



## **BASIC RECOMMENDED PROTOCOL FOR THE CORRECT REPORTING OF SEXUAL OFFENCES AGAINST CHILDREN**

With special acknowledgement and reference to the work of Matla-A-Bana (see <http://matlaabana.co.za>)

### **A. IMPORTANT DEFINITIONS:**

1. Sexual offences are sexual acts which are committed without the consent (permission) of one of the people involved in the sexual act. Two key concepts are the intention of the alleged perpetrator to commit the offence and the absence of consent of the complainant.
2. Consent means voluntary or unforced agreement where the person understands what he/she is consenting to.
3. Sexual grooming refers to the process of preparing or making a child ready to engage in a sexual act.

### **B. REPORTING AT THE POLICE STATION**

1. Any person who has knowledge, reasonable belief or suspicion that a sexual offence had been committed against a child or a person who is mentally disabled, is obligated to report that offence. Failure to do so, is considered a criminal offense.
2. If a child discloses sexual abuse to you or if you suspect a child has been sexually abused, you must report the alleged abuse or your concerns as soon as possible at the police station (preferably in the area where the alleged offence took place), no matter the age of the alleged offender. If the alleged offence happened in another town or province, report at the nearest police station. The case may also be reported to a child protection organisation, but it is still recommended that the sexual offence is reported directly at a police station.
3. Remember that you can also report sexual grooming of a child and compelled rape or sexual assault.
4. It is recommended that the person to whom the child disclosed first, reports it to the police as to avoid too many people speaking to the child, which may lead to confusion and jeopardise the legal proceedings.
5. The person who reports must make sure to get a CAS number (supplied by the police).

6. The person who does the reporting does not need to take the child with him/her to the police.
7. The police will notify the FCS unit who will interview the child. The FCS units only take referrals from police stations and the court and cannot be contacted directly to investigate a case, so it is important to report directly at the nearest police station.
8. As far as possible, the child must be supported when providing the statement.
9. Also ask for a copy of the statement and get the details of the investigating officer.
10. Other types of abuse such as physical abuse or neglect can either be reported to the police or to a designated child protection organisation working in the area such as ACVV, Badisa, Child Welfare or the Department of Social Development through completion of Form 22.
11. Link the child as quickly as possible to a community support service that can prepare the child to testify in court and that can provide therapeutic support.

### **C. FORENSIC MEDICAL EXAMINATION**

1. Work with the relevant stakeholders (police and/or social worker) to make sure that the child undergoes a forensic medical examination where needed and that the examiner understands that this is an alleged sexual abuse case. Make sure that a full medical and genital examination is done.
2. The medical examiner will need the CAS number.
3. Arrange that the child has someone to support him or her during the examination.
4. Prepare the child by being honest about what he/she can expect and encourage him/her to ask questions during the process.
5. The medical examiner needs to complete the medical evidence form (J88). See <http://www.kznhealth.gov.za/J88guidelines.pdf> for more information on the completion of the J88.

### **D. CRIMINAL COURT**

1. The prosecution must prove their case “beyond reasonable doubt” so it is important that the prosecutor is aware of any special needs that the child may have and also consults with the child prior to the child testifying.
2. Make sure that the child has the relevant support and is adequately prepared for the proceedings by linking him/her to the relevant support services. Also ensure that the child knows his/her rights and responsibilities with regards to the case.
3. Children under 14 years will receive the help of an intermediary and older children can request one, while testifying through CCTV should also be presented as an option.
4. The goal is to make the court process as child-friendly as possible and to support the child as best as possible.

**REPORTING OF CHILD PORNOGRAPHY**

1. It is a crime to possess, create, import, obtain or distribute a film or publication, which contains child pornography or advertises child pornography or the sexual exploitation of children.
2. You can report child pornography at the nearest police station or online at <http://www.fpb.org.za/>.
3. Children must be warned not to take or send nude pictures of themselves or other children as they may be criminally charged with offences related to child pornography.
4. Also it must be noted that once a photo has been sent, it is out there and the child has no longer control over how it is being used and distributed.

**E. IMPORTANT CONSIDERATIONS WITH REGARDS TO CHILDREN AND SEXUAL ACTS**

There have been important developments from a legal perspective with regards to children and sexual acts. See <http://www.samj.org.za/index.php/samj/article/view/9877/7168> for a good article on the amendments. Below is a summary of the reporting obligations in terms of children:

<b>Age</b>	<b>Consensual/non-consensual sex or sexual activity</b>	<b>Reporting requirement</b>
Child under 12 years	All acts of a sexual nature with this age group is considered an offence. Consent even when voluntary is not recognised as being legally valid.	Report
12-15	Consensual Non-consensual	Do not report Report
(14 or 15) and 16	Consensual Non-consensual	Do not report Report
15 and 17	Consensual Non-consensual	Do not report Report
(12 or 13) and 16	All acts of a sexual nature with this age group is considered an offence. Consent not considered because age gap is >2 years.	Report
(12 or 13 or 14) and 17 or older	All acts of a sexual nature with this age group is considered an offence. Consent not considered because age gap is >2 years.	Report

Important legislation: The Criminal Law (Sexual Offences) Amendment Act in effect since 16 December 2007.