municipal police force in New Brunswick has the responsibility to ensure that the integrity of UCR data is intact however there is no provincial coordinator responsible for municipal police forces to consult with or to request training from. The absence of available training and an external audit of data accuracy were immediately evident from the Globe investigative report. Municipal police force employees that were interviewed as a result of this review indicated that they had not been trained by those responsible for the UCR Survey, rather that they learned on the job, perhaps trained by someone who themselves had never received any training.

In April 2017, the Police Information and Statistics Committee (POLIS) of the CACP recommended to StatsCan that they resume the collection of unfounded data. StatsCan will publish their first set of results in July 2018. UCR training in the correct techniques for classifying all police investigative occurrences is critical to ensure the accuracy and integrity of the data collected and submitted to Statistics Canada.

Recommendation #1: That a provincial coordinator be appointed to be responsible for the integrity of municipal police force collected UCR data by working in collaboration with the CCJS and all municipal police forces.

Recommendation #2: That the provincial coordinator prepare an action plan for approval by the Director of PSCM that sets out the necessary steps to establish the municipal police forces in New Brunswick as leaders in producing consistently accurate police statistics suitable for analysis.

Recommendation #3: That PSCM collaborates with CCJS to develop a Quality Assurance Guide and include Integrity of UCR data as a provincial priority for the next municipal police force QA cycle that begins in the fall of 2017.

Observation #1: Generally speaking, municipal police forces do a good job in identifying the correct primary offence classification. When it comes to sexual crimes in some cases however, the final offence classification was not always what the officer investigated. For example, when a sexual interference investigation is classified as a sexual assault, and sexual interference is never identified; or when sexual exploitation is identified as the offence, however the allegation doesn't support that it could even be sexual exploitation; or when a municipal police force is assisting another police agency with their sexual assault investigation, yet the assisting municipal police force scores their own file as a sexual assault. This misrepresents the number of actual sexual assault incidents reported in the jurisdiction. Municipal police forces will strengthen an already good practice in offence classification by: participating in the Versadex Users Group to achieve standardization; receiving training and revised guidelines and standards from CCJS; and having officers better understand the sexual crime offences.

Good practice #1: The review team found where a municipal police force identified a validator,

responsible for overseeing the final clearance and scoring of files, amongst many other things, the reliability of the data was increased. The validators were more likely to reach out to CCJS or other validators for assistance when needed. It should be noted that those who have been identified as validators have also received training from CCJS.

Good practice #2: The Versadex Users Group focuses, in part, on RMS issues and concerns across the province. Municipal police forces in New Brunswick recognize the need for standardization, guidelines and practices within the RMS, and in which the CCJS collection of data occurs. JPS continues to support this initiative.

Victims

Objective:

To ensure that victim needs are met, without judgment, with a compassionate and sensitive delivery of services.

Findings:

In the Juristat release of July 11, 2017, titled *Self-reported sexual assault in Canada, 2014*, Statistics Canada indicated that:

- The General Social Survey on Canadians' Safety (Victimization) (GSS) is a survey of self-reported data, including data on sexual violence; it is used by Statistics Canada to collect information on self-reported (self-identified and not reported to police) sexual crimes from Canadians 15 years and older, in addition to the UCR Survey which collects police-reported (incidents reported to police) data, because sexual crimes are underreported.
- the rate of self-reported sexual assault did not change significantly from 2004 to 2014; however the police-reported data for the same time frame declined;
- for the more recent year of 2016, the self-reported rate of sexual assaults was down 15% when compared to 2004;
- Of all sexual crime incidents perpetrated by someone other than a spouse, one in 20 (5%) was reported to police compared to one in three incidents of other types captured by the GSS;
- self-reported victims of sexual crime did not report the incident to police because:
 - the crime was minor and it was not worth taking time to report (71%);
 - the incident was a private or personal matter and handled informally (67%)
 - no one was harmed during the incident (63%)
 - there was a lack of evidence (43%);
 - no harm was intended (39%)
 - they did not want others to find out about their victimization; and
 - there are a range of factors that keep victims from reporting this type of crime such as the stigma of victimizations, nature and severity of the offence, fear of being re-victimized and fear of not being believed.
- Victims of a sexual crime often had lower trust in others and less likely to have a great deal of confidence in police than those who had not been victims.

Nearly two-thirds (64%) of victims stated that they disclosed the incident to someone they trusted such as a friend or a neighbour. Smaller proportions of victims stated they talked with a

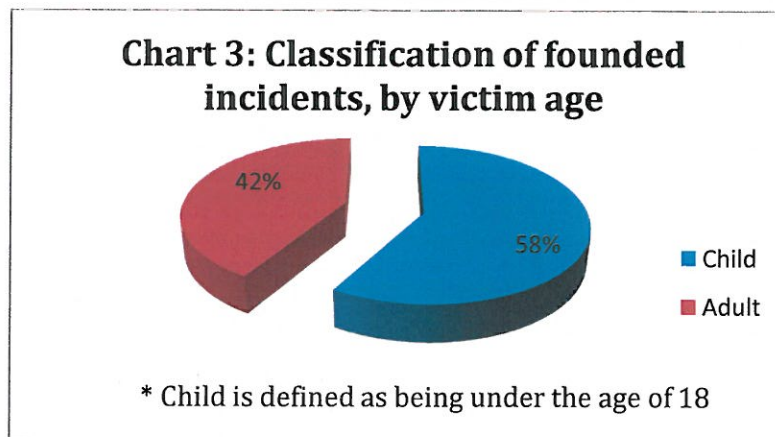
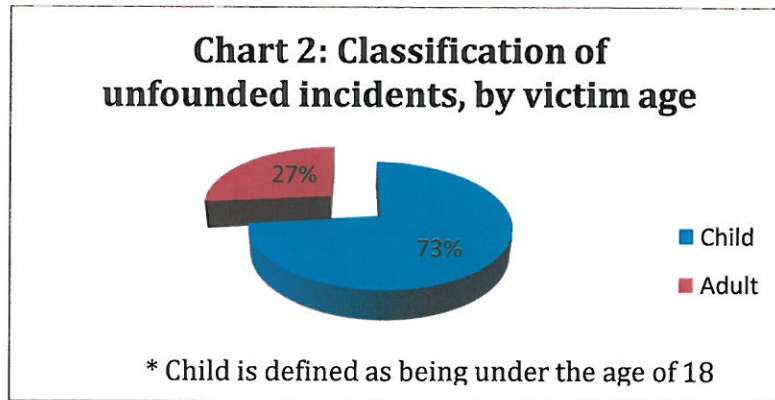
family member (41%), a co-worker (24%) or a doctor or nurse (6%). The review of New Brunswick sexual crimes confirms the fact that numerous investigations began when information was received from someone other than the victim and that the victim did not always welcome police involvement.

New Brunswick data collected regarding the victim in the municipal police force review included the information as seen in table 4 below:

691 Files Reviewed	229 unfounded files reviewed	462 founded files reviewed
Reported victims under the age of 18	73.4%	58.4%
Incidents Involved IPV	0.87%	5%
Attempted or Obtained Statement	88.2%	92%
Referral to DSD or VS	72.1%	64.7%
Com/Victim kept notified	89.5%	83.3%

TABLE 5 – This table represents a snapshot of findings from victim information.

Chart 2 and Chart 3 represent the number of child and adult victims cleared as unfounded and founded, respectively.



With respect to incidents involving children, interviewers require a special skill set, knowledge of the cognitive and physical development of children and interview training. Municipal police

forces in New Brunswick are expected to comply with the New Brunswick *Child Victims of Abuse and Neglect Protocols* currently in place and as set out in the *Policing Standards – New Brunswick*. If a suspected victim is a child under the age of 16 (or 19 years of age in the case of a child with a disability), it is mandatory for the police to report the allegation to DSD. Investigations are conducted jointly between police and DSD; however the police are responsible for the criminal investigation. In a number of cases reviewed, it was noted that if a child failed to disclose during the DSD screening then police would often conclude their investigation at that stage, without proceeding with the investigation. The majority of complaints involving children will have resulted from a child disclosing to an adult. More often than not, a statement was not taken from the person disclosed to. Even if a child does not disclose during the DSD screening, the police are obligated to complete their investigation, which should include taking a statement from the disclosure witness.

The municipal police force review captured referrals to both DSD and victim services (both police-based victim assistance coordinators and the provincial victim services program) in the same question, which resulted in a rate of referral of 67.1% for all files reviewed. In almost every case involving a child a referral was made to DSD; however the review team observed that when there was an adult victim, a referral to victim services was seldom articulated in the investigative file. This is an issue that has previously been raised with police forces during the QA program's review of intimate partner violence.

Officers must be careful in assessing the truthfulness of a victim based on the victim's behavior or observable affect. Officers need to be aware that victims respond very differently to trauma. The Fredericton Police Force recently delivered a two day curriculum developed by the Fredericton Sexual Assault Centre (FSAC) called "Improving Outcomes". The curriculum is designed to deliver trauma-informed sexual assault police response training with sharp focus on: initial police response when interacting with victims; making the victim feel safer; doing no harm from police interview tactics; assessing the overall situation; and providing what the victim needs.

Specific training for handling sexual crime investigation by municipal police officers in New Brunswick is held by only a small number of police officers. Municipal police forces reported that in 78.3% of the incidents reviewed the primary investigating officer was trained for handling complex investigations and/or sexual crimes. Seven of the nine municipal police forces have a Major Crime Unit (MCU), a General Investigation Section (GIS) or a Criminal Investigation Division (CID) composed of trained and experienced investigators who typically engage very early in the investigation of complex crimes which includes sexual offences. In one larger municipal police force the CID has a special Family Protection Unit. Only the two smallest municipal police forces in New Brunswick have no secondary layer of investigators for more serious crimes although all serious crime is directly supervised by Sergeants and/or the Deputy Chief.

With respect to providing policing services to victims, our municipal police forces do a good job and they meet expectations in that statements are obtained and the victim is updated when necessary. There is considerable room for improvement in both policy and training and a trauma-informed or victim-centered approach should be explored as a best practice.

Recommendation #4: That the New Brunswick Association of Chiefs of Police (NBACP) examines model practices that have the potential to improve police interaction with victims of sexual crimes and that this is done in collaboration with the current research being explored by

Public Safety Canada, “Information Sharing and Model Practices in the Canadian Context” and relevant stakeholders.

Recommendation #5: That the NBACP, through the Policing Standards Policy Committee, identify the training required for investigators of sexual crimes.

Recommendation #6: That interview of victims of sexual crimes by municipal police forces be conducted only by an investigator trained and certified to conduct that interview using the principles of trauma-informed response.

Recommendation #7: That the Chief or designate ensures municipal police officers are referring victims to the police-based victim assistance coordinator, or where none exist, to the provincial Victim Services Program and that the police officers are documenting these referrals in the RMS as per the *Policing Standards* section on *Victim / witness assistance*, SS 1.

Observation #2: The review team noted that overall municipal police officers in New Brunswick treat victims with dignity. In cases where there were inconsistencies in information provided by the victim officers treated victims with respect. It was rare that where the evidence supported mischief charges that a victim was charged. Despite belief by some people that victims are routinely given polygraphs to determine their truthfulness, that is not the case here in New Brunswick. As mentioned above, training for officers on trauma response is recommended.

Observation #3: Of the files reviewed, complainants / victims were kept updated 89.5% in unfounded files and 83.3% of the time for all other complaints reviewed. Strong efforts are made to ensure complainants / victims are kept updated. Any gaps identified are likely due to a lack of articulation.

Observation #4: Of the files reviewed, statements were taken or were attempted in 88.2% of unfounded files and 92% of the time for all other complaints reviewed. It is noted that it can be difficult to obtain a statement from a victim where the complainant is a third party. Efforts should be made to improve articulation in the file of all attempts to take a statement / conduct an interview.

Good practice #3: The NB Child Abuse and Neglect Protocols, as well as the *Family Services Act* are clear when it comes to reports of sexual abuse of children. Mandatory reporting exists and criminal investigations of alleged sexual abuse are done jointly with the DSD. A strong working relationship exists between municipal police forces and DSD. Municipal police forces in NB are fully compliant with mandatory reporting practices.

Investigation & oversight

Objective:

To ensure that operational files are properly investigated and adequately supervised with all occurrences properly recorded and handled in a timely manner. The delivery of services to complainants and/or victims of sexual crime are conducted in a compassionate manner, with awareness that victims of trauma respond differently. Complainant and / or victims are kept up to date with investigation outcomes.

Findings:

One of the primary duties of a police officer is to record details and document actions thus police writing remains one of the most identifiable and lasting impressions an investigator can project of themselves in an investigative file. The officer's professionalism, competence and investigative abilities are revealed to every supervisor who serves in the role of oversight and also to policing consultants who review the written record to assess quality of investigation and supervision. The review of hundreds of criminal investigations during the past four years of quality assurance cycles conducted at municipal police forces revealed common trends in report writing that has resulted in recommendations. Areas for improvement focused on the need to improve articulation, documentation and concluding summaries within the investigative file. Other gaps included irregular supervisory oversight and a lack of supervisory directions documented in the file. This review of sexual crime investigations revealed the same trends.

Several municipal police forces consistently produce investigative reports that exceed expectations with attention to detail combined with a better than average quality of written work that is consistent across all investigation types.

Investigative files that result in criminal charges are generally well done by all municipal police forces in New Brunswick due in large part to the different layers of supervisory oversight that they undergo before they are presented to the Crown prosecutor for pre-charge screening. In other words, pre-charge screening in NB has the effect of raising the bar for documenting every step in an investigation and ensuring that all evidence has been gathered and all written and/or recorded statements have been obtained.

In the review of municipal police force sexual crime occurrences, both founded and unfounded, it was noted that only a small number of sexual crimes are reported to the police "in progress", in other words there are very few cases where a person has just been sexually assaulted resulting in a crime scene that can be examined or where physical evidence might actually be available to forensically analyse. For example, of the total reviewed cases:

- 58.32% the victim did not require medical attention;
- 58.32% there were no exhibits (oftentimes exhibits were only statements);
- 82.9% there were no relevant medical records; and
- 79.0% there was no crime scene or physical evidence to obtain.

One area for improvement commonly found in sexual crime investigation files is the failure to obtain witness disclosure statements. Victims often disclose this type of crime to someone they know long before they contact police. Often disclosures are made to a friend, a family member, a co-worker or someone the victim trusts shortly after the incident occurred and before the disclosure to police. Witness testimony from the first person disclosed to is important corroboration for a crime that often lacks physical evidence.

Another issue that revealed itself is that some investigators form opinions early in an investigation without having exhausted all avenues of investigation. This would reveal itself in one of two ways: the investigator expressly documents their opinion in the narrative of the file or the investigator seeks opinion from either a Crown prosecutor or a polygraph examiner. While either consultation in itself may be a valid route to take in an investigation, the consultation is commonly done too early in the investigative process when the investigator has remaining avenues of investigation that should be pursued before the consultation.

It was noted by the Policing Consultants review team that officers, more so primary response officers, did not necessarily understand the elements of the various sexual crime offences in the *Criminal Code*. For example, on one occasion, an officer was consulting with the Crown on whether there was sufficient information to proceed with a charge; however the officer neglected to inform the Crown of a key piece of evidence that supported the existence of a criminal offence. In other cases, the officers did not completely understand the specific offences relating to child victims including sexual interference, and invitation to sexual touching. There was confusion regarding the age of consent, and more frequently and with respect to consent, when the victim and suspect are near in age. Sexual exploitation is another offence that does not appear to be well understood with respect to the elements of that offence, particularly where a young person is defined in that section as being 16 years of age or over but under the age of 18 years. Making these investigations more complicated are incidents of child luring over the internet; these incidents are on the rise and the use of social media by young people and predators result in criminal investigations that require different strategies, technology, and tactics by police to collect evidence and identify those involved.

A child victim presents unique challenges to a police investigator and it is always preferable that only someone who specializes in child interviews conduct them. In New Brunswick the interview is almost always conducted by a DSD social worker trained to interview children. This approach takes into consideration the development and understanding of the child and attempt to minimize the trauma the child may experience while maintaining the integrity of the investigations. Children are often subject to influences brought on by family separation, custody battles and other issues that can make them feel inclined to make up a story that is false. Some police officers responsible for the police investigation rely totally on the outcome of the interview by DSD and have concluded investigations based on that fact alone even when other avenues of investigation still remain. A disclosure during the DSD screening is a factor in the investigation; however some officers need to be reminded that a criminal investigation is separate from the DSD investigation.

It was noted that police investigators were quick to end a criminal investigation if the screening interview of a child by DSD did not result in a disclosure. The same would happen if a polygraph examination eliminated a suspect and yet in both examples there were often witnesses that could have been interviewed. In 42% of unfounded cases there were still witnesses that could have been interviewed. In 43% of all other files not concluded as unfounded, there were still witnesses that could have been interviewed.

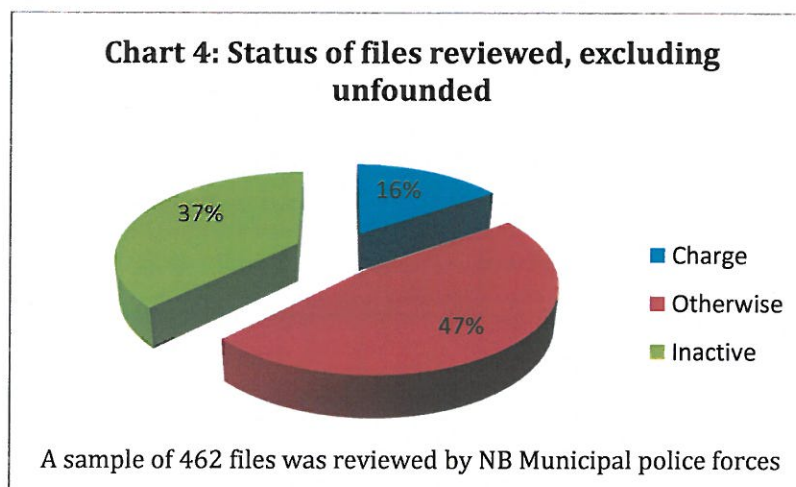
Police have a duty to explore the reliability of information and remain unbiased. It is a fundamental principle that the investigator remains impartial and in every case possible interview all parties to the complaint, including the victim, the complainant, any witnesses and suspects. During the review of sexual crime files for this quality assurance probe, it was noted that often investigators would conclude an investigation without interviewing a named suspect. Articulation in a file might state that police did not have grounds for an arrest but clearly when a police officer is trying to discover whether, or by whom, an offence has been committed, that police officer is entitled to question any person from whom the officer thinks may have useful information.

The review examined whether or not a suspect was interviewed, or whether an attempt was made to interview the suspect; the results reveal that the suspect was interviewed 38.4% of the

time in unfounded complaints and 66.2% of the time in founded complaints.

There would be no expectation of recommended charges in true unfounded cases as the very definition of unfounded means the investigation revealed it did not occur. In only 2.2% of the unfounded cases were charges of a sexual crime recommended. Charges were recommended in the founded sexual crimes at a rate of 24.24% and the accused was charged in 15.58% of the cases reviewed.

Chart 4 indicates how the founded sexual crimes were closed:



In New Brunswick, municipal police forces are obligated to engage the Crown Prosecutor in a pre-charge screening process. While the police are responsible for investigating the offence, the Crown Prosecutor determines whether a case will get to court. While this process results in the second highest conviction rate in the country, it appears, to the Policing Consultants review team and as independent readers of operational files, to also influence the scope of some investigations. For example, if a complainant/victim does not want to provide a statement, the investigation stops, regardless if there are additional investigatory steps to take because in many instances, the Crown Prosecutor will refuse to approve a charge absent a victim statement. If a child doesn't disclose during DSD screening (as mentioned above), officers also tend to conclude the investigation believing that the Crown will not approve a charge. Municipal police forces need to ensure that officers have done their due diligence in completing a thorough investigation and not shutting it down prematurely based on perceived limitations set by the Crown.

Recommendation #8: That any sexual crime investigation training provided to municipal police forces shall include training by a subject matter expert on the legal requirements needed to establish the elements of the offence and to have charges approved, particularly as it relates to the issue of consent.

Recommendation #9: That policy developed by the Policing Standards Policy Committee shall include roles and responsibilities of supervisory oversight that includes the assessment of evidence to provide the investigator with guidance on any remaining investigative steps available before case conclusion.

Observation #5: There are very few "in progress" sexual crimes reported to municipal police forces in New Brunswick. Municipal police forces are very diligent in the handling of any exhibits

seized. The majority of exhibits that were seized in the sexual crime investigations were of statements taken, as opposed to the collection of physical evidence, which was rare. A quality assurance review by the Policing Consultants review team was conducted of all police forces in the last 4 years which included a review of bond rooms, operational policies, and interviews with police officers and bond room custodians.

Observation #6: Of the files reviewed, 79% did not have a crime scene to examine or physical evidence to obtain. Municipal police forces in New Brunswick are well trained to collect and process physical evidence and in the majority of cases where physical evidence existed, police proceeded accordingly. Supervisory responsibility should address those few cases where a crime scene could have been examined but wasn't.

Observation #7: In 82.9% of cases there were no relevant medical records. Municipal police forces are experienced in obtaining these records when needed to further their investigation and meet expectations in this area.

Good practice #4: Municipal police forces in New Brunswick recognize the complexity that accompanies most sexual crime investigations and experienced serious crime investigative units exist in 7/9 police forces. *Policing Standards* requires that police forces either have investigators trained to investigate complex crime or have access to these services. The remaining 2/9 municipal police forces have agreements with other police forces that allows them to obtain their services to investigate complex crime, including sexual assault. 78.3% of sex crimes investigated by municipal police forces were investigated by specialized units or specialized investigators. Overall, the investigation of sex crime incidents in New Brunswick meets expectations; the review team suggests that while there is always room for improvement, particularly as it relates to meeting the needs of victims of trauma, there are gifted and experienced investigators in New Brunswick who exemplify compassionate service delivery.

Policing standards, operational policy

Objective:

To ensure that municipal police forces are providing an adequate and effective policing service to all New Brunswick citizens.

Findings:

The investigation of a sexual crime can quickly become dynamic and complex. Many incidents of this crime type are reported weeks, months, years and even decades after the offence date. Historical investigations present challenges due to issues with the loss of evidence over time and the perceived reliability of the victim, witness and suspect who may be vague on the time, location and details of the incident. An unsettling number of victims are young children that require special consideration and procedures for interview by specially trained personnel from DSD. Many times victims know their offenders. Culture, fear, and trauma issues experienced by a victim also require special consideration by the investigating officer. The reviewers of this risk activity observed that in many historical cases disclosure statements from witnesses were not being obtained.

In the section "Investigations", OPS 3 of the *Policing Standards - Province of New Brunswick* and specifically 3.8, it states that:

“Police forces shall have an investigative component whereby police officers have been trained to investigate criminal offences of a varying degree of complexity than those more appropriately handled by the primary response officer”.

Seven of nine New Brunswick municipal police forces investigate sexual crimes within a team assigned major crime files.

The *Policing Standards* also include a generalized section for victim and witness support. Support Services, section SS1 directs municipal police forces to ensure that victims are informed of the rights and remedies available to them. SS 1.3 is specific in that municipal police forces shall refer all victims of crime to the police-based victim assistance coordinator and where that is not an available option referral is to be made to JPS’ Provincial Victim Services Program.

There is no specific policing standard for the investigation and handling of sexual crime such as there is for intimate partner violence (see OPS 8, Intimate Partner Violence (IPV)). The policy on IPV is very clear that municipal police forces will have policy governing response and investigation, will use a Police Based Risk Assessment Tool and that the municipal police force follow established New Brunswick protocols. Specific IPV policy has improved both the initial response and the follow up investigation that municipal police forces conduct in New Brunswick.

As previously mentioned, the police force QA program is administered pursuant to the *Police Act* and the *Policing Standards*. Sexual crimes has been added as a risk activity to the QA program and as with other risk activities in the program, the sexual crimes review guide and matrix used by the municipal police forces was created by PSCM. The policing consultants who developed the review guide had the opportunity to use it during the review and have received feedback from police reviewers. The use of one review guide and matrix provides consistency across the municipal police forces in the analysis of their results. Improvements will be made to enhance the Sexual Crimes review guide and its accompanying matrix; this will only strengthen future reviews.

Recommendation #10: That the NBACP, in collaboration with the Policing Standards Policy Committee, and appropriate partners establish sexual crime investigative standards, policies and / or protocols that is inclusive of crimes involving children, social media and the internet. The policy should focus on the best service delivery to the victims of sexual crime while preserving the evidence necessary to increase the likelihood of conviction in cases where charges are appropriate.

Recommendation #11: That PSCM updates the sexual crime review guide and any supporting matrices to enhance its effectiveness in collecting data for future analysis.

Good practice #5: The Policing Standards Policy Committee is comprised of representatives for all ten police agencies in the province. This committee is responsible for any future updates or creation of new Standards to the recently revised *Policing Standards – New Brunswick*, as well as for the drafting of provincial administrative and operational policy. The committee is capturing best practices and working towards standardized, effective, and adequate policing services in New Brunswick.

Other considerations

JPS and its police services will continue to work with federal, provincial and territorial partners in the development and enhancement of service delivery to victims. Included is some of the work being currently underway and being led by the federal government.

The Department of Justice is leading the FPT Coordinating Committee of Senior Officials (CCSO) Working Group on Access to Justice for Adult Victims of Sexual Assaults. This working group is expected to develop a handbook on sexual assault against adults for criminal justice practitioners by the fall of 2018. JPS has three employees involved in this working group.

Public Safety Canada (PSC) is carrying out research with respect to sexual assault investigations and is collaborating on three inter-related projects, namely:

1. PSC is responsible for the chapter on policing in the development of the aforementioned handbook by Department of Justice.
2. PSC is involved in a project on *Information Sharing and Model Practices in the Canadian Context* aimed at identifying legal challenges between police agencies and third parties; and
3. PSC is examining projects and programs of various international jurisdictions with respect to best practices for sexual assault investigations in their review *International Best Practices for Police Investigations of Sexual Assaults*.

Concluding Summary

The Globe's article focused primarily on police response to sexual assaults. One can assume the intent of the Globe article was to provoke immediate response to the issue, especially as it relates to service delivery to victims. The initial outcome in the policing community was a call for action by the CACP in February 2017 to all Canadian police services to complete a review of their sexual assault files. All New Brunswick municipal police forces agreed to review their sexual crime investigations from 2010-2014 using the PSCM review guide and matrix and to submit their results to JPS. It was unclear from the Globe article what crimes specifically were included in their statistics therefore New Brunswick examined the entire 1300 UCR series to ensure no exclusion of sex crime incidents.

The results of the review for municipal police forces New Brunswick do not support the Globe's assertion that when a file is closed as unfounded that it means the police do not believe you. The CCJS definition of unfounded does not support this assertion either. CCJS is working toward improving their definitions, standards and guidelines to ensure a more consistent approach by police across Canada in the submission of their data to CCJS. Municipal police forces in New Brunswick acknowledge the critical importance of crime statistics to their work and are committed to addressing, with relevant stakeholders, the inconsistencies in the current practice.

Overall, municipal police forces meet expectations in their ability to investigate complex crime, including sexual crimes. There is, of course, room for improvement in the delivery of service to victims particularly in relating to victims who have suffered trauma. Further examination of the requisite training for sexual crime investigators is required. There is a need to develop appropriate policing standards and operational policy specific to sexual crime.

Policing services is only a small piece of the Canadian criminal justice system that has a role to play in improving how we respond to victims. The community, families, advocate organizations, federal government, DSD, Office of the Attorney General (Public Prosecutions (Crown)), the Judiciary, Provincial Victim Services Program, and Probation Services, all have a responsibility to ensure that victim needs are being met.

A sexual crime is not like other crimes. As indicated in the 2014 GSS survey of self-reported crime, and included in this report, there are many reasons why a victim will not report to police. We all must do a better job of addressing the barriers to why victims don't report and ensuring that victims are supported along the entirety of the criminal justice system.

Date of Report: October 3, 2017

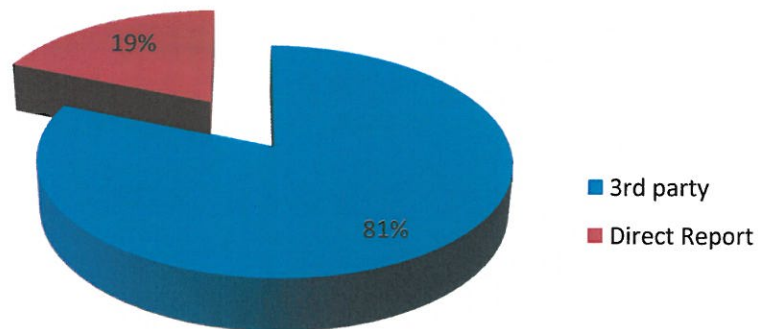
Appendix A – Unfounded complaints, 2010-2014

Appendix A summarizes data collected from September 18th to 26th, 2017 by the PSCM review team during a final examination of all 217 unfounded occurrences reported to the nine municipal police forces during the time period 2010-2014.

Note: the 217 unfounded occurrences differs slightly from the original reported number of 229 on page 5 (Table 1 column 6). The recalculated number is a direct result of the PSCM final review to obtain supplementary data.

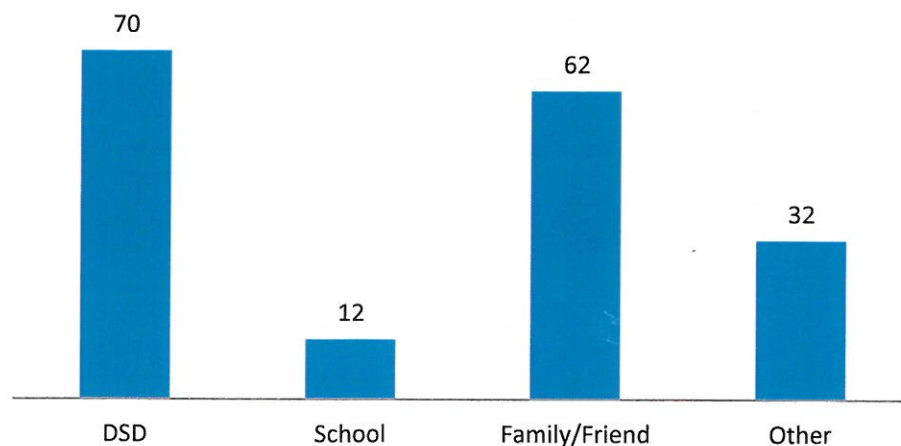
Investigation

Chart A-1: Origin of complaints



This chart is representative of all ages/genders of reported victims

Chart A-2: 3rd party complainants



Police Force	Average # of days between incident occurring and reporting to police	Average # of days between reporting of incident and police closing the file
EPF	48.5	42
GFPF	12.6	123
WPF	48	92
FPF	413	69
SJPF	213	69.6
KRPF	530	71
MPF	208	147
BCP	6.4	56.9
BNPP	27	56
TOTAL	167	80.7

Victims

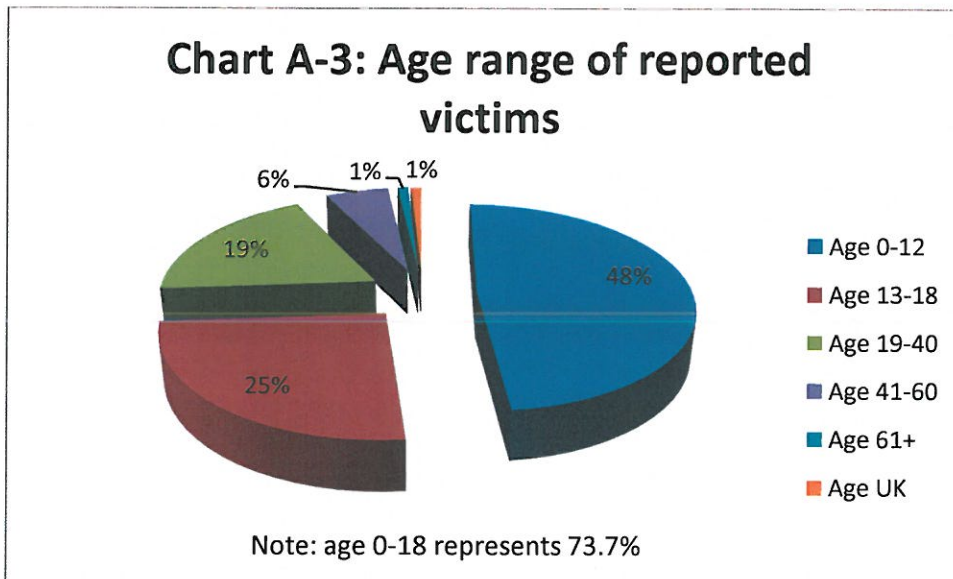


Chart A-4: Reported victims by age and gender

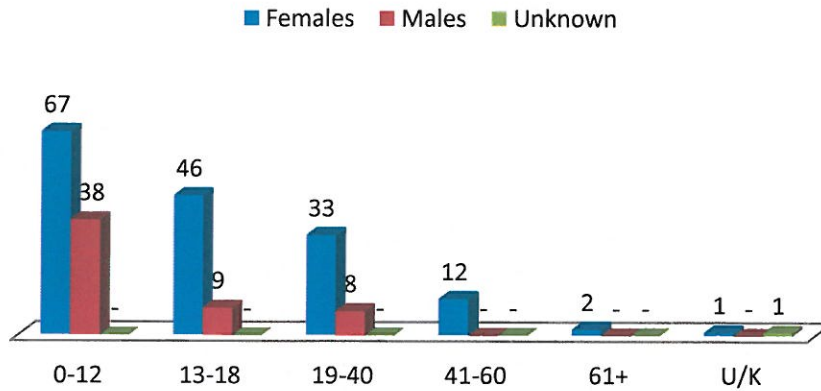


Chart A-5: Reported victims child vs adult

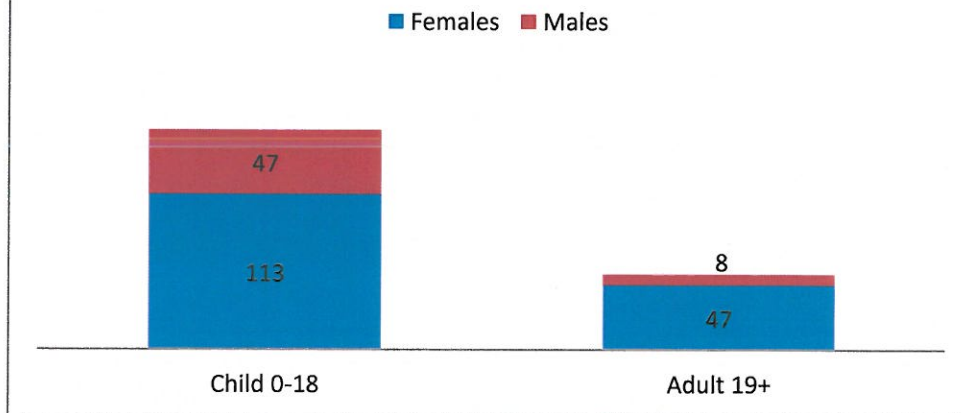


Chart A-6: Reported male victims

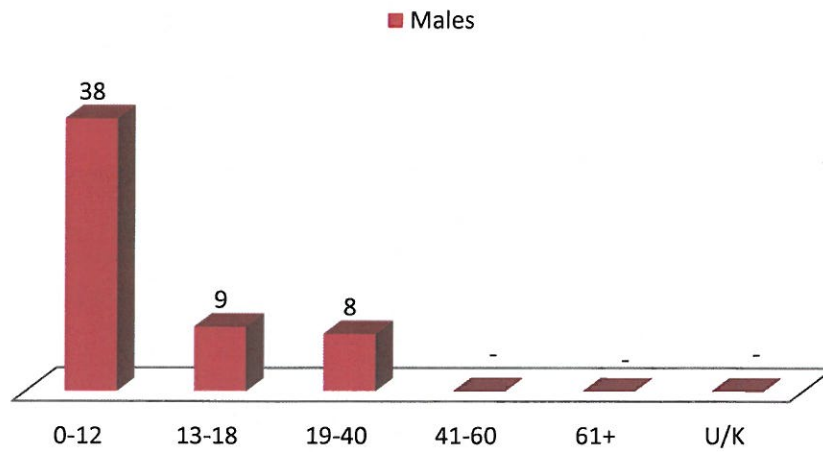


Chart A-7: Reported male victims child vs. adult

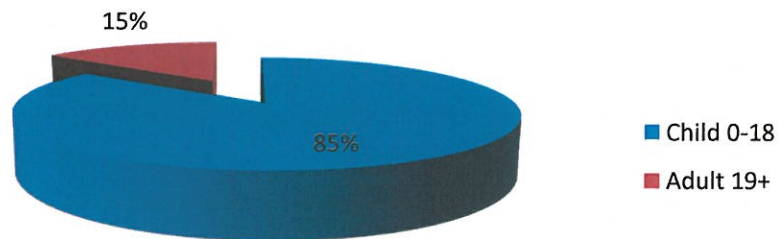
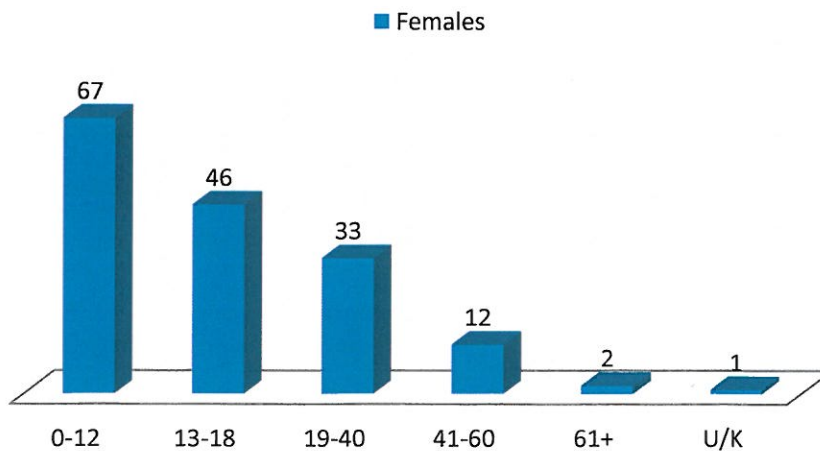


Chart A-8: Reported female victims



**Chart A-9: Reported female victims
child vs. adult**



All unfounded complaints involving adult women were sexual assault investigations with the exception of 3 complaints: voyeurism (2X) and sexual exploitation.

Table A-2

Disabilities of reported victim	
Mental disability	Physical disability
27/217 (12.4%)	3/217 (1.4%)

Table A-3

Reported suspect known to reported victim	182/217 (83.9%)
Polygraph given to reported victim	0

Suspect

Chart A-10: Age range of reported suspects

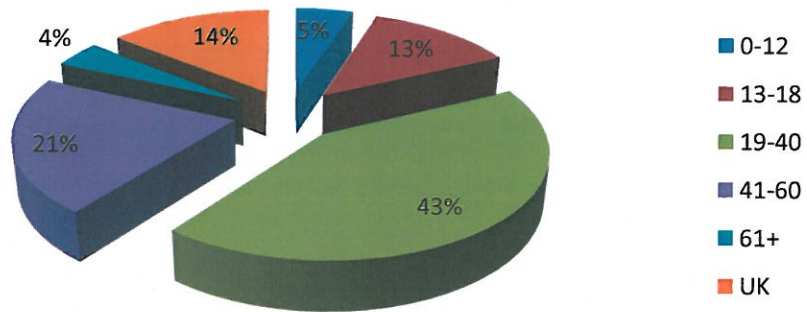
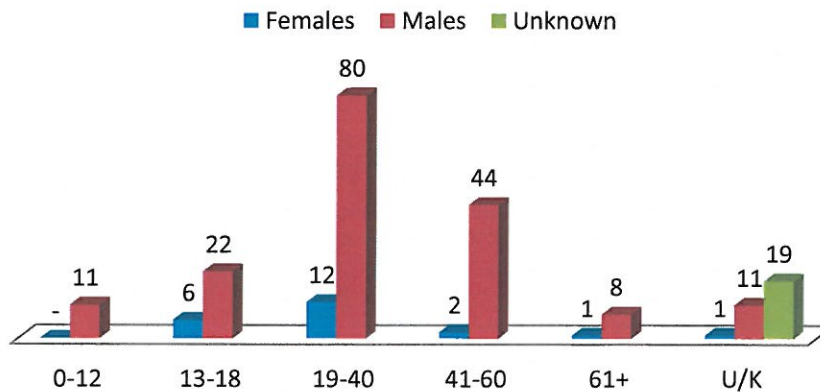


Chart A-11: Reported suspects by age and gender



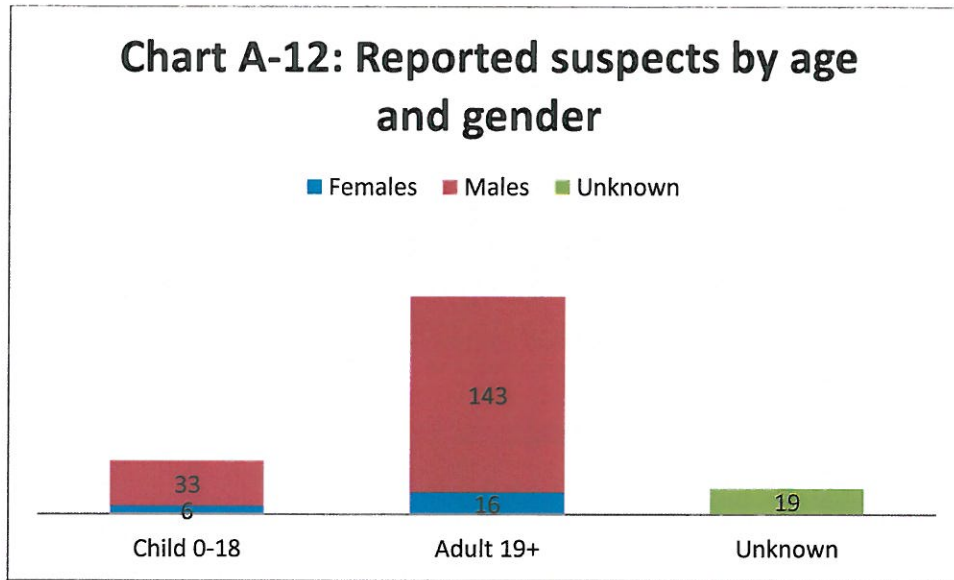
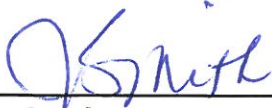


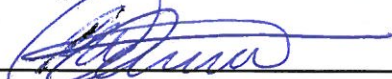
Table A-4	
Disabilities of reported suspect	
Mental disability	Physical disability
10/217 (4.6%)	1/217 (0.5%)

Table A-5		
Reported suspect advised of police investigation	Yes	105 (48.4%)
	No	87 (40.1%)
	Unknown suspect	25 (11.5%)
Polygraph given to reported suspect	6/217 (2.8%)	

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