

## HAMILTON POLICE SERVICES BOARD - INFORMATION -

**DATE:** 2018 November 8  
**REPORT TO:** Chair and Members  
Hamilton Police Services Board  
**FROM:** Eric Girt  
Chief of Police  
**SUBJECT:** *Sex Assault Review*  
*PSB 18-103*

### **BACKGROUND:**

Over the course of the past 18 months, the Hamilton Police Service (HPS) has worked closely with community and justice experts to identify and close gaps in the delivery of policing services as they relate to victims of sexual violence.

It was through the review of the Services' records management practices, training, policy and procedure and both an internal review of all unfounded investigations (2010-2014) and external review involving community and justice partners (2010-2016), that gaps in service delivery were identified and recommendations formed through the knowledge gained by this review process.

### **RECORDS MANAGEMENT:**

On July 12, 2018, the Canadian Centre for Justice Statistics (CCJS) and the Police Information and Statistics Committee (POLIS) of the Canadian Association of Chiefs of Police released their recommendations related to statistical classifications and standard definitions that would address inconsistencies in reporting crime statistics. It is expected that with these revisions, the use of "Unfounded" as a classification will decline. In August, 2018, the HPS fully implemented these recommendations. Additionally, training will be provided to all sworn and selected civilian members on UCR coding via CPKN in 2019 and an enhancement or upgrade to the NICHE Records Management System will be required.

### **TRAINING:**

From September, 2017 to May, 2018, HPS provided all sworn members with Dr. Rebecca Campbell's training on Trauma Informed Responses to Sexual Assault (Neurobiology of

Trauma). Susan Double, HPS Victim Services Administrator, and Detective Sergeant David Dunbar, Sexual Assault Unit Supervisor, facilitated this training. This training ensured that all HPS sworn members have an understanding of how an individual's memory encoding and recall is different under traumatic conditions versus conditions of no stress. To ensure that this valuable training is continued with all sworn members, the Victim Services Branch will continue to deliver this training during all future recruit orientation sessions.

#### ***POLICY AND PROCEDURE:***

Throughout this review process, the HPS has examined its Sexual Assault and related investigative policies and practices. As a result, the following changes to policy/practice are being made:

1. That only a confirmed Detective Sergeant, or an Acting Detective Sergeant with the required training, will be permitted to clear and conclude a sexual assault or related offence occurrence as "Unfounded".
2. That Detective Sergeants assigned to the Victims of Crime Unit will conduct periodic random reviews of all interviews associated with investigations they are reviewing and approving, in order to identify if Detectives are relying on rape myths in their investigations.
3. Beginning in September, 2018, a six-month pilot was initiated with the Sexual Assault Unit (SAU) and the Victim Services Branch during business hours (Monday to Friday 8:30am to 4:30pm). The pilot includes mandatory involvement of a Victim Services Branch staff member who will meet with the victim/survivor, prior to their appointment with their assigned Detective. The goal will be to provide emotional support and options available to them regarding interview accompaniment, counselling, resources and financial programs. The pilot will include an evaluation tool for victim/survivor feedback.

The HPS SAU will also continue to review the HPS - Sexual Assault Policy to ensure that it is current and reflective of best practice.

#### ***INTERNAL REVIEW FINDINGS:***

The HPS internal review revealed that 75.1% of the unfounded sexual assault investigations were determined to have been cleared correctly and that 24.9% of reports were identified as having the potential to be cleared using another UCR classification.

The internal review highlighted that third party reporting to police for matters involving children largely contributed to unfounded occurrences arising out of the Child Abuse Branch. Further, numerous SAU Unit "Unfounded" investigations revealed that the victim was, or had been, suffering from a mental illness at the time their matter was reported to police. The review highlighted the need to ensure supports were being offered to victims who suffer from mental health concerns and who have been sexually assaulted. It has been identified that this may be an area for future partnership between police and mental health professionals.

While the internal review was instrumental in identifying coding errors, it was limited in providing a fulsome understanding as to why cases were being concluded as "Unfounded". This was partially due to the overwhelming number of cases that each member was reviewing and the fact that the members completing the review were limited to what was written down on police reports and seized medical documents, as opposed to being able to do a full file review (including viewing video witness statements, accused interviews, CAD data, 911 calls, etc.).

#### ***SEXUAL ASSAULT COMMUNITY REVIEW TEAM (SACRT) FINDINGS:***

The SACRT identified that 70% of the codes applied to the external review between 2010 and 2016 were determined to be coded incorrectly as "Unfounded", while only 25% were determined to be correctly coded. Two percent were removed from consideration, while 3% were identified as "Cannot Determine" based on insufficient information.

The high rate of incorrect classification of "Unfounded" cases can be attributed to a range of factors including, but not limited to:

- Detectives not correctly applying Reasonable Grounds (RG)
- All relevant witnesses not being interviewed
- All forensic testing not being requested and results returned
- Disproportionate weight given to the accused version of events
- Reliance on rape myths
- Use of investigative interviewing and interrogation techniques with victims
- Reliance on corroboration being required
- Predetermining outcomes prior to a full investigation

As a result of their collective efforts, the SACRT has provided the following five key recommendations. The overarching objective of these recommendations is to first do no harm when supporting victims.

Category	Recommendations
1. Sexual Assault Community Review Team (SACRT) Model	Implement the SACRT on a permanent basis to allow for the ongoing comprehensive review team comprised of law enforcement, Crown and community advocates. Try to meet four (4) times per year including a review of all "Unfounded" cases along with some samples of other codes. It is suggested that all cases with a disposition that does not result in charges laid, be also subject to review.
2. Staffing and Resources	Additional Detectives should be placed in the Sexual Assault Unit. The Detectives should have the ability to use resources from other areas in order to ensure MCM standards are met on every case.
3. Education and Training	Ongoing continuous education and training around neurobiology of trauma and the dynamics of sexual violence (rape culture, myths and unconscious bias).
4. Police, Procedure and Oversight	Update and create new policies, procedures and practices to ensure that HPS is structurally embedding trauma-informed knowledge throughout the investigative process.
5. Special Considerations for Vulnerable Populations	A model be implemented that includes community consultation and special consideration for vulnerable populations (e.g. people with mental health challenges, substance-use concerns, intellectual/developmental disabilities, Indigenous people, youth who are street involved/homeless, etc.).

To further explain recommendations made in each of the above categories, the SACRT has provided the following further explanation and rationale:

1. **Sexual Assault Community Review Team (SACRT) Model** – Reviews should continue to be conducted by the interdisciplinary group on a regular basis (proposing every three months) to ensure the ongoing analysis of "Unfounded" and other cases wherein no charges are laid. The team has developed requirements for the group members in order that there is consistency of participation. With regularly scheduled, timely reviews, there is opportunity to potentially re-open cases where the team finds deficiencies.

2. **Staffing and Resources** – Sexual assault is one of the most violent offences in the Criminal Code. These offences exist in a society that is embedded in rape culture which makes it tremendously difficult for victims to come forward, for charges to be laid and prosecuted, and for convictions to be obtained. In order for more thorough and fulsome investigations, additional SAU Detectives are required. These investigations are some of the most time consuming, both during the initial investigation as well as follow-up, and require significant Officer involvement in the prosecution.
3. **Education and Training** – The review revealed, at times, that Detectives commenced the process with the position of doubt and utilized criminal investigation interrogation techniques with victims. Adopting a trauma informed approach will ensure that each sexual assault investigation begins with believing the victim and treating all reported sexual offences as legitimate unless determined otherwise after a thorough investigation.
4. **Policy, Procedure and Oversight** – The team recommends embedding trauma informed knowledge throughout investigations. This includes changes to policy such as; include mandatory involvement of Victim Services at the onset of each sexual assault investigation; waiting 72 hours, when safety of the victim or community are not negatively impacted, from the time of an offence to taking a formal statement/interview and requiring a complete supervisory review by the Detective Sergeant including all statements, video for all “Unfounded” and cases where charges are not proceeding.
5. **Special Considerations for Vulnerable Populations** – The review revealed that Detectives and Investigators would benefit from a specialized support person when working with vulnerable populations, as they may be able to provide guidance and suggestions on how to best support the unique needs of individuals.

#### **STAFFING:**

The SACRT has provided SAU staffing increases as one of their recommendations.

Since 2008, Detectives in the SAU have seen a dramatic increase in their workload, with an average of 59.6 cases per member per year to a high of 90.8 cases per member per year in 2016. The average numbers of cases per member in years 2017 and projected for 2018 are approximately 80 investigations per Detective per year.

With tighter timeline requirements identified in *R. v. Jordan* and increased court requirements as a result of *R. v. Marakah*, Detectives are under greater pressure to complete their work in an expedient manner and now have to complete search warrants

to gather evidence that was once obtained without warrant. Procedural demands and adequacy requirements required by Major Case Management and ViCLAS also add to the work associated with each criminal investigation. Further to this, advancements in DNA capabilities/technology require careful handling and processing of exhibits and in-depth search warrants require involvement from a member of the Crown's office and approvals from a Judge.

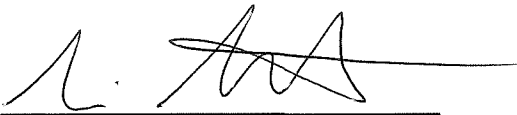
To ensure that the HPS SAU can provide the best possible service to members of the Hamilton community who have been sexually assaulted, it is being recommended that two additional Detective Constables be hired to supplement the staffing already assigned to SAU. This would ensure that Detectives are provided with a manageable workload, a workload that ensures HPS members have the necessary time to dedicate to each victim and supporting families and friends. With two additional Detective Constables, the SAU would be comprised of 9 members (6 Detectives and 3 Detective Constables). Each person assigned to SAU would then be responsible for an average of 53.9 major cases per calendar year.

**SUMMARY:**

It was through both the internal and external review and the review of the Services' records management practices, training and policies and procedures that gaps in service delivery for victims of sexual violence were identified.

The members of both the internal and external review teams have dedicated themselves to completing this review and have demonstrated the highest level of commitment to victims of sexual violence. Thanks to their collective efforts, HPS has worked to close some of the identified gaps and has committed to further adopting all recommendations made by the external review team.

The members of the HPS look forward to working with our community and justice partners to ensure that when members of the HPS are engaged, victims of sexual violence receive the best possible service and support.



Eric Girt  
Chief of Police

EG/D.Hennick

Attachment: Sexual Assault Review and Recommendations Report

cc: Dan Kinsella, Deputy Chief – Operations  
Ryan Diodati, Superintendent – Investigative Services Division

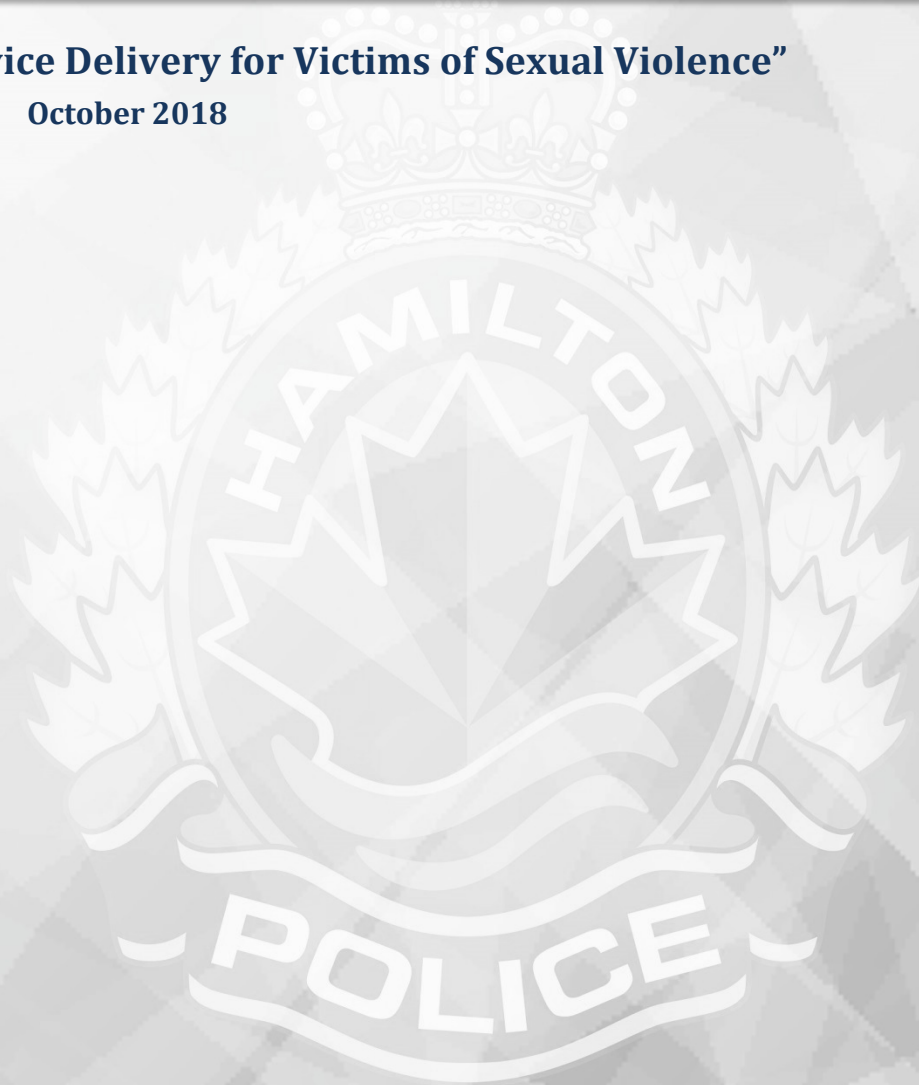


**HAMILTON POLICE SERVICE**

# **SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT**

**“A Pathway to Improved Service Delivery for Victims of Sexual Violence”**

**October 2018**



## EXECUTIVE SUMMARY

In early 2017, the Globe and Mail released an article that drew national attention on how Police Services across the country were clearing Sexual Assault cases. Specifically, the article drew comparisons on how police services were using a code called *unfounded*. The term *founded* and *unfounded* were created by the Canadian Centre for Justice Statistics. The Canadian Centre for Justice Statistics (CCJS), in co-operation with the policing community, collects police-reported crime statistics through the Uniform Crime Reporting Survey (UCR). The UCR Survey was designed to measure the incidence of crime in Canadian society and its characteristics.

The Globe and Mail's article used a statistical analysis of Sexual Assault cases between 2010 and 2014 that were cleared using the UCR code *unfounded*. The Globe's findings determined there were inconsistencies across the country on how police services were utilizing the *unfounded* code as well as the severity of the code being used by police services. The National average suggested a 19.4% *unfounded* rate, while the Province had a 25% rate and the Hamilton Police Service had a 30% *unfounded* rate. In response to the article, the Hamilton Police Services Board directed Chief Eric Girt to complete a review of sexual assault cases deemed to be *unfounded*.

Under the direction of Chief Eric Girt, the scope of the Board's request was expanded to provide a comprehensive review and assessment beyond the information reviewed by the Globe and Mail (2010-2014) to include the Hamilton Police Service's records management practices, how the Service provides training to the members, an internal review of investigations between 2010-2014, and external review of investigations between 2010 and 2016, as well as a full review of the Services Sexual Assault Policy. To meet the objectives as defined, the Sexual Assault Community Review Team was constructed of HPS members and experts in the community.

This report will outline the work conducted during the 18 months spent on the project and includes a background on how the team was selected, along with a review of data compiled through the use of the Records Management System, a review of statements made by the President of the Canadian Association of Chiefs of Police, as well as an in-depth analysis of a Juristat article prepared by the Canadian Centre for Justice Statistics.

The Hamilton Police Service is committed to implementing the five recommendations made by the SACRT team with an emphasis on keeping the team together and expanding their mandate to meet at least four times a year. Requesting that additional detectives be added to the Sexual Assault Unit, providing ongoing education and training around neurobiology of trauma for investigators, updating and creating new policies, procedures, and practices to ensure the Service is embedding trauma informed knowledge throughout the investigation process.



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## BACKGROUND

On February 3, 2017, the Globe and Mail published an article titled, “Unfounded, Why Police Dismiss 1 in 5 Sexual Assault Claims as Baseless”.<sup>i</sup> In this article, the unfounded rates of sexual assault investigations were published for policing agencies across Canada. This article garnered national attention, listing several policing agencies with high unfounded rates of sexual assault investigations, including statistics showing that the Hamilton Police Service had an unfounded rate of 30%; higher than the Provincial average of 25% and the National average of 19.39%.<sup>ii</sup> These findings were discussed in the media and came to the attention of the Hamilton Police Services Board. Shortly after the article was published, the Board directed Chief Eric Girt to complete a review of sexual assault cases deemed to be unfounded as outlined in the Globe and Mail’s article.

Criminal offences that are of a sexual nature require a sensitive, professional and thorough response. Recognizing this, the Hamilton Police Service has dedicated fourteen Detectives to investigate sexual violence offences. Emergency calls for service of these offence types are usually first responded to by members of Uniform Patrol Divisions. Additionally, members of the public may also report sexual offences, in non-emergency situations, over the telephone, by attending a Patrol Division in person or by reporting on-line.

Prior to the conclusion of all sexual violence investigations, every investigation is reviewed by a supervising Detective Sergeant from the Victims of Crime Branch. Hamilton Police Service recognizes the importance of having specially trained sexual assault Detectives when investigating sexual offences. Seven of the 14 Detectives are assigned to investigate sexual violence which has occurred against children 15 years of age and under at the time of reporting. The remaining seven members are assigned to the Sexual Assault Unit, who investigate sexual violence to victims who are 16 years of age and older at the time of reporting.

The Hamilton Police Service is committed to providing excellence in sexual assault and related investigations and has expanded the direction given by the Hamilton Police Services Board to include a review and assessment of the following five areas:

1. [Hamilton Police Service - Records Management Practices](#)
2. [Hamilton Police Service - Training](#)
3. [Internal Review - Unfounded Sexual Assault Investigations \(2010-2014\)](#)
4. [External Review - Unfounded Sexual Assault Investigations \(2010-2016\)](#)
5. [Hamilton Police Service - Sexual Assault Policy](#)

A meeting was held with the Women’s Advisory Committee to the Chief in February 2017. In this meeting and with the assistance of community partners, several community professionals with extensive experience working with survivors of sexual violence were identified to form part of an external review committee.

Discussions of the external committee focused on improving service delivery and the ways in which a survivor’s experiences and outcomes can be enhanced when engaging the Hamilton Police Service. A plan was designed to build a Committee of experienced individuals including; Sexual Assault Service Providers, a Crown Attorney, Victim Services workers and Sworn Police Officers.



## MANDATE AND VISION OF THE TEAM

The external review committee: the Sexual Assault Community Review Team (SACRT) developed a mandate to review randomized samples of past-unfounded sexual assault investigations, where the victim was 16 years of age and older, reported to the Hamilton Police Service between the years 2010-2016.

On March 6, 2017, a media release was disseminated to the Hamilton community announcing this collaborative partnership between Hamilton Police Service and the Violence Against Women (VAW) Women's Services Group and included the fact that a review of Unfounded Sexual Assault Investigations would be completed.

On April 13, 2017, the external review committee met for the first time. The committee developed their own Vision, which states, ***"We are all committed to undertaking this review, with the end goal of improved service delivery to victims of sexual assault. It is our hope the review will help identify concrete strategies to inform ongoing collaborative work with the Hamilton Police Service to ensure everyone who experiences sexual assault in Hamilton get the best possible response, service and care"***.

The following individuals were identified in forming the SACRT:

Lenore Lukasik-Foss  
Cindilee Ecker-Flagg  
Diana Tikasz  
David Dunbar  
Susan Double  
Monica McKenzie

Director  
Executive Director  
Program Coordinator  
Detective Sergeant  
Administrator  
Regional Crown

Sexual Assault Centre of Hamilton and Area  
Native Women's Centre  
Sexual Assault/Domestic Violence Centre (HHS)  
Hamilton Police Service – Investigative Services  
Hamilton Police Service – Victim Services  
Ministry of the Attorney General



**Figure 1.** Sexual Assault Community Review Team

The following sections of this document will assist in providing an overview of the efforts the Hamilton Police Service has undertaken to ensure that the review was forward looking, designed with a made in Hamilton approach to enhancing the delivery of policing services to Victims of Sexual assault.

## RECORDS MANAGEMENT PRACTICES

Hamilton Police Service has reviewed its Records Management Practices, which include how offences are reported to Statistics Canada utilizing Uniformed Crime Reporting (UCR Coding) of sexual violence offences and determined changes could be made.

The term *founded* and *unfounded* were created by the Canadian Centre for Justice Statistics. The Canadian Centre for Justice Statistics (CCJS), in co-operation with the policing community, collects police-reported crime statistics through the Uniform Crime Reporting Survey (UCR). The UCR Survey was designed to measure the incidence of crime in Canadian society and its characteristics.

On February 10, 2017, the Canadian Association of Chiefs of Police (CACP) President Mario Harel issued a public statement on Sexual Assault Investigations. This statement was completed, in part, to assure Canadians that Canadian Police Services treat sexual assault investigations seriously and that policing members are continually striving to provide the best service to victims of crime. In addition to making the above statements, he requested that, "...The Police Information and Statistics Committee examine how statistics are recorded and reported to Statistics Canada and make recommendations on how reliable and consistent statistical information may best be collected".<sup>iii</sup> (See Appendix A)

On April 26, 2017, President Mario Harel issued a second public statement titled, "Recommendations Regarding the Collection of "Unfounded" Incidents via the Uniform Crime Reporting Survey".<sup>iv</sup> In this statement, President Harel outlined that all of the recommendations made by Police Information and Statistics Committee (POLIS) to the Canadian Association of Chiefs of Police. President Harel then advised publicly that each of the recommendations were unanimously accepted.<sup>v</sup> (See Appendix B)

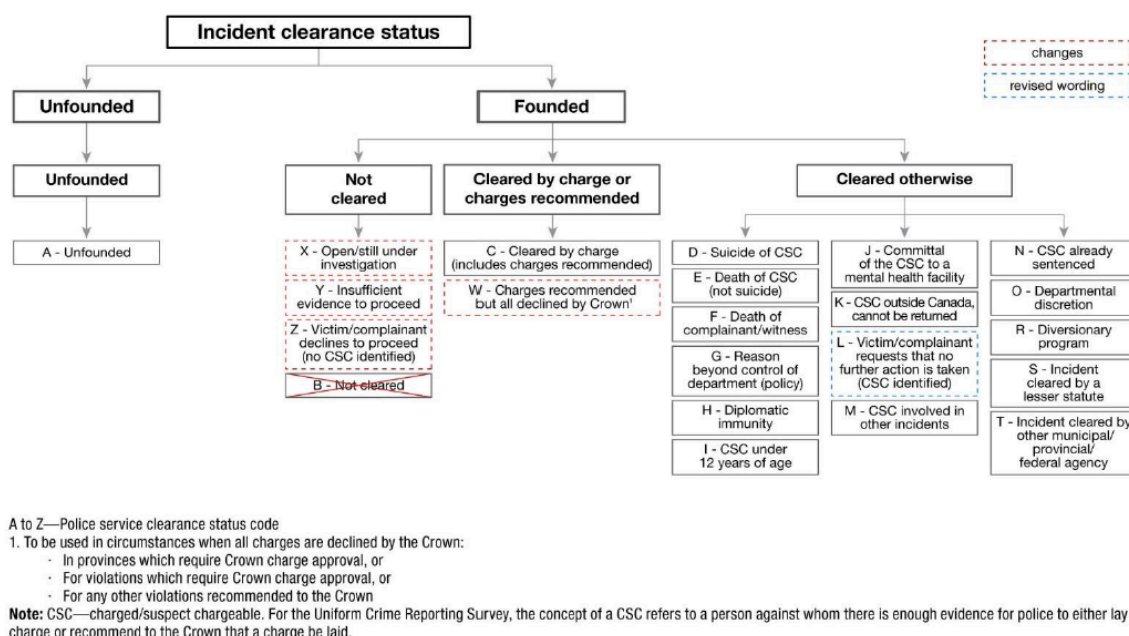
On July 12, 2018, CCJS, a Division of Statistics Canada, released a Juristat article titled, "Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey".<sup>vi</sup> The article outlined that, "CCJS and POLIS made a number of recommendations related to statistical classifications and standard definitions that would address inconsistencies in reporting crime statistics", and, that, "It is expected that with these revisions, the use of unfounded as a classification will decline as it will be clearer to police how to classify incidents based on the information from investigations". These recommendations were later endorsed by the CACP Board of Directors and experts who responded to the CCJS consultation on the matter.<sup>vii</sup> (See Appendix C)

In this Juristat article, the definition of **Founded** was updated to be defined as, "*An incident is founded if, after police investigation, it has been determined that the reported offences did occur or was attempted (even if the charged / suspect chargeable (CSC) is unknown) or there is no credible evidence to confirm that the reported incident did not take place. This includes third party reports that fit these criteria*"<sup>viii</sup> (Statistics Canada. 2018. pg 5-6).



Further, the definition of **Unfounded** is defined as, “An incident is “unfounded” if it has been determined through police investigation that the offence reported did not occur, nor was attempted”.<sup>ix</sup> The article provided a new flow chart which outlines options to classify founded incidents that are not cleared (see figure 2).

The changes are highlighted in the chart below:



**Figure 2. Modifications to the Uniform Crime Reporting Survey Incident clearance status options.** (See Appendix D)

## CHANGES TO HOW SEXUAL ASSAULTS ARE CONCLUDED

Police in Ontario were previously limited on how they conclude criminal investigations, including sexual assaults. The CCJS stated that, “...The lack of specificity in reasons for not clearing an incident may have contributed to varying rates of unfounded. It became evident that more options were needed in order for police to report more accurately and to produce a better statistical understanding of the reason why founded incidents may not be cleared”<sup>xx</sup> (Statistics Canada. 2018 pg.6). With the changes recommended by CCJS and POLIS and now adopted by the Canadian Centre for Justice Statistics, Police in Ontario can now conclude investigations as *Founded* where previously they could not.

It was further recommended that the classification of “Not cleared” be separated into three new types of categories:

- Clearance status code X – **Open/still under investigation:** This clearance option is to be used for all open investigations and for those where action has yet to be taken on the reported incident. It includes incidents that cannot be classified as “Insufficient evidence to proceed” or “Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified).”



- Clearance status code Y – **Insufficient evidence to proceed:** This clearance option is to be used for incidents where there is insufficient or conflicting evidence for the police service to substantiate laying a charge or recommending a charge to the Crown. This clearance category not only responds to the challenges in some investigations but also complements the new definition of founded incidents.
- Clearance status code Z – **Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified):** This clearance option is to be used for incidents where an accused cannot be identified either because the victim/complainant or other witnesses do not want to identify the CSC or they do not want to actively participate in the investigation. This category addresses some of the challenges in investigations where a victim wants the incident to be reported, but may not be ready to identify the accused. It also responds to the need for police to at times explain relatively low clearance rates for incidents related to gangs and organized crime groups where victims and witnesses can be reluctant to cooperate.

<sup>xi</sup> (Statistics Canada. 2018 pg.6)

Providing investigators with additional options on how to conclude their criminal investigations will more closely mirror the complexities of sexual violence investigations.

The Hamilton Police Service has fully implemented all recommendations as put forth by the POLIS committee and supported by the CCJS Division of Statistics Canada. The recommendations were initially implemented throughout the Investigative Services Division in January 2018 and then service wide in August 2018.

## Implemented Training

To ensure that all members of the Hamilton Police Service have a greater understanding of the changes implemented by POLIS, and the impacts the changes will have on victims and statistical reporting, further service wide training will be completed through the Canadian Police Knowledge Network (CPKN).

CPKN is Canada's leading provider of online training solutions for police and law enforcement personnel. Working with subject matter experts from the Canadian policing community, CPKN develops and delivers highly effective, economical, and engaging e-learning courses to meet the needs of frontline officers. Public Safety Canada in collaboration with the Canadian Centre for Justice Statistics sponsored free access to an online course titled, “Standards for Reporting Founded and Unfounded Incidents”. This course, which has been designed for all Canadian sworn and civilian police members, instructed on the proper input of data into the UCR Survey, ensuring that it can be effectively used in Statistics Canada's crime data statistics. In addition to detailing how to complete specific fields within the survey, the course also included a module specific to Hate Crime Awareness reporting and Organized Crime reporting.

The Hamilton Police Service understands the importance of providing timely accurate data to Statistics Canada and the impact of inaccurate data on police legitimacy. HPS welcomes the changes to UCR coding and the improved definitions created which more accurately reflect the variances in how sexual violence investigations are concluded.



An enhancement or upgrade to the NICHE records management systems will be required to fully ensure Hamilton Police Service is accurately reporting the conclusion of criminal incidents to Statistics Canada. A date for this upgrade has yet to be identified.

## **SEXUAL ASSAULT INVESTIGATION TRAINING**

HPS recognizes that ongoing training assists in providing improved service delivery to victims and HPS continues to seek out training opportunities to educate our members.

Every member of the HPS - Sexual Assault and Child Abuse Unit attends the Ontario Police College to receive specialized training on how to complete Sexual Assault Investigations. Members of these units may also receive additional training on courses such as Major Case Management (MCM), Search Warrant Writing, Managing Investigations Using Powercase, Forensic Child Interviewing and Investigating Offences Against Children.

In addition to the above training, in June of 2015, the Hamilton Police Service partnered with Diana Tikasz (MSW, RSW), the Program Coordinator of Hamilton Health Sciences Sexual Assault and Domestic Violence Care Centre, to educate HPS and external policing/community agencies on the Neurobiology of Trauma and Compassion Fatigue (Occupational Stress). In this training, Sexual Assault Unit (SAU) and Child Abuse Detectives (CAB) obtained an increased knowledge of brain science and how this science helps to better understand how victims of sexual assault present and recall information. This training assisted in educating HPS members on how the body and brain respond to stress and threats. The occupational stress literature provided validation and strategies for recognizing the impact on professionals of doing work that is trauma exposed and how it affects the overall wellbeing of staff if not recognized and addressed.

As a result of the knowledge gained in the above training, in March 2016 HPS contacted and subsequently received permission from Dr. Rebecca Campbell to utilize her training material on Trauma Informed Responses to Sexual Assault (Neurobiology of Trauma). Dr. Rebecca Campbell is a Professor of Psychology at Michigan State University and for the past 25 years has been conducting community-based, participatory research and evaluation on violence against women and children, with an emphasis on sexual assault.<sup>xii</sup>

From September 2017 – May 2018, HPS trained all sworn HPS members in this area of Dr. Campbell's work. HPS Victim Services Administrator - Susan Double and Sexual Assault Unit Supervisor – Detective Sergeant David Dunbar facilitated this training. This training ensured that all HPS sworn members have an understanding of how an individual's memory encoding and recall is different under traumatic conditions versus conditions of no stress. To ensure that this valuable training is continued with all sworn members, the Victims Services Branch will continue to deliver this training during all future recruit orientation sessions.

Upon its release, the Hamilton Police Service will also review and consider any recommendations made by the CACP's Victims of Crime Committee and the Crime Prevention – Community Safety and Wellbeing Committee, who on February 10<sup>th</sup>, 2017, were tasked by CACP's previous President, Mario Harel, "...To recommend standards



for training (including trauma – informed investigation), procedures and policies based on best practices and share them throughout the policing community”<sup>xiii</sup>

The Hamilton Police Service understands the complex and difficult work being completed by members of its Child Abuse and Sexual Assault Units and the impact this work can have on its members. The Hamilton Police Service is committed to providing a psychologically healthy and safe work environment, which promotes member wellbeing. The HPS also actively works to prevent harm to members’ psychological health, build resiliency and offer assistance where there may be an identified psychological wellness issue and will work with its members to build resiliency and to help prevent Post Traumatic Stress Disorder.

In addition, in May 2018 the Hamilton Police Service began mandatory annual Safeguard testing for members of identified sections within the Investigative Services Division, including those members assigned to the Sexual Assault and Child Abuse Units.

The Hamilton Police Service recognizes the contributions of each of our members and the difficult work our members have to undertake. It is believed that the implementation of mandatory annual Safeguard testing will help to assist our members by acting as an early intervention tool to identify and recognize when members may require support. In June of 2018, the service began offering Safeguard testing by Dr. Annette Lorenz and it has been met with a very positive response.

In addition to the above training and Safeguard testing, HPS will continue to look for educational opportunities and programs which support its members in completing this difficult work.

## **INTERNAL REVIEW OF UNFOUNDED SEXUAL ASSAULT OFFENCES (2010-2014)**

The Hamilton Police Service has undertaken an internal review of all unfounded sexual assault investigations that were reported to the Service during 2010 – 2014. Total investigations reviewed were 758 (461 from SAU and 297 from CAU).

The review differentiates the investigations managed by the Child Abuse Unit (15 years of age and under at the time of reporting) and the Sexual Assault Unit (16 years of age and older at the time of reporting). The internal review was completed by members who have experience working in these areas, but were not assigned to these sections at the time the offences were investigated. Detective Michelle Moore was assigned the review of investigations determined unfounded by the Child Abuse Unit, while Staff Sergeant Chris Kiriakopoulos was assigned to review investigations determined unfounded by the Sexual Assault Unit.

Using the expertise of member Ryan Rakoczy of the HPS Crime Information and Analysis Unit (CIAU), the internal review team differentiated unfounded, third party



reporting and false reporting statistics to better understand the breakdown of how investigators had concluded their investigations.

The internal review team reviewed unfounded reports, written statements where necessary and ensured investigations were concluded utilizing the appropriate NICHE codes. The team also determined if evidence was collected where appropriate and that members adhered to policy and followed proper investigative techniques.

Table 1 identifies the total number of Sexual Assault Unit and Child Abuse Unit Investigations over a five year period (2010-2014) as well as the number of pre-review and post-review investigations that were identified as unfounded. The data shows that had the correct criteria been used, the numbers reported using the UCR code as unfounded between 2010 and 2014 would have been significantly lower. The new number would bring HPS in alignment with the National average of 19% compared to the previous 30% reported by the Globe and Mail. Table 1 further breaks down the UCR coding post-review.

Table 1

Hamilton Police Service Comparison of Founded and Unfounded Statistics for Child Abuse and Sexual Assault Units between 2010-2014

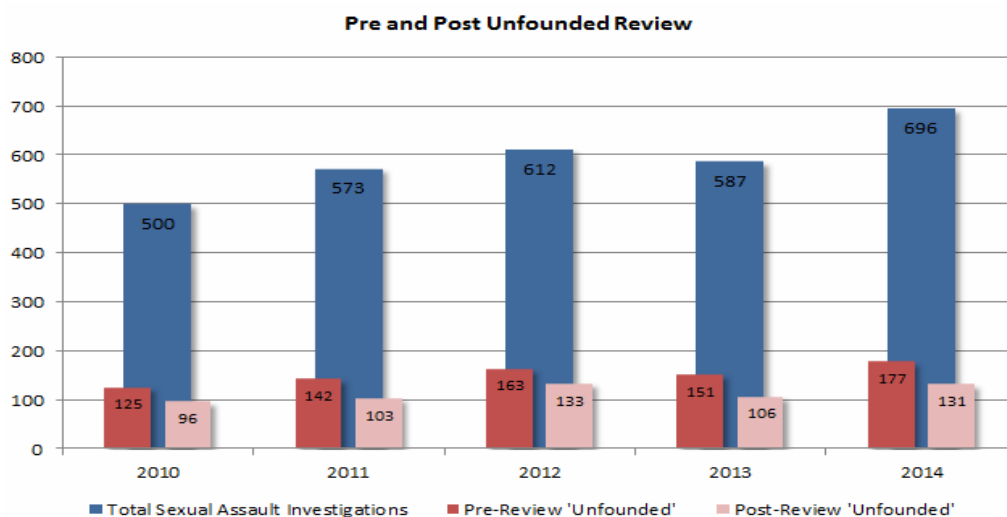
Review of Unfounded Sexual Assault Investigations SAU and CAB 2010 - 2014					
	2010	2011	2012	2013	2014
<b>Total Sexual Assault Investigations</b>	500	573	612	587	696
<b>Pre-Review 'Unfounded'</b>	125 (25%)	142 (25%)	163 (27%)	151 (26%)	177 (25%)
<b>Post-Review 'Unfounded'</b>	96 (19%)	103 (18%)	133 (22%)	106 (18%)	131 (19%)
Detailed Coding Of Post Review Unfounded Cases					
Cleared By Charge	1	2	1	0	1
Cleared Otherwise - Departmental Discretion	0	0	0	1	0
Cleared Otherwise - Victim Declines To Lay Charges	0	0	0	4	0
Cleared Otherwise - Suspect Is Less Than 12 Years Old	0	0	0	1	0
Complete Solved - Non-Criminal	0	1	1	0	0
Complete Unsolved	17	22	17	30	30
False Allegation - Unfounded	11	14	11	9	15
Investigations Reopened	0	0	0	0	0
<b>Unfounded</b>	<b>96</b>	<b>103</b>	<b>133</b>	<b>106</b>	<b>131</b>

Source: Hamilton Police Records Management System prepared by Crime Information and Analysis Unit (CIAU) Analyst Ryan Rakoczy 2018.

Figure 3 compares the number of Sexual Assault and Child Abuse Cases investigated to the number of pre and post review that were concluded as unfounded between 2010 and 2014. Over the five-year period, the number of investigations has increased by 39%. However, the investigations deemed unfounded have stayed relatively consistent. The post review revealed that had the appropriate UCR code been used, those cases

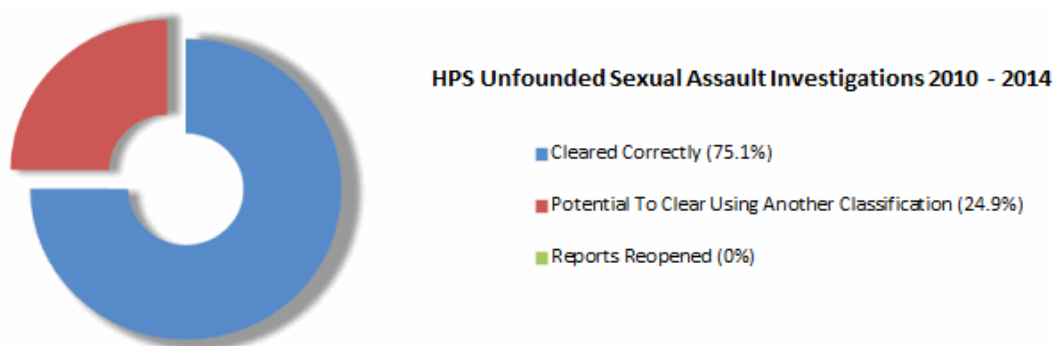


determined to be unfounded would have decreased by 23% in 2010, 27% in 2011, 18% in 2012, 29% in 2013, and 25% in 2014.



**Figure 3.** A Comparison of Sexual Assault and Child Abuse Investigations Pre and Post Unfounded data by year (2010-2014)

Figure 4 shows the number of investigations that were cleared correctly as unfounded (75.1%), and suggests the remaining 24.9% of investigations could have been cleared using another classification.



**Figure 4.** The Number of Sexual Assault and Child Abuse Investigations Cleared Correctly in Comparison to the Potential Number of Cases Using Another Classification.

Table 2 identifies the total number of Sexual Assault Investigations over a five year period (2010-2014) as well as the number of pre-review and post-review investigations that were identified as unfounded. The data shows that had the appropriate UCR code been applied, the numbers reported using the unfounded UCR code between 2010 and 2014 would have been significantly lower than not just the Globe and Mail's reported 30%, or the Provincial average of 25%, but significantly lower. This would have put HPS significantly lower than the National 19% average, with a five year average of 12%.



Table 2 identifies the total number of Sexual Assault Investigations between 2010 and 2014 comparing the investigations that were cleared as unfounded pre review to investigations that could have been cleared differently post review (see table 2).

Table 2

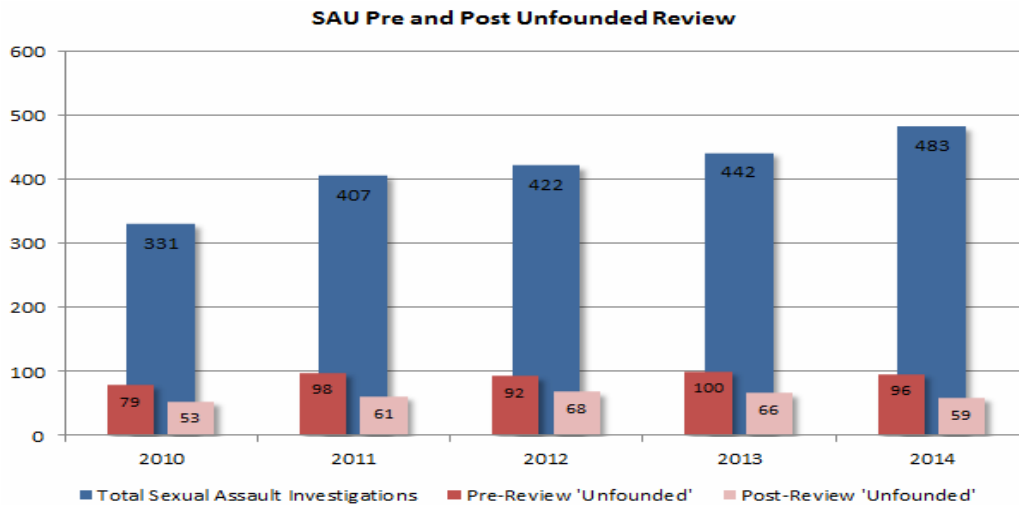
Hamilton Police Service Unfounded Statistics for Sexual Assault Unit between 2010-2014

Review of Unfounded Sexual Assault Investigations SAU 2010 - 2014					
	2010	2011	2012	2013	2014
<b>Total Sexual Assault Investigations</b>	331	407	422	442	483
<b>Pre-Review 'Unfounded'</b>	79 (24%)	98 (24%)	92 (22%)	100 (23%)	96 (20%)
<b>Post-Review 'Unfounded'</b>	53 (16%)	61 (15%)	68 (16%)	66 (15%)	59 (12%)
Detailed Coding Of Post Review Unfounded Cases					
Cleared By Charge	1	1	1	0	1
Cleared Otherwise - Departmental Discretion	0	0	0	1	0
Cleared Otherwise - Victim Declines To Lay Charges	0	0	0	4	0
Complete Solved - Non-Criminal	0	1	0	0	0
Complete Unsolved	14	21	12	20	21
False Allegation - Unfounded	11	14	11	9	15
Investigations Reopened	0	0	0	0	0
Unfounded	53	61	68	66	59

Source: Hamilton Police Records Management System prepared by Crime Information and Analysis Unit (CIAU) Analyst Ryan Rakoczy 2018.

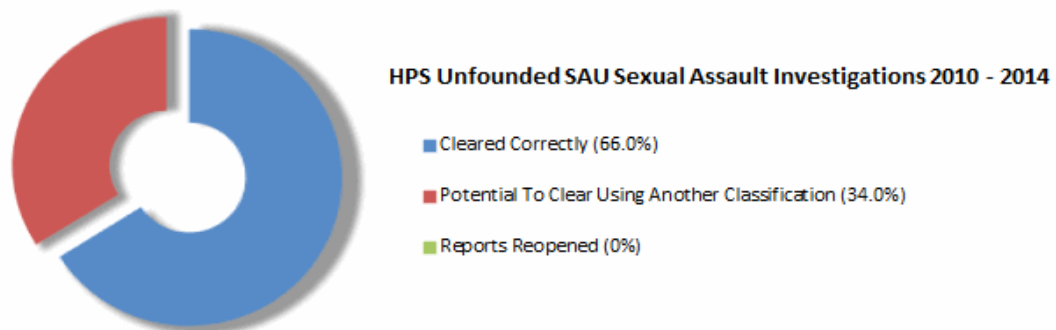
Figure 5 is a comparison for all Sexual Assault Investigations between 2010 and 2014 identified by total cases, pre-review unfounded and post review unfounded. Similar to Table 1, Sexual Assault investigations have increased from 2010 to 2014 by 26 % however the percentage of investigations cleared as unfounded remained relatively the same. Had the appropriate codes been utilized during those years, unfounded investigations would have decreased by 32% in 2010, 37% in 2011, 26% in 2012, 34% in 2013, and 38% in 2014 (see figure 5).





**Figure 5.** Sexual Assault Unit Total Investigations Compared to Pre and Post Review Investigations Concluded as Unfounded

Figure 6 shows the number of investigations that were cleared correctly as unfounded (66%), and suggests the remaining 34% of investigations could have been cleared using another classification (see figure 6).



**Figure 6.** The Number of Sexual Assault Investigations Cleared Correctly in Comparison to the Potential Number of Cases Using Another Classification.

Table 3 identifies the total number of Child Abuse Unit Investigations over a five-year period (2010-2014) as well as the number of pre-review and post-review investigations that were identified as unfounded. Table 3 further breaks down the UCR coding post review. (See table 3)



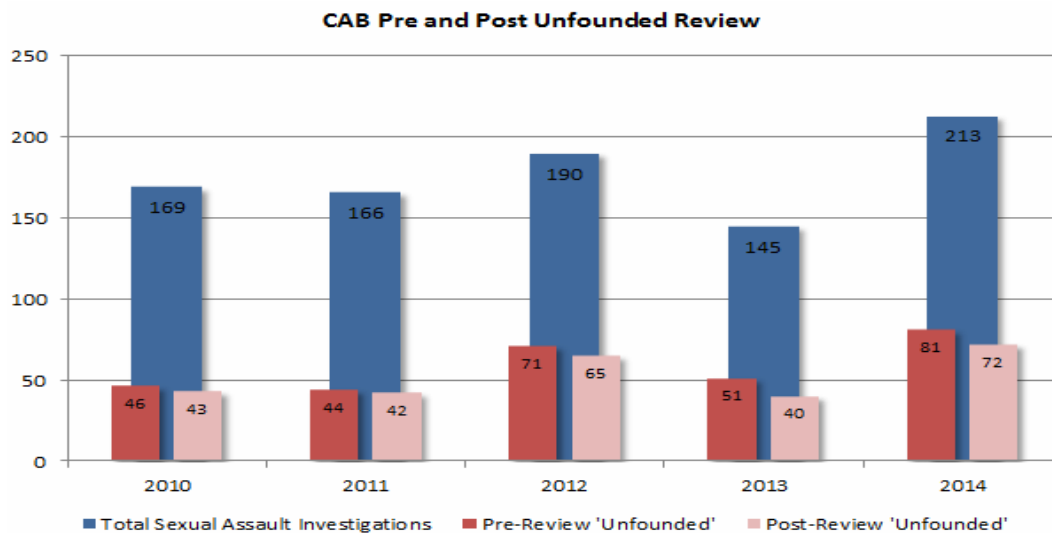
Table 3

Hamilton Police Service Unfounded Statistics for Child Abuse Unit between 2010-2014

Review of Unfounded Sexual Assault Investigations CAB 2010 - 2014					
	2010	2011	2012	2013	2014
Total Sexual Assault Investigations	169	166	190	145	213
Pre-Review 'Unfounded'	46 (27%)	44 (27%)	71 (37%)	51 (35%)	81 (38%)
Post-Review 'Unfounded'	43 (25%)	42 (25%)	65 (34%)	40 (28%)	72 (34%)
Detailed Coding Of Post Review Unfounded Cases					
Cleared By Charge	0	1	0	0	0
Cleared Otherwise - Suspect Is Less Than 12 Years Old	0	0	0	1	0
Complete Solved - Non-Criminal	0	0	1	0	0
Complete Unsolved	3	1	5	10	9
Investigations Reopened	0	0	0	0	0
Unfounded	43	42	65	40	72

Source: Hamilton Police Records Management System prepared by Crime Information and Analysis Unit (CIAU) Analyst Ryan Rakoczy 2018.

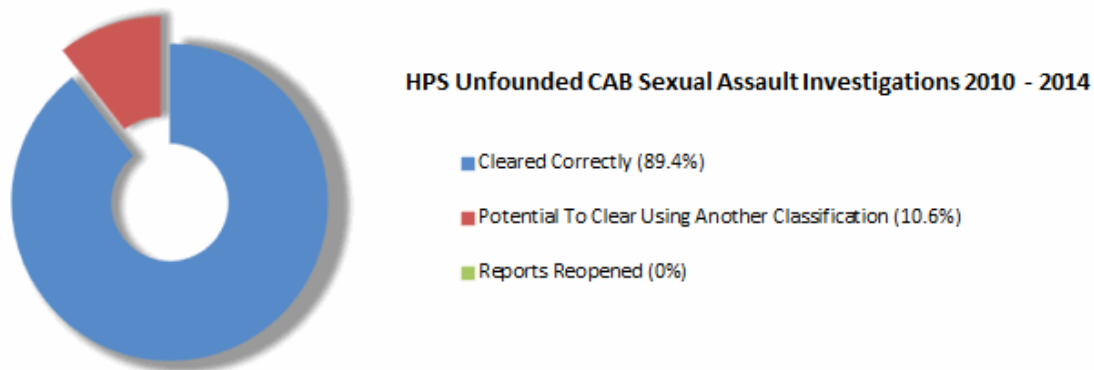
Figure 7 is a comparison for all Child Abuse investigations between 2010 and 2014 identified by total cases, pre-review unfounded and post review unfounded. Similar to Table 1, Child Abuse investigations have increased from 2010 to 2014 by 26 percent however the percentage of investigations cleared as unfounded remained relatively the same. Had the appropriate codes been used during those years unfounded investigations would have decreased slightly by 6% in 2010, 4% in 2011, 8% in 2012, 21% in 2013, and 11% in 2014 (see figure 7).



**Figure 7.** Child Abuse Unit Total Investigations Compared to Pre and Post Review Investigations Concluded as Unfounded



Figure 8 identifies the number of investigations that were cleared correctly as unfounded (89.4%), and suggests the remaining 10.6% of investigations could have been cleared using another classification (see figure 8).



**Figure 8.** The Number of Child Abuse Investigations Cleared Correctly in Comparison to the Potential Number of Cases Using Another Classification.

The HPS internal review examined sexual assault investigations reported to HPS during the calendar years 2010 – 2014 as outlined in the Globe and Mail article.

While the internal review was instrumental in identifying coding errors, it was limited in providing a fulsome understanding as to why cases were being concluded as unfounded. This was partially due to the overwhelming number of cases that each member was reviewing and the fact that the members completing the review were limited to what was captured within police reports and seized medical documents, as opposed to being able to do a full file review (including viewing video witness statements, accused interviews, CAD data, 911 calls, etc.)

The internal review highlighted that third party reporting to police for matters involving children largely contributed to unfounded occurrences arising out of the Child Abuse Branch. Further, the internal review highlighted that numerous SAU Unit unfounded investigations revealed that the victim was or had been suffering from a mental illness at the time their matter was reported to police. The review highlighted the need to ensure supports were being offered to victims who suffer from mental health concerns and who have been sexually assaulted. It has been identified that this may be an area for future partnership between police and mental health professionals.

In addition for the need to provide supports to individuals with mental health concerns, the internal review was beneficial in identifying and correcting coding errors. At the conclusion of the internal review, 75.1 % of the unfounded sexual assault investigation were determined to have been cleared correctly with 24.9% of reports were identified as having the potential to be cleared using another UCR classification.



## **EXTERNAL REVIEW OF UNFOUNDED SEXUAL ASSAULT OFFENCES (2010-2016)**

At the request of our community partners, the SACRT reviewed cases deemed to be unfounded between the years 2010-2016 and focused on investigations conducted by the Sexual Assault Unit (16 and over at the time of reporting). The decision to extend the review outside of years reported on in the Globe and Mail (2010-2014) was made in part to determine if the training provided on the Neurobiology of Trauma in mid-2015 had impacted the statistics in years 2015-2016.

A systematic interval sampling was determined using parameters outlined by the Royal Canadian Mounted Police. (Total population size 626 Sexual Assault Investigations between 2010-2016 that were concluded as unfounded- sample size required for a 95% accuracy,  $\pm 5\% = 65$ ). To achieve a systematic interval sampling, a software tool called Research Randomizer was used. The program generated 65 unique numbers ranging from 1 to 626. Using an excel printout of the 626 Incident Case File numbers; an audit sheet was produced utilizing the 65 numbers generated. The list of 626 was generated using the Records Management System (NICHE) prepared by Crime Information and Analysis Unit Analyst Ryan Rakoczy.

During the review of the 65 cases, two of the cases were excluded. By completing the review, the SACRT hoped to achieve a better understanding of how sexual violence investigations can be improved to better meet the needs of survivor's when engaging the Hamilton Police Service by including best practices, policy, and training.

### **SEXUAL ASSAULT COMMUNITY REVIEW TEAM**

The SACRT included Regional Crown Attorney, Monica MacKenzie. Monica is one of six Ministry of the Attorney General (MAG) - Regional Sexual Violence Action Crowns appointed by Former Premier Kathleen Wynne. Monica provided input into the law surrounding sexual violence offences, as well as an objective Crown's viewpoint in those cases where officers consulted with a Crown prior to the officer concluding an investigation.

The Hamilton Police Service worked with the Information and Privacy Commission of Ontario, the Ottawa Police Service and the Kingston Police Service to develop a Memorandum of Understanding (MOU) that would allow community partners to be exposed to this highly sensitive material. The MOU, in essence, made the community partners agents of the Hamilton Police Service, by creating a role for them to assist the Hamilton Police. (See Appendix E)

In May 2017, all community members involved in this review completed and swore to an, "Oath or Affirmation of Confidentiality" and a Memorandum of Understanding (MOU) before the Hamilton Police Service In-House Legal Counsel – Marco Visentini.

The external review began on Monday November 6, 2017 under the direction and guidance of Sunny Marriner. Marriner is the Executive Director of the Ottawa Rape Crisis Centre and has over 20 years of experience assisting survivors of sexual assault. Sunny was chosen to lead training, as she is nationally recognized for having spent the past 10 years researching best practice on sexual assault investigations, including the Philadelphia model. Marriner has



focused the past three years identifying best practices from the model and developing a Canadian Framework. This Canadian Framework is being called the, “VAW Advocate Case Review Model”.

The VAW Advocate Case Review calls for community members and or experts in the field of sexual assault to review cases independently and or in teams of advocate committees. These individuals would then report on the thoroughness of each police investigation. This would include any identified concerns in how police managed the investigation and or interacted with the victims. The VAW review follows a process of “report, investigation, clearance and review”. It includes a review of unfounded cases and a random sample of founded investigations. It is important to note that the VAW model, in its original form, does not include the involvement of police, victim service professionals and or representatives from the Ministry of the Attorney General (Crown Attorneys) in the review process.

Hamilton’s SACRT, while different in the intended design of the VAW Advocate Case Review model, chose to complete the review as a group. This “Made in Hamilton” approach was chosen to ensure that the different perspectives provided by each professional were shared with each committee member. This enabled all members who formed part of the committee to gain insight into how others arrive at their decision-making. This process of learning was invaluable and helped enhance the already positive relationships that exist between HPS and our community and justice partners and to build relationships where they did not already exist.

To ensure that all SACRT members had a sufficient understanding of HPS Practices, joint training was held to review arrest authorities, UCR coding, Major Case Management principles, Case Conferences, Case Law and the inner workings of the HPS NICHE database. Additionally, Diana Tikasz, the Program Coordinator at Hamilton Health Sciences Sexual Assault and Domestic Violence Care Centre, provided training to all SACRT members on trauma exposure, its impacts, and how to navigate these impacts individually and as a group. This included a presentation, a workbook and continual practice throughout all review meetings. Finally, the two day orientation training included one and a half days of instruction on how to complete a Victim Advocate Case Review, using a form specially designed for this process; the **Advocate Case Review Core Criteria Tool**. To conclude the training, Sunny led the SACRT committee through a review of one of the identified unfounded cases.

The Sexual Assault Community Review Team was always cognizant of trauma exposure and the impact of this trauma on the members of the review committee. As a result, prior to beginning the review, Diana Tikasz led the team to ensure that the group includes self-assessments to help recognize how one is personally impacted by completing this work. Diana developed a workbook titled, “**Indirect Trauma Exposure – Strategies to Maintain Resilience**”. (See Appendix F) This guide was developed to help committee members continuously self-monitor, check in and debrief with each other and direct efforts towards remaining resilient and supportive as the SACRT committee progressed through the review period. Diana provided training to the SACRT team, prior to the review taking place, on the fundamentals of trauma.



## SEXUAL ASSAULT COMMUNITY REVIEW TEAM RECOMMENDATIONS

The Sexual Assault Community Review Team came together on 21 occasions over the course of eight months to prepare for, review and finalize their findings.

As a result of their collective efforts, the SACRT made five recommendations to improve service delivery to victims of sexual assault. The overarching objective of these recommendations is to first do no harm when supporting victims. The recommendations are as follows:

	Category	Recommendations
1.	<b>Sexual Assault Community Review Team (SACRT) Model</b>	Implement the SACRT on a permanent basis to allow for the ongoing comprehensive review team comprised of law enforcement, Crown and community advocates. Try to meet four (4) times per year including a review of all unfounded cases along with some samples of other codes. It is suggested that all cases with a disposition that does not result in charges laid, be also subject to review.
2.	<b>Staffing and Resources</b>	Additional Detectives should be placed in the sexual assault unit. The Detectives should have the ability to use resources from other areas in order to ensure MCM standards are met on every case.
3.	<b>Education and Training</b>	Ongoing continuous education and training around neurobiology of trauma and the dynamics of sexual violence (rape culture, myths and unconscious bias).
4.	<b>Policy, Procedure and Oversight</b>	Update and create new policies, procedures and practices to ensure that HPS is structurally embedding trauma informed knowledge throughout the investigative process.
5.	<b>Special Considerations for Vulnerable Populations</b>	A model be implemented that includes community consultation and special consideration for vulnerable populations (e.g. People with mental health challenges, substance use concerns, intellectual \ developmental disabilities, Indigenous people, youth who are street involved / homeless, etc.).

To further explain recommendations made in each of the above categories, the SACRT offers the following further explanation and rationale:

1. **Sexual Assault Community Review Team (SACRT) Model** – Reviews should continue to be conducted by the interdisciplinary group on a regular basis (proposing every three months) to ensure the ongoing analysis of unfounded and other cases wherein no charges are laid. The team has developed requirements for the group members in order that there is consistency of participation. With regularly scheduled, timely reviews, there is opportunity to potentially re-open cases where the team finds deficiencies.



2. **Staffing and Resources** – Sexual assault is one of the most violent offences in the Criminal Code. These offences exist in a society that is embedded in rape culture which makes it tremendously difficult for victims to come forward, for charges to be laid and prosecuted and for convictions to be obtained. In order for more thorough and fulsome investigations, additional SAU Detectives are required. These investigations are some of the most time consuming, both during the initial investigation as well as follow up, and require significant Officer involvement in the prosecution.
3. **Education and Training** – The review revealed, at times, that Detectives commenced the process with the position of doubt and utilized criminal investigation interrogation techniques with victims. Adopting a trauma informed approach will ensure that each sexual assault investigation begins with believing the victim and treating all reported sexual offences as legitimate unless determined otherwise after a thorough investigation.
4. **Policy, Procedure and Oversight** – The team recommends embedding trauma informed knowledge throughout investigations. This includes changes to policy such as; include mandatory involvement of Victim Services at the onset of each sexual assault investigation; waiting 72 hours, when safety of the victim or community are not negatively impacted, from the time of an offence to taking a formal statement/interview and requiring a complete supervisory review by the Detective Sergeant including all statements, video for all unfounded and cases where charges are not proceeding.
5. **Special Considerations for Vulnerable Populations** – The review revealed that Detectives and Investigators would benefit from a specialized support person when working with vulnerable populations, as they may be able to provide guidance and suggestions on how to best support the unique needs individual.

The SACRT has determined that 70% of the cases examined were incorrectly coded as “Unfounded”. The SACRT external review members followed an Advocate Case Review Core Criteria Tool developed by Sunny Marriner from the Ottawa Rape Crisis Centre. This review tool included core review criteria as part of each assessment and involved a more robust assessment of each unfounded case including the viewing of every video or written statements taken from the victims, witnesses, suspects and accused persons involved and 911 calls.

## REASONS FOR INCORRECT CLASSIFICATION

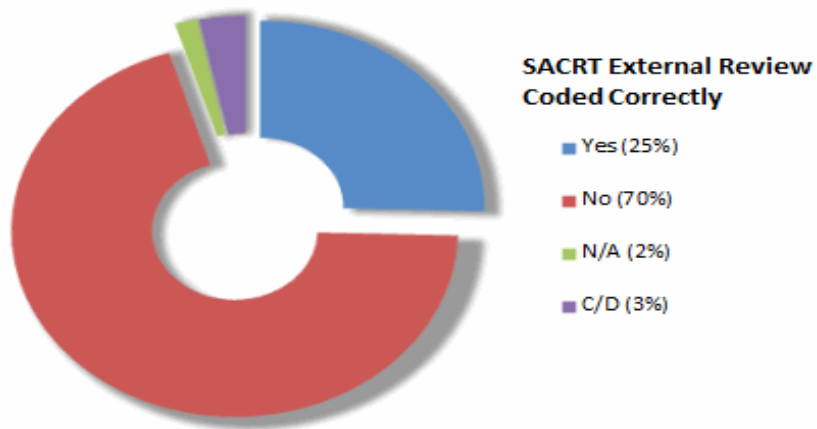
The high rate of incorrect classification of unfounded cases can be attributed to a range of factors including, but not limited to:

- Detectives not correctly applying “Reasonable Grounds” (RG)
- All relevant witnesses not being interviewed
- All forensic testing not being requested and results returned
- Disproportionate weight given to the accused version of events



- Reliance on rape myths
- Use of investigative interviewing and interrogation techniques with victims
- Reliance on corroboration being required
- Predetermining outcomes prior to a full investigation

Figure 9 identifies that 70% of the codes applied to the external review between 2010 and 2016 were determined to be coded incorrectly as unfounded, while only 25% were determined to be correctly coded. Two percent were removed from consideration while 3% were identified as Cannot Determine based on insufficient information.



**Figure 9.** External Review of Sexual Assault Investigations Coded as Unfounded between 2010-2016

What became evident in the external review was that any demonstrated bias held by the Investigator was continued and maintained throughout the criminal investigation and with all of the subsequent documents created and findings made supporting the investigator's bias. It was only through the external review and the review of actual video interviews that independent observers could identify a bias in an investigator and note that the bias continued throughout the Detective's report of the incident.

Much like a researcher selecting evidence, findings or related theories to support their research, Investigators would document or highlight those aspects of the video interview that supported their beliefs. It was only through observing the video interviews could the observer identify that the Investigator's summary did not necessarily reflect all of the information contained in the video interview.

## HPS - SEXUAL ASSAULT POLICY AND PROCEDURE

The Hamilton Police Service, throughout this review process, has examined its Sexual Assault and related investigative policies / practices. As result, the following changes to policy / practice will be made:



1. Only a confirmed Detective Sergeant, or an Acting Detective Sergeant with the required training, will be permitted to clear and conclude a sexual assault or related offence occurrence as unfounded.
2. Detective Sergeants assigned to the Victims of Crime Unit will conduct periodic random reviews of all interviews associated with investigations they are reviewing and approving to identify if Detectives are relying on rape myths in their investigations.
3. Beginning in September 2018, a six month pilot will be initiated with the SAU and the Victim Services Branch during business hours (Mon-Fri 8:30am - 4:30pm). The pilot will include mandatory involvement of a Victim Services Branch staff member who will meet with the victim/survivor, prior to their appointment, with their assigned Detective. The goal will be to provide emotional support and options of interview accompaniment, counselling, resources and financial programs available to them. The pilot will include an evaluation tool for victim/survivor feedback.

The HPS Sexual Assault Unit will continue to review the HPS - Sexual Assault Policy to ensure that it is current and reflective of best practice.

## STAFFING

While increasing the staffing complement of the SAU was not initially projected to form part of this report, it was highlighted by the SACRT as one of their recommendations. As a result, it was determined that providing statistical data on the workload associated with Sexual Assault Unit Detectives would be necessary so that individuals evaluating this report and the Team's recommendations have a better understanding as to the increased systemic pressures faced by investigators working in this area.

Since 2008, Detectives in the Sexual Assault Unit have seen a dramatic increase in their workload. In 2008, Detectives handled an average of 59.6 cases per member per year. This increased to 90.8 cases annually in 2016. The average numbers of cases per member in years 2017 and projected for 2018 are approximately 80 investigations per Detective per year.

With tighter timeline requirements identified in *R. v. Jordan*, 2016 SCC 27, [2016] 1 S.C.R. 631 <sup>xiv</sup> and increased court requirements as a result of *R. v. Marakah*, 2017 SCC 59, [2017] 2 S.C.R. 608 <sup>xv</sup>, Detectives are under greater pressure to complete their work in an expedient manner and now have to complete search warrants to gather evidence that was once obtained without warrant. Procedural demands and adequacy requirements required by Major Case Management and Violent Crime Linkage System (ViCLAS) also add to the work associated with each criminal investigation. Furthermore, advancements in DNA capabilities / technology require careful handling and processing of exhibits and in-depth search warrants requiring involvement from a member of the Crown's office and approvals from a Judge, which all take additional time to complete.

Due to public safety concerns in stranger sexual assaults like those which have been made public in the Westdale Community near McMaster University, the Hamilton Rail Trail and or complex sexual assault investigations such as Project Links, John Leek and

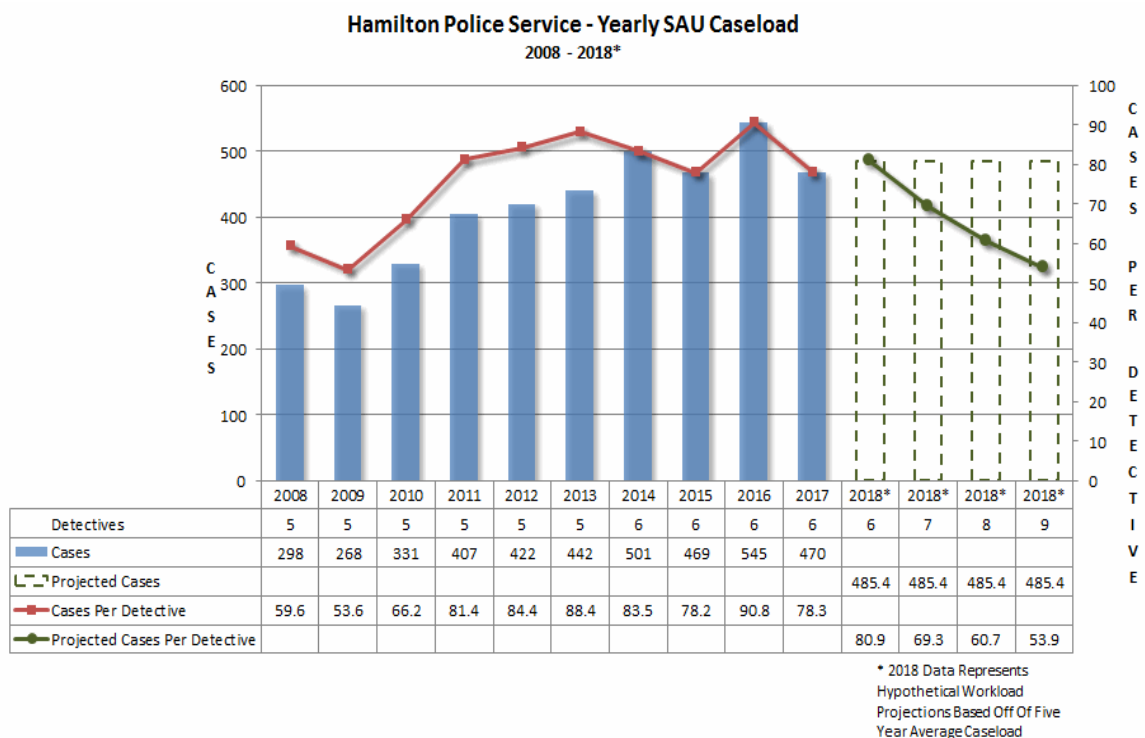


Grant Litt, investigators must focus on these single investigations which results in previously assigned cases being put on hold.

To ensure that the HPS Sexual Assault Unit can provide the best possible service to members of the Hamilton community who have been sexually assaulted, it is recommended that two additional Detectives Constables be hired to supplement the staffing already assigned to the SAU. This would ensure that Detectives are provided with a manageable workload, a workload that ensures HPS members have the necessary time to dedicate to each victim and supporting families and friends. With two additional Detective Constables, the SAU unit would be comprised of nine members (Six Detectives and three Detective Constables). Each person assigned to the SAU would then be responsible for an average of 53.9 major cases per calendar year.

In Summary, reducing workload in high stress/high trauma exposed environments such as the SAU has been shown in the literature to reduce rates of secondary traumatic stress, vicarious trauma and burnout. Officers who are struggling with these occupational stressors are less likely to be able to engage with victims in a compassionate manner. Reducing workload and trauma exposure on this unit not only safe guards the officers' wellbeing but fosters the ability for staff to be victim centered thus improving services to the public.

Figure 10 depicts Hypothetical workload predictions for 2018 utilizing the average of the past five years of Hamilton Police Service Sexual Assault Investigations to determine a workload of 53.9 investigations per Detective.



**Figure 10.** Hamilton Police Service predicted caseload from 2008 through 2018



## CONCLUSION

Over the past 18 months, the Hamilton Police Service has worked closely with community partners to identify and close gaps in the delivery of policing services as they relate to victims of sexual assault.

It was through the review of the HPS Records Management Practices, Training, Policy and Procedure, an Internal Review of all Unfounded Investigations (2010-2014) and a detailed external review involving community and justice partners that gaps in service delivery identified and recommendations formed through the knowledge gained by this review process.

Members of both the Internal and External review teams have dedicated themselves to completing this review and have demonstrated the highest level of commitment to victims of sexual assault.

Hamilton Police Service will move forward with all recommendations provided by the SACRT and we look forward to working with our community partners to ensure that victims of sexual assault receive the best possible service and support from the Hamilton Police Service.

## CONTRIBUTIONS BY:

<b>Susan Double</b>	<b>Administrator</b>	<b>Hamilton Police Service – Victim Services</b>
<b>David Dunbar</b>	<b>Detective Sergeant</b>	<b>Hamilton Police Service</b>
<b>Cindilee Ecker-Flagg</b>	<b>Executive Director</b>	<b>Native Women’s Centre</b>
<b>Jennifer Froates</b>	<b>Graphics</b>	<b>Hamilton Police Service</b>
<b>Chris Kiriakopoulos</b>	<b>Staff Sergeant</b>	<b>Hamilton Police Service</b>
<b>Lenore Lukasik-Foss</b>	<b>Director</b>	<b>Sexual Assault Centre of Hamilton and Area</b>
<b>Monica McKenzie</b>	<b>Regional Crown</b>	<b>Ministry of the Attorney General</b>
<b>Michelle Moore</b>	<b>Detective</b>	<b>Hamilton Police Service</b>
<b>Ryan Rakoczy</b>	<b>Technical Analyst</b>	<b>Hamilton Police Service</b>
<b>Jo-Ann Savoie</b>	<b>Staff Sergeant</b>	<b>Hamilton Police Service</b>
<b>Diana Tikasz</b>	<b>Program Coordinator</b>	<b>Sexual Assault/Domestic Violence Centre (HHS)</b>
<b>Marco Visentini</b>	<b>Legal Counsel</b>	<b>Hamilton Police Service</b>

Respectfully,

*David Hennick*

Inspector  
Investigative Services Division  
Chair - Sexual Assault Community Review Team  
Hamilton Police Service



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HAMILTON POLICE SERVICE

SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT

# APPENDIX A



**Canadian Association of Chiefs of Police / Association  
canadienne des chefs de police**

300 Terry Fox Drive, Unit 100, Kanata, ON K2K 0E3

Tel./Tél. (613) 595-1101 - Fax/Télé. (613) 383-0372 [www.CACP.ca](http://www.CACP.ca)



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# **STATEMENT**

February 10, 2017

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## **Sexual Assault Investigations**

As law enforcement leaders, our focus is always to ensure the safety of our communities and the most vulnerable among us. Sexual assaults are one of the most traumatic crimes that a person may experience.

It is important that we assure Canadians, especially those who are victims of sexual assault, that we do not treat such cases lightly and that our focus is first and foremost on safety and wellbeing of the victim. Police services across Canada continue to work with victim serving agencies and victims' advocates to enhance procedures and share best practices. We understand the value of data collection and that data needs can change over time.

Victims must have confidence in going to the police knowing that we will respect their dignity and have their best interests at heart. We do so with the knowledge of how traumatic such crimes are and how reporting the crime can, at times, be almost as traumatic as the crime itself. While police services across this country are continually striving to provide the best service, we can always do more. Our goal is to provide a victim-centered response.

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 recommendations on how reliable and consistent statistical information may best be collected.

As we go through this evaluation, we are mindful that the core value of those serving in law enforcement is the desire to help others, in particular, victims of crime. That is why we chose this profession. We are committed to the safety and security of all Canadians and will continue

to work to earn and maintain the public's confidence and trust.

Directeur Mario Harel  
President,  
Canadian Association of Chiefs of Police

The Canadian Association of Chiefs of Police was established in 1905 and represents approximately 1,000 police leaders from across Canada. The Association is dedicated to the support and promotion of efficient law enforcement and to the protection and security of the people of Canada. Through its member police chiefs and other senior police executives, the CACP represents in excess of 90% of the police community in Canada which include federal, First Nations, provincial, regional and municipal, transportation and military police leaders.



HAMILTON POLICE SERVICE

SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT

# APPENDIX B



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## **Statement**

April 26, 2017

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### **Recommendations Regarding the Collection of ‘Unfounded’ Incidents via the Uniform Crime Reporting Survey**

On February 10, 2017, Directeur Mario Harel, President of the Canadian Association of Chiefs of Police (CACP) issued a statement with regards to sexual assault investigations (<https://cacp.ca/news/cacp-statement-sexual-assault-investigations.html>). One of the key requests was to have the CACP Police Information and Statistics Committee (POLIS) ‘examine how statistics are recorded and reported to Statistics Canada and make recommendations on how reliable and consistent statistical information may best be collected.’

At their April 4-5, 2017 meeting, the CACP POLIS Committee, in partnership with Statistics Canada, addressed the feasibility of reinstating collection and the need for consistent and standardized reporting of all unfounded incidents, including sexual assault. As a result of that meeting, on April 6, 2017, POLIS presented to the CACP Board of Directors a series of recommendations regarding the collection of unfounded incidents via the Uniform Crime Reporting survey. These recommendations (attached) were unanimously accepted.

“Moving forward, the recommendations provided by POLIS allow police to report such incidents in a more victim-centered manner - one that correctly conveys our belief in the victim regardless of whether or not the incident can be substantiated through the investigative process,” stated Directeur Harel.

“There are changes required throughout the criminal justice system and there is no doubt that continued improvements need to be made. Victims must have confidence in going to the police knowing that we will respect their dignity and have their best interests at heart. This is what we strive for. This is where we want to be. Police services will continue to work with victim serving agencies and victims’ advocates to enhance procedures and share best practices,” he continued.

“At this time, I am very pleased with the attention the CACP POLIS Committee and Statistics Canada dedicated to this effort. I am also very heartened to see the great deal of progress that has been made by police services throughout Canada in reviewing past cases of sexual assault.”

The CACP encourages all police services to follow these recommendations that adopt a more victim-centered approach for the classification and reporting of criminal incidents, including sexual assaults, going forward. More detailed information on changes to the Uniform Crime Reporting Survey will be provided to police services by Statistics Canada over the coming months.

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Further information is being provided by Statistics Canada through their Media Relations group at 613-951-4636 or [STATCAN.mediahotline-ligneinfomedias.STATCAN@canada.ca](mailto:STATCAN.mediahotline-ligneinfomedias.STATCAN@canada.ca).

The Canadian Association of Chiefs of Police was established in 1905 and represents approximately 1,000 police leaders from across Canada. The Association is dedicated to the support and promotion of efficient law enforcement and to the protection and security of the people of Canada. Through its member police chiefs and other senior police executives, the CACP represents in excess of 90% of the police community in Canada which include federal, First Nations, provincial, regional and municipal, transportation and military police leaders.

# **Recommendations Regarding the Collection of Unfounded Incidents via the Uniform Crime Reporting Survey**

## **Police Information and Statistics Committee of the CACP**

**April 6, 2017**

### **BACKGROUND**

Statistics Canada collected data on unfounded sexual assaults beginning in 1962, with the introduction of the Uniform Crime Reporting (UCR) Survey. At the time, police services were required to submit counts of unfounded incidents along with other crime data. Over time, however, inconsistent reporting led to poor data quality. The last time unfounded incidents were published as part of an annual crime statistics publication by Statistics Canada's Centre for Canadian Justice Statistics was in December 1994. The last time rates of unfounded sexual assault were published was in July 2003.

In 2006, Statistics Canada and the Police Information and Statistics Committee (POLIS) of the Canadian Association of Chiefs of Police (CACP) conducted a review of police-reported unfounded data. It was found that not all police services were reporting unfounded incidents and among those that were, not all unfounded records were being sent. It was therefore recommended that data on all unfounded incidents, not just sexual assaults, should no longer be collected or released by Statistics Canada. The report also makes recommendations for police and Statistics Canada to improve the classification of incidents.

Following national media attention in February 2017, several police agencies across the country announced that they would review sexual assault cases investigated in the last few years that were labeled as "unfounded". The members of the POLIS committee have worked together to make a number of recommendations regarding the reinstatement of the collection of UCR data on unfounded criminal incidents.

### **CONSIDERATIONS**

This item was a significant part of the agenda of the April 2017 POLIS meeting. The meeting addressed the feasibility of reinstating collection, processing and dissemination of unfounded incidents and reviewed definitions for unfounded and founded incidents. The objective of the meeting was to arrive at recommendations to ensure clarity, consistency and comparability in the data.

Any change to data collection and reporting of unfounded incidents will have resource and cost implications for police services as the data providers and for Statistics Canada.

## RECOMMENDATIONS

The POLIS committee supports the reinstatement of the collection, analysis and dissemination of criminal unfounded incidents, including sexual assault, by Statistics Canada starting in 2018 for 2017 reference period. The committee also supports analysis of the 2016 data to determine the impact on the data of the reviews by the police services.

The POLIS committee recommends to Statistics Canada and the Canadian Association of Chiefs of Police Board of Directors that all police adopt a common approach for the classification and reporting of criminal incidents, including sexual assaults, going forward.

The POLIS committee recommends to Statistics Canada and the Canadian Association of Chiefs of Police Board of Directors that definitions of unfounded and founded criminal incidents, including those of sexual assaults, be updated to reflect the POLIS-approved definitions.

- ☐ The notion that unfounded criminal incidents should only contain cases where it has been determined through police investigation that offences reported to the police did not occur nor were attempted, will be reinforced through a simplified definition and the creation of guidelines for classification.
- ☐ The definition of founded criminal incidents should be expanded to also include third party reports and incidents where there is no credible evidence to confirm that an incident did not take place.
- ☐ Additional categories to characterize unsolved incidents should be added to enhance analysis and improve data quality.
- ☐ POLIS does not support the classification of incidents as “unsubstantiated”. POLIS recommends they be reported as founded incidents that are not cleared because police are not able to substantiate.

Going forward, the POLIS committee recognizes that the implementation of recommendations will have an impact on both clearance rates and on the number criminal incidents reported to Statistics Canada, but will improve the comparability of statistics across jurisdictions.

The POLIS committee also recognizes that the implementation of prescribed changes to the classification of criminal incidents will be phased in and will have an incremental impact on the data reported to Statistics Canada going forward.

Statistics Canada and POLIS will work in collaboration with other partners and independent experts to implement changes and develop statistical reporting training material.



HAMILTON POLICE SERVICE

SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT

# APPENDIX C



**Juristat**

## **Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey**

by The Canadian Centre for Justice Statistics

Release date: July 12, 2018



Statistics  
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**Canada**

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# Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey

by The Canadian Centre for Justice Statistics

In 1962, as part of Canada's national crime statistics program, Statistics Canada launched the Uniform Crime Reporting (UCR) Survey. The UCR Survey collected information on both 'founded' and 'unfounded' criminal incidents. Over time, however, the use of unfounded data declined due to data quality issues. Following national media attention in 2017 regarding the use of 'unfounded' by police to classify sexual assaults, several police services across Canada announced that they would review sexual assault cases that were classified as unfounded in recent years (Doolittle 2017a; Doolittle 2017b). As part of this process, representatives of the policing community have worked with Statistics Canada to make recommendations to address data quality issues, to ensure standardized reporting and to reinstate the collection of information on unfounded criminal incidents through the UCR Survey.

The objective of this *Juristat* article is to provide information on the collection, through the UCR Survey, of unfounded criminal incidents in Canada, including sexual assaults. It will provide background on the collection of these data and an overview of the actions taken by the Canadian Centre for Justice Statistics (CCJS)—a division at Statistics Canada—and the Police Information and Statistics (POLIS) Committee of the Canadian Association of Chiefs of Police (CACP) to revise the UCR Survey to address data quality and reporting issues, and to reinstate collection of information on unfounded criminal incidents.

## Background

The Uniform Crime Reporting (UCR) Survey—managed by the Canadian Centre for Justice Statistics (CCJS)—is a national, standardized survey of official police-reported crimes in Canada. Details on criminal incidents, victims and persons accused of crime are submitted by police services across the country to CCJS for consolidation and dissemination.

When the UCR Survey was launched in 1962, counts of unfounded incidents were collected to measure the proportion of all incidents reported to the police where it was "determined through police investigation that the offence reported did not occur, nor was it attempted" (Statistics Canada 2016). Over time, however, inconsistent reporting of unfounded incidents led to poor data quality. Statistics on unfounded incidents overall were last published by CCJS as part of the annual crime statistics publication in 1994. Rates of unfounded sexual assaults were last published in 2003 as part of a special report on sexual offences (Kong et al. 2003).

In 2006, CCJS and the Police Information and Statistics Committee examined police-reported data on unfounded incidents. It was determined that not all police services were reporting information on unfounded incidents and, of those that were, not all unfounded records were being submitted to CCJS through the UCR Survey. It was suggested that variations in rates of unfounded incidents may have been attributable to inconsistent classification of calls for service that were deemed non-criminal. It was therefore recommended that data on all unfounded incidents, not only sexual assaults, no longer be disseminated by CCJS.

National media attention in 2017 regarding rates of unfounded sexual assault incidents focused concern on the police response to victims and the quality of investigations for this type of crime. These data were obtained by the media directly from police services. Self-reported data indicate that sexual assault is one of the most under-reported crimes. According to the General Social Survey (GSS) on Canadians' Safety (Victimization), in 2014, 5% (use with caution) of sexual assaults against individuals aged 15 and older were reported to the police, a proportion that remained unchanged since 2004. In comparison, over one in three (38%) physical assaults were reported to the police (Conroy and Cotter 2017; Perreault 2015). The most common reasons for not reporting sexual assault to the police were that the victim felt the crime was minor and not worth taking the time to report (71%), that the incident was a private or personal matter and it was handled informally (67%), and that no one was harmed during the incident (63%) (Conroy and Cotter 2017). Some victims expressed concerns regarding the justice system itself, including not wanting the hassle of dealing with police (45%), the perception that police would have not considered the incident important enough (43%), and that the offender would not be convicted or adequately punished (40%).

As a result of the commitment by CCJS and the policing community to review and reinstate the collection of information on unfounded incidents, a number of factors related to inconsistent reporting were identified. These factors, in addition to a review of international standards for data collection, were considered when revisions were made to the classification of both founded and unfounded incidents in the UCR Survey.

**Text box 1****Timeline of events related to unfounded criminal incidents**

**1962:** The Uniform Crime Reporting (UCR) Survey launched, and it included the collection of counts of unfounded incidents.

**December 1994:** Statistics on unfounded incidents (all types) were last published by the Canadian Centre for Justice Statistics (CCJS) as part of the annual crime statistics publication.

**July 2003:** Rates of unfounded sexual assaults were last published as part of a special report on sexual offences.

**April 2006:** CCJS and the Police Information and Statistics (POLIS) Committee of the Canadian Association of Chiefs of Police (CACP) examined police-reported data on unfounded incidents. It was determined that not all police services were reporting information on unfounded incidents and, among those that were, not all unfounded records were being submitted to CCJS through the UCR Survey. It was therefore recommended that data on all unfounded incidents, not only sexual assaults, no longer be disseminated by CCJS.

**February 2017:** A report on unfounded sexual assaults—based on data retrieved through access to information requests from individual police services—was published in *The Globe and Mail*. The president of the CACP encouraged all police services to review practices around sexual assault investigations and asked POLIS to review how these data were being collected in order to make recommendations for standardization.

**Spring 2017:** CCJS reviewed literature and led consultations with a number of police services to establish best practices for reporting criminal incidents.

**April 2017:** POLIS recommended resuming the collection, analysis and dissemination of unfounded criminal incidents, including sexual assaults, by CCJS. Recommendations for a common approach to reporting incidents to the UCR Survey were made and endorsed by the CACP Board of Directors. Work continued through 2017 to determine the specific changes to the UCR Survey and scoring standards.

**January 2018:** A new definition of ‘unfounded’ and new standards for reporting incidents by clearance status were established for the UCR Survey and disseminated to all police services.

**January to April 2018:** CCJS delivered regional training workshops across the country and, with the support of Public Safety Canada, developed an online training module.

## **Revising the Uniform Crime Reporting Survey and reinstating collection of unfounded incidents: Actions taken**

In February 2017, the president of the Canadian Association of Chiefs of Police (CACP) encouraged all police services to review practices around sexual assault investigations, as many had already started to do. In addition, Police Information and Statistics (POLIS) Committee was tasked with examining how data are collected and reported to the Canadian Centre for Justice Statistics (CCJS). The POLIS Committee was also directed to make recommendations on best practices for the collection of reliable and consistent statistical information (Canadian Association of Chiefs of Police 2017a).

To arrive at a set of recommended changes to the Uniform Crime Reporting Survey, CCJS and POLIS undertook the following actions:

1. Reviewed in detail what other countries were doing with respect to defining and classifying criminal incidents, including sexual assaults.
2. Consulted with POLIS agencies to learn best practices and their constraints in reporting. Issues raised by other police services during their reviews of unfounded incidents were also considered.
3. Consulted extensively with the police services on POLIS and other police services, including those located in provinces where pre-charge approval by the Crown is required in order for police to lay charges (i.e., New Brunswick, Quebec and British Columbia).
4. Consulted with academics and independent experts outside of policing to seek feedback and endorsement of the proposed changes to the UCR Survey.

CCJS and POLIS found that the varying application of unfounded was partly attributable to differences in the way police were classifying incidents, and not only associated with the depth of investigation. These included:

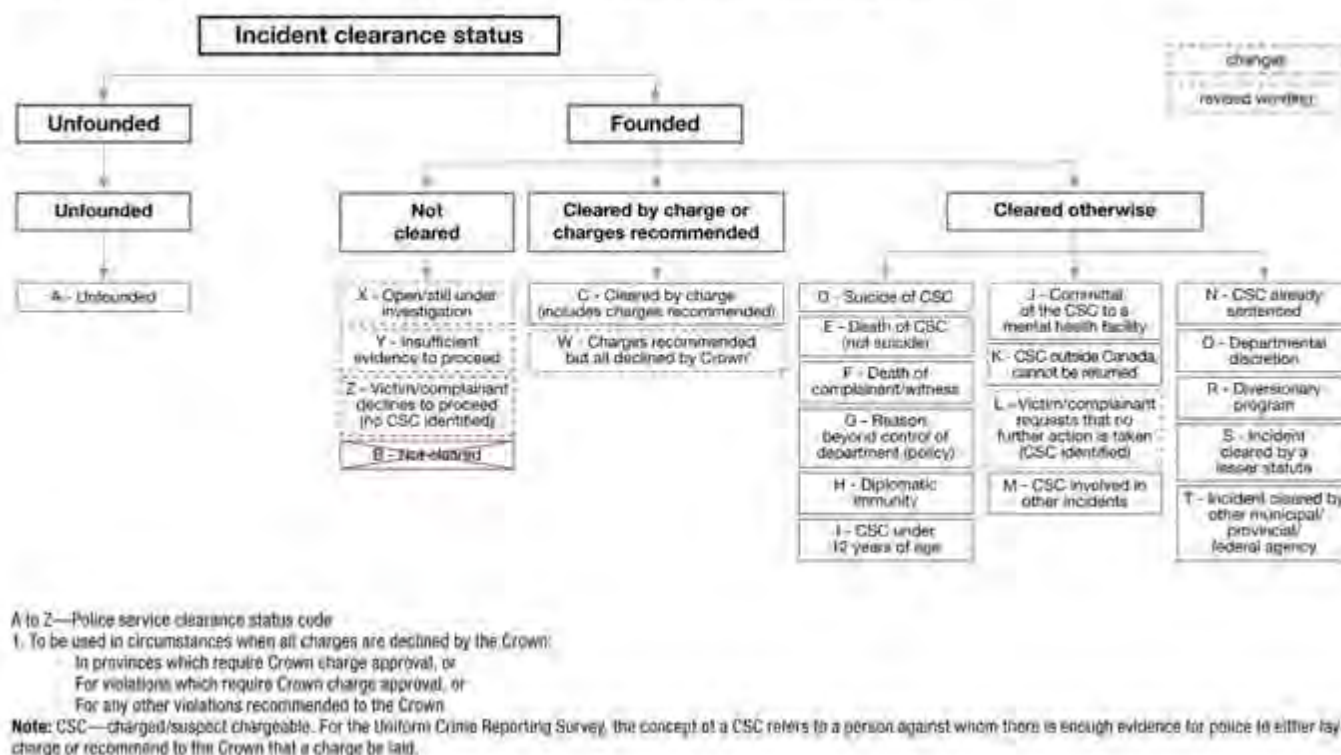
- The classification of incidents reported to the police by a third party (i.e., by someone other than the victim) as unfounded where it could not be determined whether or not the incidents occurred. It was also found that some police services were classifying these to a code internal to police service record systems (and therefore not reported to CCJS).

- The erroneous classification of incidents as unfounded by some police services where the Crown decided not to pursue charges even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where the victim did not want to pursue charges or go to court even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where police decided not to lay charges because they did not feel they would stand up in court. This was done even when, based on police investigation, there was enough evidence to classify them as founded.
- The erroneous classification of incidents as unfounded by some police services where accused persons were under 12 years of age. This was done even when, based on police investigation, there was enough evidence to classify them as founded.
- Variations in the application of a 'victim-centred' approach across police services.<sup>1</sup>

CCJS and POLIS made a number of recommendations related to statistical classifications and standard definitions that would address inconsistencies in reporting crime statistics. In addition to updating the definition of a founded incident, several of these revisions related to increasing the options for police to categorize an incident as "not cleared", "cleared by the laying of a charge or recommending the laying of a charge" or "cleared otherwise" (Figure 1). It is expected that with these revisions, the use of 'unfounded' as a classification will decline as it will be clearer to police how to classify incidents based on the information from investigations.

The recommendations were endorsed by the CACP Board of Directors (Canadian Association of Chiefs of Police 2017b). In addition, the recommendations were supported by experts who responded to the CCJS consultation on the matter.

**Figure 1**  
**Modifications to the Uniform Crime Reporting Survey Incident clearance status options**



## Updating the definition of 'founded'

Until recently, an incident was deemed founded according to the UCR Survey if, "after police investigation it has been determined that a *Criminal Code* or other federal statute violation has occurred even if the charged/suspect chargeable (CSC) is unknown" (Statistics Canada 2016). For the UCR Survey, the concept of a CSC refers to a person against whom there is enough evidence for police to either lay a charge or recommend to the Crown that a charge be laid.

More recently, however, definitions of founded incidents have evolved to account for the complexities of certain offences such as sexual assault, family violence and intimate partner violence. A victim-centred approach to recording crimes is

emerging and puts forth that, unless there is concrete evidence to prove the crime did not happen, it is to be believed that the crime occurred (Her Majesty's Inspectorate of Constabulary 2014; Government of United Kingdom 2016; Human Rights Watch 2013). For instance, the International Association of Chiefs of Police recommends the following standard:

*The determination that a report of sexual assault is false can be made only if the evidence establishes that no crime was committed or attempted. This determination can be made only after a thorough investigation. This should not be confused with an investigation that fails to prove a sexual assault occurred. In that case the investigation would be labeled unsubstantiated. The determination that a report is false must be supported by evidence that the assault did not happen* (International Association of Chiefs of Police 2005).

Recognition of third party reporting of criminal incidents is emerging. Third party reporting occurs when someone other than the victim reports the crime to the police, and it can be done officially or unofficially. Third party reporting also allows victims who do not want to personally report the incident to ensure that police are notified about the crime. Third party reporting allows official agencies to report suspected incidents to the police. Official third parties could include community-based victim service programs, child protective services and other municipal, provincial/territorial and federal agencies who report an incident to the police on behalf of the victim. Officials may collaborate with police without giving them the personal information of victims. Non-official third parties could include family members, teachers and witnesses. Some jurisdictions are exploring ways to expand programs which allow victims to report incidents of sexual assault and to get the assistance they need without having to approach the police (Government of British Columbia 2018; Canadian Association of Police Governance 2014).

Accounting for developments in definitions and reporting options for victims, the definition of 'founded' incidents was updated in January 2018 to read: "An incident is founded if, after police investigation, it has been determined that the reported offence did occur or was attempted (even if the charged/suspect chargeable (CSC) is unknown) or there is no credible evidence to confirm that the reported incident did not take place. This includes third party reports that fit these criteria."

## Discontinuing the classification of incidents as 'unsubstantiated'

Due to previously strict definitions of 'founded' and 'unfounded' incidents, police services had been using different methods to categorize incidents when they were unable to determine if a crime occurred. One such method was the classification to an internal category of 'unsubstantiated' (or equivalent internal code), which was not reported to CCJS. For two main reasons, POLIS recommended that police services no longer categorize incidents as such. First, there was little international evidence to support the collection and reporting of 'unsubstantiated' incidents (or equivalent). Second, the emergence of the victim-centred approach to recording incidents means that it is to be believed that the crime occurred unless there is concrete evidence that proves the incident did not take place. The elimination of the use of 'unsubstantiated', with the addition of appropriate clearance categories below, supports standardized reporting by police services.

## New detailed options to classify founded incidents that are not cleared

Historically, the UCR Survey only allowed police to classify a founded incident that was not cleared (or solved) as just that—not cleared. As a result of consultations led by CCJS in 2017 with POLIS and other police services, it was determined that the lack of specificity in reasons for not clearing an incident may have contributed to varying rates of unfounded. It became evident that more options were needed in order for police to report more accurately and to produce a better statistical understanding of the reason why founded incidents may not be cleared (see Figure 1). Based on consultations, it was recommended that the classification of 'not cleared' be separated into three new types of categories. These are:

- Clearance status code X – **Open/still under investigation:** This clearance option is to be used for all open investigations and for those where action has yet to be taken on the reported incident. It includes incidents that cannot be classified as "Insufficient evidence to proceed" or "Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified)."
- Clearance status code Y – **Insufficient evidence to proceed:** This clearance option is to be used for incidents where there is insufficient or conflicting evidence for the police service to substantiate laying a charge or recommending a charge to the Crown. This clearance category not only responds to the challenges in some investigations but also complements the new definition of founded incidents.
- Clearance status code Z – **Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified):** This clearance option is to be used for incidents where an accused cannot be identified either because the victim/complainant or other witnesses do not want to identify the CSC or they do not want to actively participate in the investigation. This category addresses some of the challenges in investigations where a victim wants the incident to be reported, but may not be ready to identify the accused. It also responds to the need for police to at times explain relatively low clearance rates for incidents related to gangs and organized crime groups where victims and witnesses can be reluctant to cooperate.

## Added option to classify founded incidents as “cleared by charge” or “charges recommended by police”

Previously, for the UCR Survey, there was only one category for incidents where police either laid charges or recommended charges to the Crown. Through consultations in 2017 by the CCJS with POLIS and other police services, it was determined that there were variations in the use of this category and ‘unfounded’ as a result of views of the role of the Crown in crime statistics, particularly in provinces that require the Crown to approve charges.

While some police services consulted were correctly using this category when charges were recommended to the Crown, others were coding as “cleared otherwise” or “unfounded” when the Crown would decline the charges. It was clear that another category was needed in order to address the varied way that incidents that should be founded were being classified as a result of the relationship between the police and the Crown. The scope of the UCR Survey is to capture police-level information and decisions. For a variety of reasons, some incidents cleared by police may not be pursued by the Crown. Therefore, to render data more comparable across jurisdictions, a new clearance option was added to the UCR Survey that will allow police to classify incidents where they recommend the laying of a charge, but the Crown declines to proceed.

The new category of “Charges recommended but all declined by Crown” (clearance status code W) is to be used when police have recommended to the Crown that charges be laid, but the Crown declines to proceed with **all** of the charges.<sup>2</sup> It is to be used in the following circumstances when all charges are declined by the Crown: 1) in provinces which require Crown charge approval, 2) for violations which require Crown charge approval according to legislation, or 3) for any other violations recommended to the Crown (see Figure 1).

The following is an example to illustrate where this would be used. Police in British Columbia recommend a charge of motor vehicle theft to the Crown. Because the Crown does not believe they will be likely to obtain a conviction in court, they decline to lay charges. From a policing perspective, an accused is identified and there is credible evidence to support the laying of a charge. As such, the final coding for this incident should be “Founded—Charges recommended but all declined by Crown.”

## Key update to classifications for incidents that are “cleared otherwise”

There are instances where police may clear (or solve) an incident, but do not lay criminal charges or recommend such charges to the Crown. For an incident to be “cleared otherwise,” the incident must meet two criteria: 1) there must be at least one charged/suspect chargeable (CSC) identified, and 2) there must be sufficient evidence to lay a charge in connection with the incident<sup>3</sup> but the person identified is processed by other means.

In the UCR Survey, there are 15 options for police to report why a CSC is not charged with a criminal offence (see Figure 1). As a result of consultations in 2017, one key update was made: the wording for the option category “Victim/complainant declines to lay charges” was revised to “Victim/complainant request that no further action is taken by police.” The previous option label did not accurately reflect the role of the victim/complainant in the process.

This revised category is to be used in incidents where the CSC is known and sufficient evidence has been obtained to support the laying of an information, but the victim/complainant requests that no further action is taken by police and as a result police decide not to lay or recommend a charge.

It is important to note that police are expected to update the clearance categories as appropriate. For instance, once a thorough investigation is completed, it is expected that the clearance status will change from, for instance, “Open/still under investigation” to “Insufficient evidence to proceed” or “Victim/complainant declines to proceed (no charged/suspect chargeable (CSC) identified)”. Further, a thorough investigation may mean that the clearance will change from “Open/still under investigation” to “Founded—cleared by charge” or “Founded—Charges recommended but all declined by Crown,” or one of the 15 options under ‘cleared otherwise.’ Over time, new information may come to light that will change the clearance status of the incident. The objective is that the final update to the incident as reported to CCJS reflects the final outcome of the police investigation.

## Moving forward

Throughout 2018, police services are implementing the new standards according to the schedule at which their systems are updated. As such, police services are adopting the new standards at different points in time. It is anticipated that all police services in Canada will have the new reporting requirements in their systems by the end of calendar year 2018. As a result, it is expected that 2019 will be the first year of complete data that follows the new reporting standards. The 2019 data will be released in July 2020.

Given the new definition of founded, the recommendation for police to cease the use of ‘unsubstantiated and the additional clearance categories,’ it is expected that fewer criminal incidents will be classified as ‘unfounded.’ It is also expected that as police services implement these new revisions into their respective records management systems, the number of founded incidents for certain types of crimes, including sexual assaults, will likely increase and clearance (or solve) rates will likely decrease. As police services adopt the new standards, data should become increasingly more comparable. Further, the new standards will generate new information which will allow for a better understanding for why incidents may or may not be cleared (or solved).

To assist police services transition to the new standards for reporting, the Canadian Centre for Justice Statistics (CCJS) delivered a number of in-person regional training workshops from January to April 2018 and has made materials available to police services to incorporate in their own training. Further, with funding from Public Safety Canada, CCJS developed an online training course on the new standards which policing personnel can access free of charge for 2018/2019.

Finally, one of the recommendations adopted in 2018 was for CCJS to publish data on unfounded criminal incidents with the release of the 2017 annual crime statistics publication, scheduled for July 2018.<sup>4</sup> However, it is important to note that these data do not follow the new standards for founded and unfounded criminal incidents, as they have not yet been fully adopted. In light of police services conducting reviews and to establish a starting point for data reporting, the 2017 data on unfounded criminal incidents will be published in July 2018.

## Acknowledgements

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- members of the Canadian Centre for Justice Statistics, namely Warren Silver, Sara Dunn, Lindsay Porter, Manon Dupuis and Kathryn Keighley;
- the 2017 members of the Police Information and Statistics (POLIS) Committee of the Canadian Association of Chiefs of Police;
- members of police services not represented on POLIS, and;
- experts in the areas of gender-based violence and justice.

The work was realized under the leadership of the POLIS co-chairs Rebecca Kong, Canadian Centre for Justice Statistics, and Commander Mary Silverthorn, Ontario Provincial Police.

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## Notes

1. A "victim-centred" approach to responding to victims includes having training and standards in place that ensure a systematic focus on the needs and concerns of the victim to ensure the compassionate and sensitive delivery of service or approach to investigation in a manner that is free of judgement or bias (Alvarez and Cañas-Moreira 2015; Human Rights Watch 2013; State of New Jersey 1998). Globally, this approach is most relevant in instances of certain types of crime such as sexual assault, hate crimes and human trafficking.

2. The Uniform Crime Reporting Survey is an incident-based survey. As such, if the Crown proceeds with any charges, the entire incident is cleared by charge; therefore, the use of clearance category W will apply only when all charges are declined by the Crown.

3. The Uniform Crime Reporting Survey establishes that in order to clear an incident 'otherwise,' a charged/suspect chargeable (CSC) must be identified and there must be evidence to link the CSC to the crime. The evidence must pass the reasonable person test, meaning: confirmation from a reliable source, police information, an admission of guilt, physical evidence or other substantiation which would allow for the police service to proceed with a charge. Police may believe an individual is responsible for other incidents, but must have reasonable grounds to proceed and not simply a belief that the CSC is responsible.

4. See Statistics Canada. 2017. "Statistics Canada will collect and publish data on unfounded criminal incidents." *Statistical Announcements*. April 26, 2017.

# Unfounded criminal incidents

## Statistics Canada's path to new data collection

**Founded:** An incident is 'founded' if, after police investigation, it has been determined that the reported offence did occur or was attempted (even if the charged/suspect chargeable is unknown), or there is no credible evidence to confirm that the reported incident did not take place. This includes third-party reports that fit these criteria.

**Unfounded:** An incident is "unfounded" if it has been determined through police investigation that the offence reported did not occur, nor was it attempted.

### 1 Unfounded data: Key points in time

- 1962**  
The Uniform Crime Reporting Survey, Canada's national database for crimes reported by police, is launched and includes unfounded incidents.
- 2006**  
Due to poor data quality, Statistics Canada stops publishing data on unfounded incidents.
- 2017**  
Based on renewed interest in these data, Statistics Canada and the policing community announce the commitment to review and standardize collection and to release data on unfounded incidents in July 2018.

### 3 Training police services on new survey definitions

- Over **400 personnel** from almost **130** police services
- 8** workshops over 4 months, from January to April 2018
- Online training developed and available to all police personnel for continuous learning



### 2 Consulted across Canada



Results

Consensus on new survey definitions

### 4 Producing better data to examine social issues

- Release of unfounded incidents in **official crime statistics**
- Clear definition of founded and unfounded incidents will provide **reliable data** across the country
- Allow police services to provide details why an incident is cleared (**solved**) or not cleared (**unsolved**)
- Allow police to report that a charge was recommended but later **declined by the Crown**

Source: Juristat article Revising the classification of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey

Catalogue number: 11-627-M  
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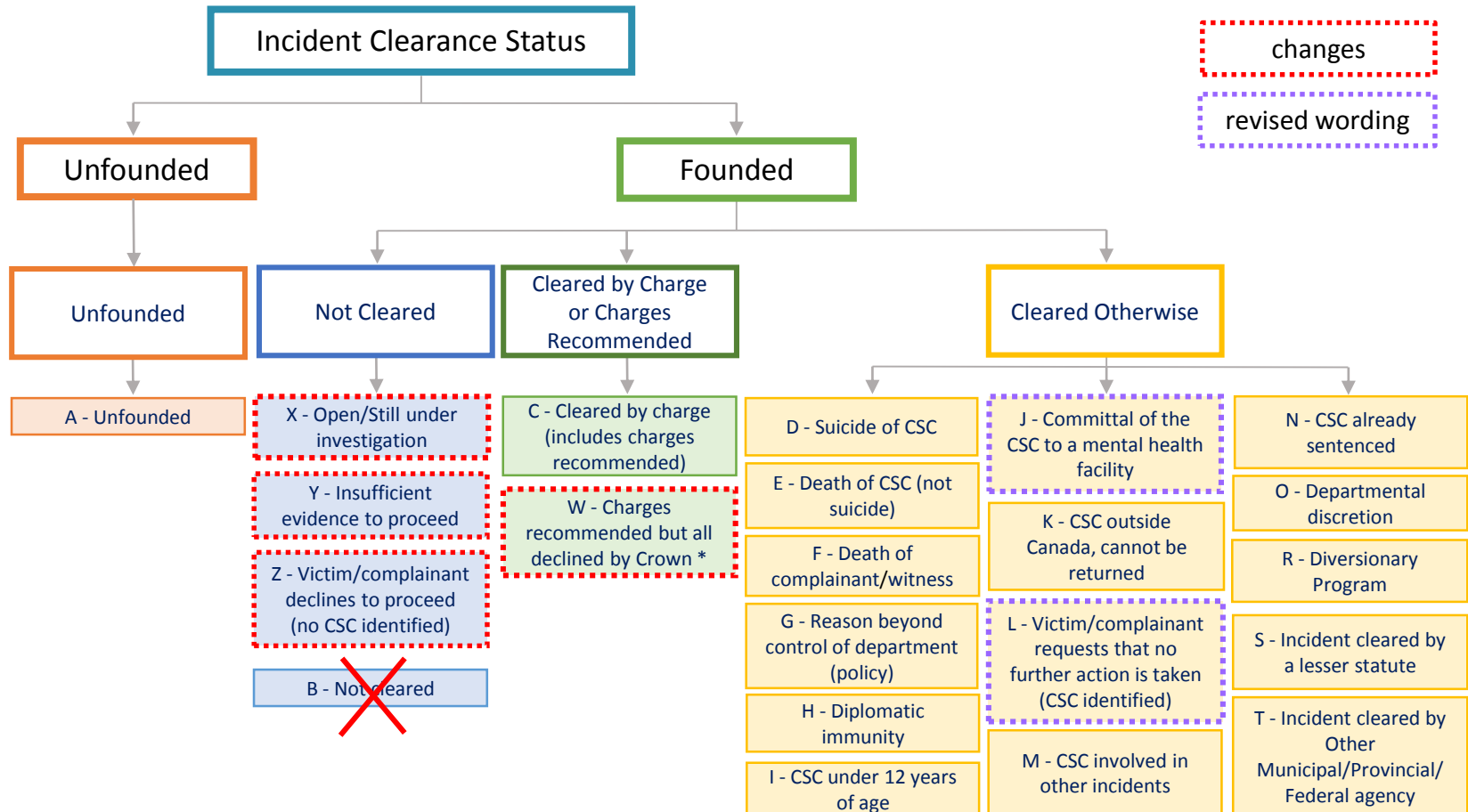
HAMILTON POLICE SERVICE

SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT

# APPENDIX D



# UCR Incident Clearance Status Options as decided by POLIS



changes

revised wording

\* To be used in circumstances when all charges are declined by the Crown:

- 1) In provinces which require Crown charge approval, or
- 2) For violations which require Crown charge approval, or
- 3) For any other violations recommended to the Crown



HAMILTON POLICE SERVICE

## SEXUAL ASSAULT REVIEW & RECOMMENDATIONS REPORT

# APPENDIX E



**UPDATED**

# **New Standards for Reporting Founded and Unfounded Incidents:**



## **Changes to the Uniform Crime Reporting (UCR) Survey**

**May, 2018**

**Statistics Canada, Canadian Centre for Justice Statistics**

## Introduction

In January 2018, the New Standards for Reporting Founded and Unfounded Incidents document was sent out to all police services and RMS vendors. After much consultation during on-site workshops and subsequent meetings, the information has been updated. The purpose of this revised document is to provide you with the final specifications. In summary, the following changes were made:

- 1) The X category has been renamed to X – Open/Still under investigation
- 2) The X category definition has been updated to: This clearance option is to be used for all open investigations and for those where action has yet to be taken on the reported incident. It includes incidents that cannot be classified as “Y - Insufficient evidence to proceed” or “Z - Victim/complainant declines to proceed (no CSC identified)”
- 3) The W category has been amended to add the word “all”. It now reads: W - Charges recommended but all declined by Crown
- 4) The text box in the flow chart referring to W has been amended to read: To be used in circumstances when all charges are declined by the Crown
  1. In provinces which require Crown Charge approval, or
  2. For violations which require Crown charge approval, or
  3. For any other violations recommended to the Crown

## Background

On April 4-5, 2017, the Police Information and Statistics Committee (POLIS) of the Canadian Association of Chiefs of Police (CACP) developed recommendations addressing the feasibility of reinstating collection and the need for consistent and standardized reporting of all founded and unfounded incidents, including sexual assault. These recommendations from the POLIS committee were endorsed by the CACP Board of Directors on April 10, 2017<sup>1</sup>.

As a result of these recommendations, the Canadian Centre for Justice Statistics (CCJS) and POLIS have been working in collaboration with other partners and independent experts in order to finalise and implement the changes to the Uniform Crime Reporting Survey (UCR) and to develop material to help train police to apply the new changes.

Police services were invited to attend training workshops in early 2018. These sessions were held in a number of cities across Canada to ensure accessibility to all police services. Along with the in-person training sessions, CCJS has also prepared an on-line training module available to all police services through the Canadian Police Knowledge Network [www.cpkn.ca](http://www.cpkn.ca). The objective of these training sessions and accompanying materials is to ensure a common approach for the classification and reporting of criminal incidents, including sexual assaults, is adopted by all police services going forward.

This document outlines all related changes to the UCR survey. The UCR survey is ready to now accept these changes (as of January 1, 2018). Police services will be able to make use of the new codes as their

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<sup>1</sup> Link to announcement: <https://cacp.ca/news/statement-april-26-2017-recommendations-regarding-the-collection-of-%E2%80%98unfounded%E2%80%99-incidents-via-the-un.html>

records management systems (RMS) are updated to allow them to do so. Your RMS vendor will have information with regards to the timelines for your systems update.

As was agreed upon with POLIS and the CACP Board of Directors, in July 2018 Statistics Canada will publish the first set of results on unfounded criminal incidents for 2017, including sexual assaults. This was announced by Statistics Canada on April 26, 2017<sup>2</sup>. Due to timing, these data will be based on the original UCR scoring rules and not the new changes being communicated in this document. As part of the verification process for annual crime statistics, police services were provided their 2017 unfounded counts with their 2017 verification package in May 2018.

For questions or comments, police services may contact their UCR Analyst at the Canadian Centre for Justice Statistics, or the Information and Client Services Program of the Canadian Centre for Justice Statistics at [statcan.ccjs-ccsj.statcan@canada.ca](mailto:statcan.ccjs-ccsj.statcan@canada.ca), or call toll free toll-free 1-800-387-2231.

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<sup>2</sup> Link to announcement: [http://www.statcan.gc.ca/eng/about/smr09/smr09\\_074](http://www.statcan.gc.ca/eng/about/smr09/smr09_074)

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# Changes to Incident Clearance Status

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## Overview:

The definitions for both founded and unfounded have been updated as per the recommendations from POLIS. The improvement to these definitions will help police services across Canada report incidents to Statistics Canada in a consistent fashion.

### Updated definition of Unfounded:

An incident is “unfounded” if it has been determined through police investigation that the offence reported did not occur, nor was it attempted.

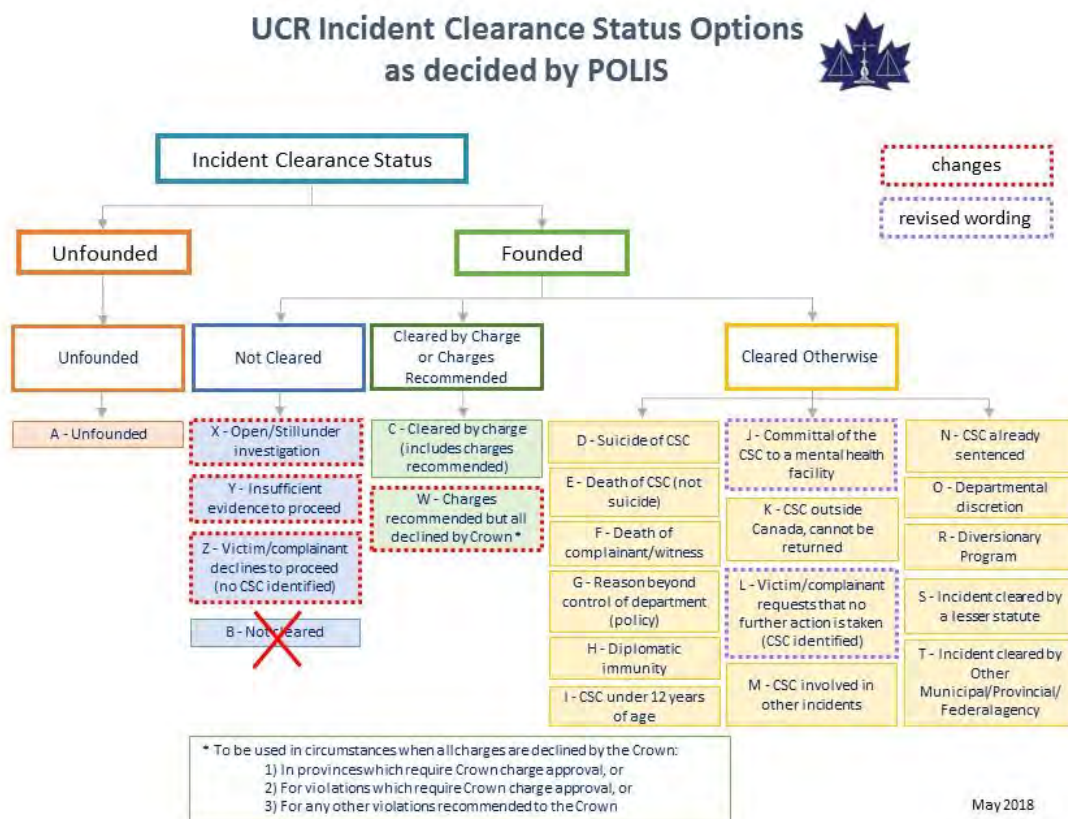
### Updated Definition of Founded:

An incident is “founded” if, after police investigation it has been determined that the reported offence did occur or was attempted (even if the charged/suspect chargeable (CSC) is unknown) or there is no credible evidence to confirm that the reported incident did not take place. This includes third party reports that fit these criteria.

### Note on the use of “unsubstantiated”:

The POLIS committee of the CACP recommended that police services no longer categorize incidents as “unsubstantiated”. This recommendation was endorsed by the CACP Board of Directors in April 2017. With the new definitions of founded and unfounded, as well as the changes to clearance categories, there should no longer be any unsubstantiated incidents. Police service reviews of unfounded sexual assault incidents revealed differences in the use of “unsubstantiated” was a partial source for a varying rates of unfounded across police services.

The UCR survey incident clearance status options have been revised and will now respect the following structure (changes are noted):



## Summary of Changes

### Retired code:

This code will be removed entirely from the UCR survey:

- 1) B - Not cleared (replaced by new codes X, Y and Z)

*Note:* Code B will continue to be accepted while police services update their record management systems to reflect the new changes.

### New codes:

Three new codes will replace 'B – Not Cleared' under 'Not Cleared':

- 1) X – Open/Still under investigation
- 2) Y - Insufficient evidence to proceed
- 3) Z - Victim/complainant declines to proceed (no CSC identified)

One new code will be added under 'Cleared by Charge or Charges Recommended':

- 1) W - Charges recommended but all declined by Crown

### Label changes:

Two existing codes have been assigned new labels:

- 1) J - Committal of the CSC to a mental health facility  
Previously: "Committal of the CSC to a mental hospital"
- 2) L - Victim/complainant requests that no further action is taken (CSC identified)  
Previously: "Complainant declines to lay charges"

## Definitions for new codes

### X – Open/Still under investigation

This clearance option is to be used for all open investigations and for those where action has yet to be taken on the reported incident. It includes incidents that cannot be classified as "Y - Insufficient evidence to proceed" or "Z - Victim/complainant declines to proceed (no CSC identified)".

### Y - Insufficient evidence to proceed

This clearance option is to be used for incidents where there is insufficient or conflicting evidence for the police service to substantiate laying a charge or recommending a charge to the Crown.

### Z - Victim/complainant declines to proceed (no CSC identified)

This clearance option is to be used for incidents where an accused cannot be identified either because the victim/complainant or other witnesses do not want to identify a CSC or they do not want to actively participate in the investigation.

### W - Charges recommended but all declined by Crown

This clearance option is to be used when police have recommended to the Crown that charges be laid, but the Crown declines to proceed with any of the charges. This clearance will largely apply to provinces that require Crown charge approval (i.e., New Brunswick, Quebec and British Columbia), but can be used by police in other provinces where an incident involves a recommendation to the Crown.

## Definitions for existing codes with new labels

### J - Committal of the CSC to a mental health facility (note: The only change is the use of "mental health facility" to replaced "mental hospital")

The CSC is not available for prosecution because: a) they are committed to a mental health facility without the hope of early release or b) as per conditions set by the court or Review Board under C.C. 672.54(b).

## L - Victim/complainant request that no further action is taken (CSC identified)

The accused person is known and sufficient evidence has been obtained to support the laying of an information, but the victim/complainant request that no further action is taken by police and as a result police use discretion to not lay or recommend a charge.

## UCR Requirements

### A - Unfounded

Incidents coded as clearance status 'A' will only be checked for basic edits. These include:

- Respondent Code: must be a valid code for an active police service
- Incident File Number: must be unique code (20 characters in length)
- Violation 1 (MSV): must be a valid UCR code
- Report Date: must be a valid date (YYYYMMDD)
- CSC record: not accepted

### X –Open/Still under investigation, AND

### Y - Insufficient evidence to proceed, AND

### Z - Victim/complainant declines to proceed (no CSC identified)

Incidents coded as clearance statuses 'X', 'Y' or 'Z' will follow the same UCR requirements as retired code 'B - Not cleared'. These requirements include:

- Clearance date: must be 99999999 "not applicable"
- CSC record: not accepted

### W - Charges recommended but all declined by Crown

Incidents coded as clearance status 'W' must follow the same requirements as existing incident clearance status 'C - Cleared by charge'. These requirements include:

- Clearance date: must contain a valid date (YYYYMMDD), for clearance status W this is the date that charges were recommended to the Crown
- CSC record: at least one must be submitted
- CSC status: must = 1 "charges laid or charges recommended" for at least one CSC

### J - Committal of the CSC to a mental health facility, AND

### L - Victim/complainant request that no further action is taken (CSC identified)

The UCR requirements for incidents coded as clearance statuses 'J' or 'L' remain the same.

## POLIS recommendations regarding role codes

For incidents not cleared and assigned the new categories of Y (Insufficient evidence to proceed) and Z (Victim/complainant declines to proceed), there is no CSC identified officially, therefore no accused record is reported to the UCR Survey. However, to assist police with their internal management of records that are founded and meet the criteria of Y or Z, POLIS recommends the creation within Records Management Systems of a new role code entitled "Subject of Complaint". This role code was recommended by POLIS as some police services are currently using this terminology for such incidents. Each agency can then determine their own threshold for disclosure of the information (e.g., for criminal record checks) by taking into account the circumstances of the file, the reasons for request for disclosure and whether or not the individual has a previous and/or related criminal history.