

SEXUAL ASSAULT

Support Worker Handbook

ENDING  VIOLENCE

Association of BC

ACKNOWLEDGEMENTS

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INTRODUCTION

Who is This Handbook For?

This handbook has been developed to assist anti-violence workers to provide information and emotional and practical support to survivors of sexual assault. It will be of use to community-based victim service workers, sexual assault support workers, Stopping the Violence Counsellors, outreach workers, multicultural outreach workers, Band workers, immigrant and settlement workers, medical personnel, social workers, advocates, police-based victim service workers, and anyone a survivor may go to for help. For the sake of simplicity, we will largely use the terms “anti-violence worker” and “support worker” throughout this manual.

While some of the survivors you are assisting may still legally be considered children, the intent of this handbook is to address the needs of survivors of adult sexual assault rather than child sexual abuse.

Sexual assault can be an overwhelmingly disempowering, humiliating and dehumanizing traumatic experience. Survivors need information, emotional support and practical assistance as they work their way through a difficult and emotional process. Your aim in working with sexual assault survivors will be to help them to work through the trauma and deal with the criminal justice, health and other systems they may come into contact with. Your priorities should be:

- The immediate safety and protection of the survivor
- Empowerment of the survivor
- Referral to and help in using appropriate services
- Guidance and support through the medical, police and court systems for those using those systems.

Who Are Survivors of Sexual Assault?

Most survivors of sexual assault are women. In Canada, women are 11 times more likely than men to be subjected to sexual assault¹. This is not meant to imply that men are not also sexually assaulted; however, far more women than men experience sexual violence.

“I should meet many people who do not know anyone personally who has been raped or molested as a child. But I can’t remember seeing a newspaper without a rape or molestation charge in it somewhere, and when I ask groups how many people know someone personally with a history of molestation, almost always, every hand in the room goes up.”

Anne C. Salter
Predators: Pedophiles, Rapists and Other Sexual Offenders (2004)

¹ Sinha, M. (2013) *Measuring violence against women: Statistical trends* Canadian Centre for Justice Statistics Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766-eng.pdf>

Although young women between the ages of 15 and 24 are the largest demographic targeted by sexual predators², young women are by no means the only targets of this crime. Medical and legal records, and more importantly, personal accounts, teach us that women of all ages and backgrounds are sexually assaulted.

Statistics tell us that one in three Canadian women will be sexually assaulted in their lifetime³. A wide range of women are sexually assaulted: women from all cultures, ages and socio-economic backgrounds, elderly women, women living with disabilities, girls, and LGBT2SQ (lesbian, gay, bisexual, trans, two-spirit and queer) persons. In your role as a support worker, it is important that you recognize that no two women are the same and that the experience of this particular kind of violent crime will be shaped by her age, social and geographic location, her ability, her relationship to the offender, the degree of injuries she sustained, and a myriad of other factors talked about in more depth in this handbook.

A Word About Language

Anti-violence workers and organizations have adopted the term “survivor” to honour the strength, courage and resilience of those that have experienced a sexual assault. At the same time, it is important to acknowledge that survivors have been the innocent victims of a horrendous crime for which they were in no way responsible. Many resources, policies and pieces of legislation also use the term “victim”. Therefore both terms will be used throughout this manual.

The vast majority of survivors of sexual assault are female, and the vast majority of perpetrators are male. For this reason, this handbook uses female pronouns to refer to survivors, and male pronouns to refer to perpetrators. At the same time, we recognize the existence of, and the need for services for, sexual violence against males, and against women and men in same sex relationships.

Why This Handbook Was Developed

Sexual assault is an emotional, psychological, and physical assault on the survivor that often leaves them feeling violated and overwhelmed. A woman who has been sexually assaulted needs help and support as she makes her way through a very difficult and often re-traumatizing process of healing, and for some, seeking justice. Your aim will be to provide emotional and practical support to help women make use of the justice system and available community resources.

When offering support to survivors of sexual assault, it is important that you understand and respect the diversity of cultures the women identify with.

² Ibid

³ Johnson, H. (2006) Measuring Violence Against Women: Statistical Trends 2006 Statistics Canada Retrieved from <http://www.statcan.gc.ca/pub/85-570-x/85-570-x2006001-eng.htm>

Services for sexually assaulted women must be culturally relevant and available in their chosen language. All advocates need to recognize and respect the experiences of women from every different community. Any interaction between you and a woman will be enhanced if you are aware of how her views have been shaped by her cultural experiences, and how your views have been shaped by your cultural experiences.

In order to provide effective support to sexually assaulted women, you need to know the ways in which your clients' values and experiences may be similar to your own, and the ways in which they may differ.

For example, not all women who have been sexually assaulted view "the family" in the same way. Not all have the same feelings about what is public and what is private. Some women have come from countries where there are very clear urban/rural distinctions. Some have come from military dictatorships where an appeal for help to a person in authority could be dangerous. Many come from communities in which to speak out about the assault is to bring shame to the family and the community, and to risk social isolation.

The Anti-Violence Worker: Attitudes and Beliefs

As a support worker, it is important that you examine your attitudes and beliefs. It's important to recognize how your beliefs may be shaped or influenced by societal ideas about the roles of men and women, rape culture, and about how sexual assaults happen.

It is also important that you examine your ideas and attitudes about certain cultural groups and about women living with disabilities. Your self-assessment should extend to any preconceived notions you may have about what class or race an assailant comes from, and any beliefs about who is likely to be sexually assaulted.

In your role as an advocate, you may encounter biases in the criminal justice or health systems about women who have been sexually assaulted. Some of the responses and attitudes you may have to challenge in your work include the following:

- Not really believing the woman. This protects a female worker from feelings of fear and powerlessness ("If I pretend it's not true, I don't have to believe it might happen to me."), and a male worker from possible feelings of guilt for being male.
- Holding the woman responsible. This protects others from being overwhelmed by the survivor's feelings of helplessness and from feeling powerless to help her.
- A lack of understanding about the effects of trauma on the brain – for example the ability to remember details of a sexual assault.
- A lack of understanding of the different ways that survivors respond to being sexually assaulted – for example, from being calm, cool and collected to being very visibly upset, or "freezing" and being unable to fight back.

- Asking judgmental questions. For example, Why didn't you scream? How much did you have to drink? Why did you get in his car?
- Stereotyping survivors. Sexual assault occurs in all socio-economic groups, without exception.
- Assuming that a woman with a disability could not have been sexually assaulted by a caregiver because she chose to not leave the situation immediately.
- Doubting that a woman has been sexually assaulted because she is not stereotypically "attractive" according to society's standards.
- Assuming that a woman cannot be sexually assaulted by her partner.
- Not taking seriously an immigrant woman's fear that she will lose her sponsorship if she reports that she has been sexually assaulted by a family member who may be sponsoring her.
- A lack of understanding of the multiple barriers to reporting faced by Indigenous survivors, including the impact of racism and real or perceived biases in our legal and social systems.

All of these attitudes carry negative messages to the woman who has been sexually assaulted. It is vital that you accept the reality of sexual assault and believe that no matter the circumstances, the woman did not in any way deserve to be sexually assaulted.

How This Handbook is Organized

- Background information on sexual assault in Canadian society
- An overview of relevant laws, legislation and policy
- An overview of the psychological impact of sexual assault
- A description of the support worker's role in assisting women who have been sexually assaulted
- An overview of skills and strategies that can be helpful when supporting women who have been sexually assaulted
- A guide to dealing with aspects of the justice system that affect sexual assault survivors.

Part 1: Sexual Assault in Canadian Society

This part presents background information drawn from a number of relevant studies. It reviews current research and statistics and looks at misconceptions and realities about sexual assault, survivors, and sexual offenders. It includes information on campus sexual assault, drug facilitated sexual assault, and rape culture.

Part 2: Society's Response to Sexual Assault

This part looks at all the relevant laws, legislation and policy an anti-violence worker should be aware of in order to provide survivors with up-to-date information, advocacy and practical support.

Part 3: The Impact of Sexual Assault

This part provides an overview of the survivor's psychological response to sexual assault, both short and long term. It explores the neurobiology of sexual assault, common trauma responses, the phases of trauma recovery, and the support worker's role during recovery.

Part 4: Diversity as a Factor in Disclosing Abuse, Seeking Support and Making Choices

It is important to understand and respect the diversity of cultures and communities that women identify with when providing services to women who are survivors of sexual assault. This section provides information to enhance the anti-violence workers' abilities to understand, respect, and work across various cultures and communities, including Indigenous women, women living with disabilities, immigrant and refugee women, older women, sex workers, and the lesbian, gay, bisexual, transgender, queer and two-spirit communities.

Part 5: The Anti-Violence Worker's Role

This section covers the many communication skills and strategies needed in order to empower and effectively assist women who have been sexually assaulted as they heal and go through various processes. This section provides information about ethics, confidentiality, the duty to report suspected child abuse or neglect, the Crime Victim Assistance Program, Victim Impact Statements, and making effective referrals. It also includes information on self-care and support for the support worker, introducing the concepts of trauma exposure response and trauma stewardship.

Part 6: Crisis Intervention

This part deals with the initial urgent need for safety and support. It includes information on assessing and addressing the immediate situation, establishing trust, responding with empathy and respect, and empowering the survivor. It also outlines how to prepare the survivor for the first stages of the medical and criminal justice systems.

Part 7: Medical Procedures

This part describes the process at the hospital for the treatment of injuries and the collection of forensic evidence, and the support worker's role in that process.

Part 8: Police Procedures

This section covers the process that takes place from the initial police report and investigation to the police recommending a charge or charges. This section also describes the role of the support worker in assisting survivors through this process.

Part 9: Legal Frameworks and Court Procedures

This part provides information on how to prepare for court and outlines the court process. It includes information about the Crown's role, the trial, verdicts, submitting a Victim Impact Statement, sentencing, and the role of the support worker before, during and after the trial.

Part 10: References

This section of the handbook lists the print and online resources referred to in the text, as well as other helpful resources, and provides information on where to obtain them.

PART 1: SEXUAL ASSAULT IN CANADIAN SOCIETY

Sexual assault, like other physical attacks, is an act of violence. But the crime of sexual assault is unique: it is an act of aggression committed by those who are more powerful against those who are less powerful.

Sexual violence against women and children is prevalent in Canadian society. Such violence is part of a continuum: at one end of the continuum are acts of unwanted sexual touching; at the other end are acts of rape that can involve severe physical injury or even murder. Social tolerance of acts at the low end of the continuum and minimal intervention in these cases by the criminal justice system have unfortunately contributed to a social environment in which some members of society do not view sexual assaults as particularly serious.

Statistics indicate that, although men are also sexually assaulted, women are much more likely than men to be the target of sexual offences⁴. The majority of adult sexual assaults are committed by males, generally motivated by a desire to exercise control over women. Only a very small percentage of perpetrators in cases of adult sexual assaults are female⁵.

Other factors make sexual assault cases particularly challenging for a society without a widespread understanding of the impacts of trauma. A trauma informed approach realizes the widespread impact of the trauma of sexual violence and violation, recognizes the signs and symptoms, and integrates that knowledge and awareness about trauma into policies, procedures and practices.

Traditional criminal justice system benchmarks to help determine the veracity, impact and severity of an offence – such as the extent of physical injury or financial loss – are not always obvious in sexual assault cases.

A sexual assault survivor's physical injuries may not be significant, but the impact extends well beyond any physical wounds. Her unseen psychological injuries may be severe. Her long-term ability to function fully, have relationships, feel safe in the world, enjoy life and earn an income may be directly affected by the crime, but this may not be obvious at the time of the initial disclosure, nor may it be easy to prove at any time.

Sexual assault is not about sex, it is an act of violence in which sex is used as a weapon. If one person hits another person over the head with a baseball bat, we don't call it baseball; we call it an assault or an act of violence. The baseball bat is a weapon. The person injured or harmed is called the victim. It is not different with sexual assault. It's not about sex, it's an assault; an act of violence in which sex is the weapon.

First Responder to Sexual Assault and Abuse Training Alberta Association of Sexual Assault Services (2011)

4 Sinha, M. (2013) Measuring Violence Against Women: Statistical Trends Canadian Centre for Justice Statistics Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766-eng.pdf> 002-x/2013001/article/11766-eng.pdf

5 Ibid

Sexual violence has a detrimental impact on women's ability to participate equally in society. The threat of sexual assault restricts the freedom of movement and economic opportunity available to all women, whether or not they have actually been sexually assaulted.

1.1 Societal Beliefs and Attitudes

Sex Role Stereotyping

Historically, women have been treated as second-class citizens in Canadian society and have been denied equal access to social and economic opportunities. In the past, women were expected to behave in a submissive or passive manner, and they were blocked or discouraged from pursuing choices that would enable them to achieve equal status with men.

It was not that long ago that Canadian suffragists had to fight for the right for women to vote – a right they won federally in May of 1918, but sporadically across the provinces. It was not until 1940 that women finally achieved the right to vote in the province of Quebec. Indigenous women were excluded from Band governments until 1951, and not allowed to vote in federal elections until 1960.

These social values defined and influenced family life and family roles: men were expected to be the breadwinners and women were largely expected to be the homemakers. The issues of power and control in sexual assault arise out of sexist stereotypes about men's right to dominate women in all aspects of their lives and to use violence when their authority is challenged.

Like other forms of violence against women, sexual assault is directly linked to women's lack of economic and social status. The term "rape" comes from the Latin word *rapere*, a term which refers to the seizure, theft or abduction of property – a reflection on the not too distant past when women were considered to "belong" to their fathers until they were "given" to their husbands.

Male Sexual Access "Rights"

Many men (and women) believe that during a sexual exchange there is a point at which a woman must forgo all rights to say "no" and is "morally" compelled to have sex whether she wants to or not. The assumption remains that under certain conditions, males have a right to sexual access. Examples of such conditions are:

- If a man spends money on a woman in a social situation such as a date or a commercial transaction
- If a man is sexually aroused after a woman has "led him on"
- If a woman has granted sexual access rights to someone else

- If a woman has granted any kind of access such as touching
- If a woman has consumed alcohol or used drugs
- If a woman has initially responded sexually and then changes her mind.

Victim Blaming

Even though the law says a woman has to voluntarily consent to sexual intercourse, it is a commonly held attitude that sexual assault does not happen to “good” girls and that a woman who is sexually assaulted “asked for it” by:

- Being in the wrong place at the wrong time
- Dressing provocatively
- Wearing a lot of makeup
- Being out late at night
- Exercising “poor judgment” (accepting a ride from someone she has just met, going alone to a man’s apartment, hitchhiking...)
- Flirting
- Using alcohol or drugs
- Going out on a date without permission from her parents.

“Oddly then, in our search for meaning, we often assign victims too much blame for their assaults, and offenders too little. Our inconsistencies do not seem to trouble us, but they are truly puzzling. After all, if the offender is not to blame for his behavior, why would the victim be, no matter what she did or didn’t do? Our views make sense, however, if you think that we are trying to reassure ourselves that we are not helpless and, that, in any case, no one is out to get us.”

**Anna C. Salter
Predators: Pedophiles,
Rapists, and Other Sex
Offenders (2004)**

Often the woman herself may feel she provoked the assault in some way, or that her behaviour justified the assault.

Victim blaming has influenced many of our attitudes towards sexual assault. Until fairly recently, the misconceptions surrounding the supposed guilt of the survivor were reflected in our investigations, laws and court practices. Canadian law now defines “consent” more specifically (see “Consent” in Part 2.2).

The Truth About Sexual Assault

Sexual assault is a crime of violence. It is the imposition of power over another person where sex is used as a weapon – an expression of angry, hostile emotions and a desire to control. Regardless of the degree of force, the threat of bodily harm or the use of a weapon, sexual assault violates the woman’s dignity, rights to security and her sense of self.

Common Myths Regarding Sexual Violence

People who have experienced sexual violence are often perceived by others to be at least somewhat responsible for what happened to them. Many people who have experienced sexual violence also internalize rape myths and blame themselves. The actions of an intoxicated perpetrator are often excused. It is important to expose common misunderstandings to fully understand the problem and to support those who have experienced sexual violence. The table below presents several myths and their corresponding facts.

MYTH	FACT
Sexual assault is most often committed by strangers.	Most sexual assaults are committed by someone known - acquaintances, dates, and common-law or married partners.
Sexual assault is most likely to happen in dark, dangerous places.	The majority of sexual assaults happen in private spaces like a residence or private home.
If a person didn't scream or fight back, it probably wasn't sexual assault.	Fear can render a person unable or unwilling to fight back in case the perpetrator becomes more violent. Use of alcohol or drugs may cause an inability to fend off an assault.
If a person isn't crying or visibly upset, it probably wasn't a serious sexual assault.	Every person responds to the trauma of sexual assault differently. Reactions may include crying, silence, and/or anger.
If a person does not have obvious physical injuries, like cuts or bruises, then that individual was probably not sexually assaulted.	Threats, weapons, or other coercive actions do not leave physical marks. The person may have been unconscious or been otherwise incapacitated.
If it really happened, the person would be able to easily recount all the facts in the proper order.	Shock, fear, embarrassment and distress can all impair memory. Many attempt to minimize or forget the details of the assault as a way of coping with trauma. Memory loss is common when alcohol and/or drugs are involved.
People lie and make up stories about being sexually assaulted.	The number of false reports for sexual assault is very low. Sexual assault carries such a stigma that many people prefer not to report.
It wasn't rape, so it wasn't sexual violence.	Any unwanted sexual contact is considered to be sexual violence. People can be severely affected by all forms including unwanted fondling, kissing, or other sexual acts. Many forms involve no physical contact, such as stalking or distributing intimate visual recordings. All of these acts are serious and can be damaging.
People living with disabilities don't get sexually assaulted.	People living with disabilities are at a high risk of experiencing sexual violence or assault. Those who live with activity limitations are over two times more likely to experience sexual violence than those without disabilities.
Romantic partners cannot sexually assault one another.	Sexual assault can occur in intimate partner relationships.

Adapted from the Ontario Women's Directorate's Developing a Response to Sexual Violence: A Resource Guide For Ontario's Colleges and Universities (2013)

1.2 Rape Culture

Rape culture is a term coined by American feminists in the 1970s to show the ways in which society normalizes, ignores and condones male violence, and blames survivors of sexual assault for what happened to them.

The website FORCE: Upsetting Rape Culture (<http://upsettingrapeculture.com/>) aptly describes how rape culture is ingrained in our consciousness:

“In a rape culture, people are surrounded with images, language, laws, and other everyday phenomena that validate and perpetuate, rape. Rape culture includes jokes, TV, music, advertising, legal jargon, laws, words and imagery, that make violence against women and sexual coercion seem so normal that people believe that rape is inevitable. Rather than viewing the culture of rape as a problem to change, people in a rape culture think about the persistence of rape as ‘just the way things are.’”

Another example of rape culture is the focus on teaching women “how not to be raped”, vs. teaching perpetrators “how not to rape”. SlutWalk is a worldwide movement against victim-blaming, survivor-shaming, and rape culture that originated in Toronto in 2011. It was a direct response to a Toronto Police officer perpetuating rape myths by telling female students at York University that “women should avoid dressing like sluts in order not to be victimized.” The now annual SlutWalk march and the issues it addresses have struck such a chord that similar marches have been organized in hundreds of communities in North America and across the world.

“A rape culture is a complex set of beliefs that encourages male sexual aggression and supports violence against women. It is a society where violence is seen as sexy and sexuality as violent. In a rape culture, women perceive a continuum of threatened violence that ranges from sexual remarks to sexual touching to rape itself. A rape culture condones physical and emotional terrorism against women as the norm. In a rape culture both men and women assume that sexual violence is a fact of life, inevitable as death or taxes. This violence, however, is neither biologically nor divinely ordained. Much of what we accept as inevitable is in fact the expression of values and attitudes that can change.”

Transforming a Rape Culture
Emilie Buchwald, Pamela Fletcher and Martha Roth (2005)

The hashtag **#BeenRapedNeverReported** first surfaced on Twitter in a tweet by Toronto Star writer Antonia Zerbisias in October of 2014, in the wake of accusations of sexual violence leveled against CBC host Jian Ghomeshi by nine women.

After Canadian actress Lucy DeCoutere came forward with her story of sexual violence at Ghomeshi’s hands, Zerbisias tweeted “#ibelievelucy ibelievwomen And yes, I’ve been raped (more than one) and never reported it #BeenRapedNeverReported.” Of the nine women to accuse the radio star of sexual violence, DeCoutere was one of only two women to speak publicly about what happened to them.

“If all women who’ve been raped stepped out of our shame & shared, we would make the stigma go away!” Zerbisias urged in a follow up tweet.

The floodgates opened, and millions of women, and many men, from across the world told their stories in 140 characters. #BeenRapedNeverReported was retweeted over 8 million times within 48 hours. Within days the topic was one of the most popular in Canada, and trending worldwide.

“There is something euphoric about us collectively staring down our abusers and shaking off the burden of shame,” wrote Montreal Gazette reporter Sue Montgomery, who had approached Zerbisias about making a list of women who had been raped and never reported, leading to the creation of the twitter hashtag.

“We both knew full well why these women - initially four, now more than double that - stayed mute. As did every woman - and man - who has ever been raped, sexually assaulted, abused, molested, messed with. We are the silent, shamed majority, each with a horrifying, humiliating I-should-have-known-better it-was-all-my-fault memory and myriad reasons why we keep it all to ourselves, not even telling our closest friends. Sometimes we keep these stories secret for a lifetime, empowering our attackers to revictimise us every time we blame ourselves for having worn the wrong clothes, or having had one too many drinks, or being in the wrong place at the wrong time.”

Antonia Zerbisias (2014)

1.3 Some Canadian Facts and Statistics

The most detailed information on sexual assault is available from the national Violence Against Women Survey (VAWS), conducted one-time only in 1993. The survey, funded by the federal department of health and welfare and developed through extensive consultation with community groups, advocates, service providers and researchers, targeted all women aged 18 and over in the Canadian provinces. The VAWS’s definition of sexual assault included both violent sexual attacks and unwanted sexual touching. At that time, **a full 39% of Canadian adult women – over 1 in 3 – reported having had at least one experience of sexual assault since the age of 16⁶.**

Research indicates that sexual offences tend to be under-reported for various reasons, including trauma, fear of being hurt again, fear of being blamed, embarrassment, whether the offence was attempted or completed, whether an injury was sustained, whether a weapon was used, attitude towards and previous experience with police and the justice system, the fact that the offender is often known to the survivor, and the influence of, or desire to “protect”, family and friends^{7 8}.

6 Johnson, H. (2006) *Measuring Violence Against Women Statistical Trends 2006* Canadian Centre for Justice Statistics Retrieved from <http://www.statcan.gc.ca/pub/85-570-x/85-570-x2006001-eng.pdf>

Also bear in mind that sexual assaults reported to the police are not always recorded as a crime. Many sexual assaults become a matter of “he said vs. she said”. After an initial investigation, the police may decide there is a lack of evidence that a crime happened, and record the complaint as “unfounded”- not based on fact. University of Ottawa Criminology Professor Holly Johnson wrote, “Sexual assaults are subjected to ‘unfounding’ to a far greater extent than any other crime⁹.”

Because of this underreporting, police statistics represent only a small portion of all sexual offences and offenders. Self-reported victimization data indicates that the vast majority of sexual assaults experienced by Canadian women are not brought to the attention of police. According to Statistics Canada’s General Social Survey (GSS), only one in 20 (5%) of sexual assault survivors reported their assaults to law enforcement in 2014¹⁰.

The GSS on Canadians’ Safety is a survey of self-reported victimization conducted every five years across all provinces and territories. It provides an important accompaniment to officially recorded crime rates, as it measures both reported and unreported crimes. As of 2014, the survey’s definition of sexual assault includes non-consensual sexual relations in instances where the survivor was drugged, intoxicated, manipulated, or forced in some way other than physically.

Canada’s Criminal Code recognizes three levels of sexual assault, each showing an increasing degree of physical injury or potential for physical injury.

“The fact is, rape is utterly commonplace in all our cultures. It is part of the fabric of everyday life, yet we all act as if it’s something shocking and extraordinary whenever it hits the headlines. We remain silent, and so we condone it... Until rape, and the structures – sexism, inequality, tradition – that make it possible, are part of our dinner-table conversation with the next generation, it will continue. Is it polite and comfortable to talk about it? No. Must we anyway? Yes. To protect our children, we must talk to them about rape.”

Desmond Tutu (2013)

- 7 Finkelhor, D., Wolak, J. and Berliner, L. (2001). *Police reporting and professional help seeking for child crime victims: A review* Child Maltreatment, 6(1), 17-30
- 8 Taylor, S.C. and Gassner, L. (2010) *Stemming the flow: challenges for policing adult sexual assault with regard to attrition rates and under-reporting of sexual offences* Police Practice and Research: An International Journal; Vol.11; issue 3; 240-255
- 9 Johnson, H. and Dawson, M. (2011) *Violence Against Women in Canada: Research and Policy Perspectives*, Toronto, Oxford University Press, 226
- 10 Perreault, S. (2015) *Criminal Victimization in Canada, 2014* Canadian Centre for Justice Statistics Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14241-eng.pdf>

While rates of other violent crimes have been dropping, sexual assault rates have remained relatively stable over the past ten years, with only slight decreases. There were 21,196 adult sexual assaults reported to police across Canada in 2013¹¹, and 20,735 in 2014¹² - a rate of 58 per every 100,000 population. Almost all of these sexual assaults (98%) were classified as level 1¹³.

In contrast, the 2014 GSS recorded roughly 35 incidents of sexual assault per every 1,000 Canadian females aged 15 and over (excluding Yukon, Nunavut and the Northwest territories, where GSS rates of violent victimization are consistently higher than the rest of Canada)¹⁴.

According to the 2014 GSS:

- The rate of self-reported sexual assault has remained relatively stable over the past decade, while the victimization rates for other violent crimes have dropped significantly (by 28%). As a result, Canadian women are now at more risk of violence than men are.
- Almost 88% of those subjected to sexual violence were female.
- The sexual assault rate for Indigenous women is shockingly higher than that for non-Indigenous women – 115 incidents per 1,000 population vs. 35 per 1,000 for non-Indigenous women.
- 94% of sexual offenses were committed by males.
- Over half of sexual offenders were known to the survivors, with only 44% of assaults committed by a stranger.
- In 9% of self-reported sexual assaults, the survivor was not able to consent because she or he was drugged, intoxicated, or otherwise manipulated without the use of physical force.
- 20% of self-reported assaults involved physical force.
- 71% of sexual assaults involved sexual touching.
- Age is a key risk factor in sexual victimization, with most survivors between the ages of 15 and 24.
- Poor mental health was the second most influential factor associated with the risk of violent victimization, including sexual assault.
- Drug use and alcohol consumption are also associated with a higher risk of sexual assault.

11 Boyce, J., Cotter, A. and Perreault, S. (2013) *Police-reported crime statistics in Canada, 2013* retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2014001/article/14040-eng.htm>

12 Boyce, J. (2015) *Police-reported crime statistics in Canada, 2014* retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14211-eng.pdf>

13 Ibid

14 Perreault, S. (2015) *Criminal Victimization in Canada, 2014* Canadian Centre for Justice Statistics Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14241-eng.pdf>

- Victimization during childhood increases the likelihood of victimization as an adult.
- People identifying as homosexual or bi-sexual report much higher violent victimization rates than heterosexual people, including sexual and physical assault and robbery (207 incidents per 1,000 population, compared to only 69 per 1,000 for heterosexuals).
- People living with disabilities reported higher victimization rates than the general population, including sexual and physical assault (123 incidents per 1,000 population, vs. 69 per 1,000 for non-disabled Canadians).
- 29% of sexual assaults take place in a private residence (7% of the time in the survivor's residence), and 43% in a commercial or institutional establishment.

Sexual assault, in particular non-stranger sexual assault, is one of the most difficult crimes to investigate and prosecute successfully. Low reporting rates, delayed reports, alcohol-induced memory gaps, and a lack of trauma-informed training for police and prosecutors are some of the factors that contribute to the fact that only a tiny percentage of rapists are held accountable for their crimes.

Statistics from 2010 and 2011 demonstrate that more sexual assault charges were stayed (47%) than were proceeded on (42%), and 9% of charges resulted in acquittal, vs. just 5% for common assault¹⁵. There are also long-held concerns that, since the reforms to sexual assault laws in 1983, too many sexual assaults are being “undercharged” as a level 1 sexual offense, when they should be charged as level 2 – sexual assaults that occur with a weapon present, cause bodily harm, involve threats of bodily harm to a person other than the victim, or are committed with another person, or even level 3 – sexual assaults that result in wounding, maiming, disfiguring, or the endangerment of life¹⁶.

In addition to high rates of non-reporting on sexual violence, there are high attrition rates when cases are reported: many sexual assault complaints never make it to trial. In Canada, over half of all reported sexual assault complaints in Canada drop out of the system during the criminal justice process. Only 42% of sexual assault complaints to police that are recorded as crimes result in charges, indicating that more than one out of two complainants is either not believed by police or unwilling to proceed with charges; of the cases that are prosecuted, convictions have occurred at a rate of 11% or less since 1994.

Brenda Belak
Policies and Practices in the Treatment of Vulnerable and Intimidated Witnesses (2012)

¹⁵ Dauvergne, M. (2012) *Adult criminal court statistics in Canada, 2010/2011* Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11646-eng.pdf>

¹⁶ Johnson, H. (2012) *Limits of a Criminal Justice Response: Trends in Police and Court Processing of Sexual Assault*. In Sheehy (Ed.) *Sexual Assault in Canada: Law, Legal Practice and Women's Activism* 618-622

“Acceptance of rape myths is linked to minimization of harm and attribution of blame to victims, and reduction of responsibility attributed to perpetrators. The widely held belief that “real rape” happens when a previously chaste woman is assaulted by a stranger, suffers serious injury, and immediately reports the attack to the police affects decisions women make to engage with the justice system, to seek support elsewhere, or to remain silent. They also influence decisions made by police to treat the complaint as false, prosecutors’ decisions not to proceed with a prosecution, jurors’ decisions that complainants’ claims of non-consent are not credible, and judges’ decisions about sentencing in the rare event that a perpetrator is convicted.

Decisions based on these biases obviously disadvantage certain women more than others – including those who are poorly educated; those who are inarticulate or poorly spoken in the dominant language; those who are ethnic minority or Aboriginal; those who have chosen certain occupations; those who have mental health problems or a history of abuse; and those who generally transgress stereotypes of the “good” woman.”

Holly Johnson
Limits of a Criminal Justice Response: Trends in Police and Court Processing of Sexual Assault (2012)

In addition to low reporting rates, charge approval and conviction rates for adult perpetrators of sexual offenses are lower than the rates for other violent crimes. On average, out of every 1,000 sexual assaults, only 33 are reported to the police; only 12 result in charges, and only 3 lead to a conviction¹⁷.

¹⁷ Ibid

Sexual Assault in an Intimate Relationship

Domestic violence often includes some form of sexual violence, including forced sex and being forced to engage in sexual acts the survivor is uncomfortable with. Some men (and some women) believe that a wife has no right to refuse to have sex with her husband, that sexual relations between partners should always be kept “private”, and that “real” rape involves physical violence, usually perpetrated by a stranger. In fact, forcing sexual activity upon a spouse was not made a criminal act in Canada until 1983.

Sexual assault in intimate relationships has not received as much attention as other forms of sexual assault. However, according to a 2012 literature review of the intersection of domestic and sexual violence, intimate partner sexual assault has been identified as equal or more harmful to women’s mental, physical and emotional health as non-partner sexual assault¹⁸.

According to the author of the 2012 literature review, Kathleen Gorman, “Many women may believe that their partners have a right to sexual relations as part of marriage so they do not report when sexual victimization takes place. Research also found that many men do not see their actions as sexually abusive and may understand rape and other forms of sexual violence in intimate relationships to be acceptable or normal. Research has also identified shame as a critical factor that may be a barrier to disclosure and/or help-seeking by women who have experienced intimate partner sexual assault.”

Sexual violence in intimate relationships is a significant problem in terms of prevalence and harmful impacts. For a variety of complex reasons, not least of which is women’s reluctance to report, it is a crime which remains largely beyond the reach of the criminal justice system.

**Professor Melanie Randall
The Treatment of Consent
in Canadian Sexual
Assault Law (2011)**

Many abusive men will coerce sexual activity with threats of violence, guilt, or a refusal to take “no” for an answer. This type of sexual coercion has been defined as “a strategy to obtain sex from a reluctant sexual partner by using forceful and manipulative tactics that may result in physical and emotional trauma”¹⁹. Many women don’t recognize this coerced sexual assault, and will say things like, “I gave in just to calm him down”, and refer to it as “sex” rather than sexual assault.

18 Gorman, K. (2012) *The Intersection of Domestic and Sexual Violence* Retrieved from <http://www.calgarycasa.com/wp-content/uploads/2014/03/Interfection-of-Domestic-and-Sexual-Violence-AASAS-Review.pdf>

19 Camilleri, J., Quinsey, V. and Tapscott, L. (2008) *Assessing the Propensity for Sexual Coaxing and Coercion in Relationships: Factor Structure, Reliability, and Validity of the Tactics to Obtain Sex Scale* Retrieved from [http://www.queensu.ca/psychology/sites/webpublish.queensu.ca/psycwww/files/files/Faculty/Vern Quinsey/Camilleri Quinsey Tapscott 2009.pdf](http://www.queensu.ca/psychology/sites/webpublish.queensu.ca/psycwww/files/files/Faculty/Vern%20Quinsey/Camilleri%20Quinsey%20Tapscott%202009.pdf)

In one study of 210 women with protective orders, 31% of the women reported that their partner had forced them to have sex, and 82% of those women did not tell anyone about the sexual violence²⁰. In the 2014 General Social Survey, 7% of self-reported survivors of spousal violence also reported spousal sexual assault²¹. It's important to note that sexual assault in a relationship is a major risk factor and “red flag” for escalating future severe violence.

Sexual Assault Against Children and Youth

In addition to sexual assaults levels 1, 2 and 3, which can occur against children or youth, there are five specific sexual violations within the Criminal Code that apply only to children and youth under the age of 18. These five violations are:

1. Luring a child via a computer
2. Sexual exploitation
3. Sexual interference (Applies to youth under the age of 16)
4. Invitation to sexual touching (Applies to youth under the age of 16)
5. Making sexually explicit material available to a child.

There were over 14,000 reported sexual offences against children and youth under 18 across Canada in 2012, including levels 1, 2 and 3 sexual assault and sexual violations against children²². Sexual violations against children is one of the few categories of violent crime to have risen in the past several years.

According to The Canadian Centre for Justice Statistics²³:

- Roughly three-quarters (72%) of sexual offences against children and youth are level 1 sexual assaults. Level 2 and 3 sexual assaults account for about 1%, and sexual violations against children the remaining 27%.
- Although they only make up 20% of Canada's population, children and youth accounted for over half (55%) of all police-reported sexual offences.
- Girls were much more frequently offended against than boys. Four of every five (81%) children subjected to a sexual offence were female.
- Almost all (97%) of those accused of a sexual offence against children or youth were male.
- The majority of the accused were known to the victim, and were most commonly an acquaintance (44%) or a family member (38%). Only 12% of sexual offences against children and youth were committed by a stranger.

20 Logan, T., and Cole, J. (2011). *Exploring the intersection of partner stalking and sexual abuse*. Violence Against Women, 17, 904–924

21 Statistics Canada The Daily (2016) *Family Violence in Canada: A Statistical Profile 2014* Retrieved from <http://www.statcan.gc.ca/daily-quotidien/160121/dq160121b-eng.pdf>

22 Cotter, A. and Beaupré, P. (2014) *Police-reported sexual offences against children and youth in Canada, 2012* Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2014001/article/14008-eng.pdf>

23 Ibid

Sexual Assault Against Men

Twelve percent of sexual assaults reported to police in 2010 involved child and adult male survivors²⁴. In nearly half (47%) of the police-reported sexual assaults against males in 2008, the accused was someone known to the victim, but was not a family member (e.g., a friend, an acquaintance, a date...)

One of the few recent Canadian studies to examine the experience of male child sexual abuse and adult sexual assault survivors found that reporting rates, emotional and psychological effects (depression, shame, guilt, low self esteem, difficulty trusting, substance abuse, and post traumatic stress), and coping strategies of male survivors were similar to those of female survivors²⁵.

Like women, males are often reluctant to report sexual assault because of fear of not being believed, stigma, shame, and a lack of support. They may also be concerned that their masculinity will be questioned, and face a lack of services specifically for male survivors.

As with women survivors, most males are assaulted by men, and most know their attackers. According to the Ohio State University Rape Education and Prevention Program²⁶, most men who rape other men identify as heterosexual and are involved in consensual sexual relationships with women.

The idea of masculinity includes physical strength, being in control, always wanting and being ready for sex, and being the perpetrator of such assaults, never the victim.

**S. McDonald and A. Tijerino
Male Survivors of Sexual Abuse and
Assault: Their Experiences (2013)**

As with men who sexually assault women, it is not a need for sex with other men that drives them to rape. For them, rape is an act of violence and control, not of sexual gratification²⁷.

A survivor's shame and confusion about his sexuality may be increased if he had an erection or ejaculated during the rape. Arousal and ejaculation are the body's automatic response to sexual stimulation, and can occur even if the stimulation is unwanted and unenjoyable. Experiencing sexual arousal as a result of rape shows nothing about a survivor's sexuality, and does not mean that they liked it. This is true of both men and women.

24 McDonald S. and Tijerino, A. (2013) *Male Survivors of Sexual Abuse and Assault: Their Experiences* Department of Justice Canada

25 Ibid

26 Ohio State University Rape Education and Prevention Program *When Men Are Raped* Retrieved from <https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/hpr/sexual%20assault/appendix182011.ashx>

27 Ibid

Some gay men may have internalized society's homophobic attitudes to some degree, and suffer from internal conflicts about their sexuality²⁸. Being sexually assaulted may lead a gay man to believe that he was "paying the price" for his sexual orientation. Unfortunately, this self-blame can be reinforced by the ignorance or intolerance of others who suggest that a gay survivor somehow provoked the assault, or was less harmed by it because he was gay.

1.4 Campus Sexual Assault

College students fall within the age range of maximum vulnerability to sexual violence – 15 to 24 years. College women are more at risk for rape and other forms of sexual assault than women the same age but not in college²⁹.

The Ontario Women's Directorate estimates that between 15% to 20% of female university or college students will be sexually assaulted during their time at school, and over three-quarters of them will know the perpetrator³⁰.

When I was young, women were raped on the campus of a great university and the authorities responded by telling all the women students not to go out alone after dark or not to be out at all. Get in the house. (For women, confinement is always waiting to envelope you.) Some pranksters put up a poster announcing another remedy, that all men be excluded from campus after dark. It was an equally logical solution, but men were shocked at being asked to disappear, to lose their freedom to move and participate", all because of the violence of one men."

Rebecca Solnit
Men Explain Things to Me (2014)

The following Canadian statistics³¹ paint a disturbing picture of campus sexual assault:

- Four out of five female undergraduates recently surveyed at Canadian universities said that they had been victims of violence in dating relationships. Of that number, 29% reported incidents of sexual assault.
- More than 80 per cent of rapes that occur on college and university campuses are committed by someone known to the victim, with half of these incidences occurring on dates.

28 Gold, S., Marx, B. and Lexington, J. (2006) *Gay male sexual assault survivors: The relations among internalized homophobia, experiential avoidance, and psychological symptom severity* Behaviour Research and Therapy 45 (2007) 549-562

29 Fisher, B., Cullen, F. and Turner, M. *The Sexual Victimization of College Women* Bureau of Justice Statistics Retrieved from <http://www.popcenter.org/problems/rape/PDFs/182369.pdf>

30 *Statistics – Sexual Violence* Ontario Woman's Directorate Retrieved from http://www.women.gov.on.ca/owd/english/ending-violence/sexual_violence.shtml

31 *Fact Sheet – Sexual Violence on Campuses* (2013) Canadian Federation of Students – Ontario Retrieved from <http://cfs-fcee.ca/wp-content/uploads/sites/71/2015/07/Sexual-Violence-on-Campus.pdf>

- One survey on date rape showed that 60% of Canadian college-aged males indicated that they would commit sexual assault if they were certain that they would not get caught (Lenskyj, 1992).
- Another national survey found that 20 per cent of male students believed forced sex was acceptable if someone spent money on a date, if the person's date was stoned or intoxicated, or if individuals had been dating for a long time (Johnson, 1996).

A 2007 Campus Sexual Assault Study prepared for the American National Institute of Justice³² found that the frequency with which women attended fraternity parties since entering college was positively associated with being a victim of sexual assault, as was drinking alcohol (89%), and being drunk (82%), prior to their victimization.

The study also found that that more than 50% of college sexual assaults occur between August and November – a four-month period known as the Red Zone. Other American research revealed that the majority of campus sexual victimizations occurred in living quarters. Almost 60 percent of the completed rapes that occurred on campus took place in the victim's residence, 31 percent occurred in other living quarters on campus, and 10.3 percent took place in a fraternity³³.

The research on undetected rapists tells us that actually a very small percentage of men – serial sexual predators – are responsible for a vastly disproportionate amount of the sexual violence in any community.

**David Lisak Ph.D.
Predators – Uncomfortable Truths
about Campus Rapists (2004)**

American clinical psychologist and researcher Dr. David Lisak³⁴ discovered that undetected college rapists shared many of the predatory characteristics of incarcerated sexual offenders, and that campus sexual assaults tended to be planned and carried out by serial offenders. According to Lisak, “This picture conflicts sharply with the widely-held view that sexual assaults committed on university campuses are typically the result of a basically ‘decent’ young man who, were it not for too much alcohol and too little communication, would never do such a thing.”

32 *The Campus Sexual Assault (CSA) Study Final Report* (2007) US Department of Justice Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>

33 Fisher, B., Cullen, F. and Turner, M. (2000) *The Sexual Victimization of College Women* Bureau of Justice Statistics Retrieved from <http://www.popcenter.org/problems/rape/PDFs/182369.pdf>

34 Lisak, D. (2011) *Understanding the Predatory Nature of Sexual Violence* Sexual Assault Report Vol 4 No 4 Retrieved from <http://www.davidlisak.com/wp-content/uploads/pdf/SARUnderstandingPredatoryNatureSexualViolence.pdf>

In 2013, there was a wave of six sexual assaults reported at Vancouver's University of British Columbia within the months of April to October, creating a climate of fear across the campus. Police believed one male was responsible for all six assaults. They released a composite sketch of the suspect, which resulted in numerous tips, but no arrest has been made as of this writing.

In late 2014, the CBC aired a documentary called "School of Secrets, in which students claimed that the University of BC's system for reporting non-stranger sexual assaults was "broken" and needed significant improvements. The program outlined how it took the university a year and a half to take action after a group of six female UBC students alleged a graduate student had sexually assaulted or harassed them. The student was eventually expelled, and UBC issued a formal apology to his accusers.

In September of 2013, a video of student leaders at Halifax's Saint Mary's University participating in a frosh week chant that endorsed sexual assault caused outrage among college students, officials and local politicians. Students could be heard chanting: "SMU boys, we like them young. Y is for your sister. O is for oh-so-tight. U is for underage. N is for no consent. G is for grab that ass."

Days later, a similar pro-rape chant took place on a bus ride during a three-day orientation for the University of BC's Sauder School of Business organized by the Commerce Undergraduate Society (CUS). Four of the CUS student leaders resigned shortly after news of the chant spread on social media, and the university cancelled the remaining CUS frosh events. UBC and the Sauder School of Business conducted a joint investigation into the incident, which resulted in the student leaders involved taking part in sexual violence workshops, the replacement of frosh activities with a school-led orientation program developed by students, faculty and staff, and the launching of a President's Task Force on Gender-Based Violence and Aboriginal Stereotypes.

Saint Mary's University also quickly established a president's task force to make recommendations regarding steps that SMU could take to foster a cultural change that prevents sexual violence, and to inspire respectful behaviour and a safe learning environment within the Saint Mary's Community.

The Saint Mary's task force concluded: "A hypersexualized culture, alcohol use, a hook-up culture, the persistence of rape myths and a lack of appropriate educational preparation all contribute to this confusion and uncertainty." It also pointed a finger at campus athletic culture, and concluded that a great many students were not clear on the meaning of "consent".

"Defining what is consensual and what is not is really the critical foundation on which everything is built. We can and need to educate everybody on campus so that there is no real doubt about this," said task force chair Professor Wayne McKay.

“Our prevention and education efforts must be focused on the vast majority of men who will never themselves cross the line into criminal behavior, but who by their participation in peer groups and activities either actively or passively provide support or camouflage for the sexual predators in their midst.

By laughing at their jokes, by listening uncritically to their stories of “conquests” and “scores,” men become facilitators or passive bystanders of criminal behavior. It is these facilitators and bystanders – men who know who the rapists are in their communities – who must be educated, challenged and coaxed back to a firm stance on the right side of the line, the side where we as a community plant ourselves in opposition to those few who choose the criminal path.”

***Dr. David Lisak
Predators: Uncomfortable Truths
About College Rapists (2004)***

A year later, in December of 2014, a scandal erupted at Halifax’s Dalhousie University when fourth-year male dentistry students posted violent sexual comments about female classmates on their Facebook page called the Class of DDS 2015 Gentlemen. The comments included a poll about having “hate sex” with female students, and references to drugging women. One post showing a woman wearing a bikini was captioned “Bang until stress is relieved or unconscious (girl).”

The University promptly launched an investigation, and postponed upcoming fourth year exams. Five faculty members called for the school to launch an independent inquiry into sexualized violence on campus, saying it was a problem across the country.

The University suspended 13 students connected with the Facebook group from clinical activity for two months, and arranged for 29 of the 38 people in the core fourth-year dentistry class to take part in a restorative justice program. The group included 14 women and 15 men. The restorative process found that the men’s Facebook group began as a bonding activity, but “became a place to vent frustrations, often in unhealthy and at times extremely offensive ways”.

“The men have taken ownership of their actions, gained a deep understanding of the harm done, apologized to those most directly impacted, and together spent more than 1,500 hours working to repair the damage,” said Dalhousie University president Richard Florizone after the process concluded.

In the U.S., New York City’s Columbia University was in the headlines when Visual Arts student Emma Sulkowicz carried a 50-pound mattress around campus from September 2014 until her graduation in May of 2015 to protest the administration’s failure to take decisive action after she reported being raped in her dorm room by a male student. ***Mattress Performance (Carry That Weight)*** was “an endurance performance art piece” Sulkowicz created for her senior thesis. Four other students helped her carry the mattress onstage during graduation ceremonies, despite an email the university circulated to graduating seniors directing that no “large objects” be brought into the ceremonial area.

A 2014 Toronto Star investigation found that only nine of 78 Canadian universities, and none of the 24 Ontario colleges it surveyed, had created a special sexual assault policy. The Mounting pressure from students and closer public scrutiny has forced Canadian universities to rethink how they handle sexual assault. University and college campuses across North America are now taking steps to educate around and respond to campus sexual assault.

Since the Star investigation, Colleges Ontario (2015) published a *Sexual Assault and Sexual Violence Policy and Protocol Template* to serve as a framework for each college to develop their own sexual assault policy³⁵.

1.5 Drug Facilitated Sexual Assault

Drug-facilitated sexual assault, often associated with “date rape”, is when someone takes advantage of the fact that a woman has taken alcohol or drugs to sexually assault her, or gives her alcohol and/or drugs to make her vulnerable to a sexual assault, sometimes without her knowledge. While most people think of a “date rape drug” like Rohypnol when they think of drug-facilitated sexual assault, the drug most sexual offenders use is alcohol³⁶.

A survey of 18 to 25-year-olds conducted in the United Kingdom for the Havens Sexual Assault Referral Centres showed that 48% of the young men surveyed didn’t consider it rape if a woman was too drunk to know what was going on. And 46% did not consider it to be rape if a woman changed her mind during sex. A quarter did not consider it rape even if a woman said no from the very start³⁷.

Warning signs that a woman has been drugged can include:

- Appearing drunk when she hasn’t drank much alcohol
- Feeling dizzy and disoriented
- Blurred vision
- Nausea
- Trouble breathing
- Sweating or chills
- Loss of bladder or bowel control
- Memory loss

35 Colleges Ontario (2015) *Sexual assault and sexual violence policy and protocol template* Retrieved from http://www.collegesontario.org/policy-positions/health/CO_Sexual%20Violence%20PP%20template_March%202015.pdf

36 Kilpatrick D., Resnick H., Kenneth J., Ruggiero, K., Conoscenti L., McCauley, J. (2007) *Drug-facilitated, Incapacitated, and Forcible Rape: A National Study* Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/219181.pdf>

37 Opinion Matters (2010) *Havens Wake Up To Rape Report Summary* Retrieved from <https://www.yumpu.com/en/document/view/52335797/havens-wake-up-to-rape-report-summary>

Many street drugs like Rohypnol, GHB, ecstasy, and ketamine can be added to drinks without changing their colour, flavour, or odour. Prescription drugs like sleeping pills, anxiety medication, muscle relaxers, and tranquilizers may also be used by perpetrators, as well as over-the-counter medications like diphenhydramine (Benadryl) and dimenhydrinate (Gravol).

Victims are often reluctant to report because they do not clearly remember or understand what happened to them, and because they feel guilty if they were drinking or using recreational drugs such as marijuana. Many of these drugs leave the body quickly, so women who think they may have been drugged and can't get to a hospital immediately are advised to save their urine in a clean, sealable container as soon as possible, and store it in the refrigerator or freezer.

1.6 What We Know about Sexual Offenders

Thanks to research that began in the 1980s, we now know much more about sexual offenders. This research reinforced that sexual assault is far more prevalent than people realized, that most sexual assaults are not committed by “strangers in ski masks”, but by acquaintances and other people they knew, and that only a tiny fraction of sexual assaults are reported to police, and even fewer prosecuted.

Some findings are extremely eye opening. [Dr. David Lisak](#)³⁸ is an American researcher and clinical psychologist who has been studying the causes and consequences of interpersonal violence for 25 years. Much of his work has focused on the motives and characteristics of rapists.

This is the modus operandi Dr. David Lisak uncovered in 20 years of interviewing undetected rapists, which he described in his 2008 article “*Understanding the Predatory Nature of Sexual Violence*”:

- They are adept at identifying “likely” victims, and testing their boundaries
- They plan and premeditate their attacks
- They groom their victims and isolate them physically
- They use alcohol to render victims more vulnerable, or unconscious
- They use only as much violence as is needed to frighten and coerce their victims into submission
- They almost never resort to physical weapons, but rely on power, control, manipulation and threats.

38 Lisak, D. (2011) *Understanding the Predatory Nature of Sexual Violence* Sexual Assault Report Vol 4 No 4 Retrieved from <http://www.davidlisak.com/wp-content/uploads/pdf/SARUnderstandingPredatoryNatureSexualViolence.pdf>

Thanks to his work and that of other researchers such as Dr. Anna C. Salter, we now know:

- The majority of sexual assaults are committed by predatory males who tend to be serial offenders
- These offenders have very lengthy offending careers, beginning in adolescence and often spanning decades
- They average six rapes by their early twenties

"In all the interviews I have done, I cannot remember one offender who did not admit privately to more victims than those for whom he had been caught. On the contrary, most offenders had been charged with and/or convicted of from one to three victims. In the interviews I have done, they have admitted to roughly 10 to 1,250 victims. What was truly frightening was that all the offenders had been reported before by children, and the reports had been ignored."

Anna C. Salter
Predators: Pedophiles, Rapists, And Other Sex Offenders (2004)

- The majority of sexual assaults are pre-mediated and planned
- They deliberately target vulnerable individuals
- Rapists are "non-specialists" who offend against different age groups and classes of victims – child abusers also attack adults, and incest offenders also attack outside of their families
- Sexual offenders are often hyper-masculine, and harbor hostility and resentment towards women
- Sexual and physical abuse and neglect are significantly more prevalent in offender's backgrounds than in non-offenders

- Sex offenders are less empathic and more antisocial than the general population
- Sex offenders come from all racial and ethnic groups.

PART 2: LEGAL AND LEGISLATIVE RESPONSES TO SEXUAL ASSAULT

2.1 Changes to the Criminal Code

Historically, sexual offences under the Criminal Code were defined according to the type of sexual activity involved. For example, “rape” was forced vaginal penetration; “indecent assault” on a female or a male included unwanted touching; “gross indecency” was interpreted to include forced oral and anal penetration.

A number of the old laws reinforced stereotypes about male and female roles. Since forced vaginal penetration was required to lay a charge of rape, by definition only women could be considered victims. Special rules of evidence reflected a fear of false complaints by women and the view that they were unreliable witnesses. Husbands could not be charged with raping their wives. The survivor’s past sexual history or reputation was often used to attack her credibility in court.

Beginning in 1983, important changes were made to the Canadian Criminal Code regarding sexual assault. The old charges of “rape”, “indecent assault” and “gross indecency” were replaced with three levels of sexual assault. Some changes were intended to minimize the re-victimization of survivors in court. Questions about the survivor’s past sexual history, for example, are now restricted. Questions about the survivor’s sexual reputation are prohibited.

The 1983 legal reforms also reflected changing social values. Unlike rape, sexual assault does not require penetration. Sexual assault is defined as an assault that violates the survivor’s sexual integrity. This change recognizes that both males and females can be victimized in this way and gives both women and men the right to equal treatment under the law. Prior to 1983, indecent assault of a male was punishable by a maximum of 10 years imprisonment; but indecent assault of a female by only five years.

The three levels definition of sexual assault now involves three levels of “seriousness” in the eyes of the law. The degree of personal injury to the survivor is the key factor in deciding which level applies, similar to any other physical assault charges.

Important aspects of the law that survivors might want information about are outlined below.

Prior to law reform, rape made up almost one-quarter of police-recorded sexual offences, many of which are now coded and portrayed as “non-violent” or “less serious” level 1 offences. While the shift from rape to sexual assault was intended to reduce the stigma associated with being a victim of rape, as Elizabeth Sheehy points out, in de-gendering the law and replacing rape with a gradation of sexual assault offences, an important shared social understanding of the meaning and impact of rape for women has been lost.

Holly Johnson
**Limits of a Criminal Justice Response:
Trends in Police and Court Processing
of Sexual Assault (2012)**

2.2 Legal Definitions of Sexual Assault

The Criminal Code defines “assault” as the intentional application of force to another person without their consent. A sexual assault is an assault that violates the individual’s sexual integrity. For adults, it is the lack of consent, not the type of sexual activity, which is the major factor in determining whether a sexual assault has occurred. Sexual assault includes any form of sexual activity, including unwanted kissing, touching, and oral, vaginal or anal penetration.

Canadian law sets out three tiers of sexual assault, from Level 1 to Level 3. The three levels of sexual assault parallel the three levels of physical assault in the Criminal Code:

Level 1 Sexual Assault (Section 271)

- Occurs when any form of sexual activity is forced upon another person without that person’s consent
- Carries a 10-year maximum sentence (if prosecuted as an indictable offence),
- Carries an 18-month maximum sentence (if prosecuted as a summary conviction offence).

Level 2 Sexual Assault with a Weapon, Threats to a Third Party, or Causing Bodily Harm (Section 272)

- Occurs when a person is sexually assaulted by someone who:
 - Has a weapon or threatens to use a weapon (an imitation or real weapon)
 - Threatens to cause bodily harm to a third person (for example, a child or friend)
 - Causes bodily harm to the victim, or
 - Is a party to the offence with any other person.
- Carries a 14-year maximum sentence, and
- Carries a four-year minimum sentence if a firearm was used.

Level 3 Aggravated Sexual Assault (Section 273)

- Occurs when a person wounds, maims, disfigures, brutally beats or endangers the life of the victim during a sexual assault
- Carries a maximum sentence of life imprisonment, and
- Carries a four-year minimum sentence if a firearm was used.

Sexual Assault With Other Criminal Acts

Acts of sexual violence often include other criminal acts besides the sexual assault itself. In these cases the accused may be charged with several crimes. For instance, if the woman was forced into a car and taken to someone's residence where she was assaulted, the accused could be charged with both kidnapping and sexual assault.

Consent

Sexual assault is sexual contact without the other's consent. Legally, consent means that the survivor positively communicated – by her actions or words – her agreement to engage in sexual activity. The survivor does not need to fight back in order for a lack of consent to be established. In some cases, the survivor will appear to consent based on fear or coercion. She may agree because the perpetrator threatens to harm her child, for example.

The Criminal Code now lists a series of situations in which the law will deem an absence of consent, even though the survivor may have appeared to agree to the sexual activity.

Consent: Criminal Code ss. 265(3) and 273.1

No consent is obtained if the victim submits because of:

- Physical force or threats made against her or someone else;
- Fraud; or
- The exercise of authority or the abuse of a position of trust, power or authority.

No consent is obtained if:

- Someone else agrees on behalf of the victim
- The victim is mentally incapable of consenting (e.g., she was drugged or otherwise lacked the mental capacity to consent)
- The victim shows lack of agreement either by her words or conduct
- The victim consents but then shows lack of agreement to continue.

The survivor can withdraw her consent at any time. For example, she may consent to certain sexual acts and then decides she wants no further sexual activity. If he continues against her wishes, this constitutes lack of consent.

In some cases the man may honestly believe the survivor consented even if she didn't. This is called the defence of "apprehended consent." To be successful with this defence, the accused must show that he honestly believed the survivor communicated consent. He must demonstrate that he took reasonable steps to make certain that the woman was consenting. If the accused was reckless or willfully blind, or his belief was based on his own intoxication, apprehended consent is no defence.

The Age of Consent for Youth

The age of consent was amended from age 14 to age 16 in 2008. Children under the age of 12 cannot legally consent to any kind of sexual activity. Children aged 12 and 13 may consent to sexual activity with someone who is less than two years older than they are. Youth aged 14 and 15 may consent to sexual activity with someone who is less than five years older than they are. Youth aged 16 and 17 cannot consent to sexual activity that involves prostitution or pornography. Anyone under the age of 18 cannot legally consent to sexual activity with someone in a position of trust or authority over them (such as a teacher, a coach or a babysitter), someone they are dependent on, or someone who is exploiting them.

The following chart is helpful in determining if sexual activity between youth is legal.

AGE OF CONSENT CHART - IS SEXUAL ACTIVITY LEGAL?											
Younger Person's Age	Older Person's Age										
		12	13	14	15	16	17	18	19	20	
	12	Yes	Yes	Yes*	No	No	No	No	No	No	No
	13		Yes	Yes	Yes	No	No	No	No	No	No
	14			Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
	15				Yes	Yes	Yes	Yes	Yes	Yes	Yes
	16					Yes	Yes	Yes	Yes	Yes	Yes
	17						Yes	Yes	Yes	Yes	Yes
	18							Yes	Yes	Yes	Yes
		*Note: The law states the older person must be LESS than two years older.									

It is not a valid defence to claim that the age of the child/youth was not known at the time of the sexual activity, unless the accused can prove that they took all reasonable steps to discover the age of the complainant.

As with adults, consent cannot be obtained from anyone incapacitated by drugs or alcohol; from anyone who lacks the mental capacity to consent, or through the use of force, threats, fear of bodily harm, lies or misleading information.

What is Consent?

An online survey commissioned by the Canadian Women's Foundation in April of 2015 found that the majority of respondents were unable to identify two key requirements for consent under the law: 1) Positive verbal or behavioural consent and 2) ongoing affirmation.

A woman doesn't have to scream or fight for it to be clear that she is not consenting to sexual activity. "Freezing up", saying she's tired, or pulling away are a few ways women say "no".

Sex without both participants' clear and enthusiastic agreement and permission is sexual assault. Here are some important things to remember about consent:

- The absence of a “no” doesn't mean a “yes”.
- Drugs and alcohol impact decision-making. A person who is intoxicated cannot give consent.
- Consent is ongoing, and can be withdrawn at any time.
- As of 2008, the legal age of consent in Canada is 16.
- The fact someone gave consent for an action or activity on a past occasion does not mean the consent is ongoing.
- Consent is not truly consent if it is obtained through pressuring, threatening, intimidating or guilt tripping.

Click on the illustration below or visit <https://vimeo.com/126553913> to view an animated video from Blue Seat Studios delightfully illustrating the concept of consent with the help of stick figures and a cup of tea.



HIV Non-Disclosure and Sexual Assault Law

Canada is one of the most aggressive prosecutors of people living with HIV who engage in sexual activity without disclosing their HIV positive status in the world, and has the second highest conviction rate for non-disclosure, next to the US. A 1998 Canadian Supreme Court decision established that people living with HIV could be charged with aggravated sexual assault – a sexual assault that “wounds, maims, disfigures or endangers the life of the complainant” – for not disclosing their HIV+ status to a sexual partner, even if they did not transmit the virus to them.

Improvements in HIV treatment have since made it possible to reduce concentrations of the HIV virus in the blood (viral load counts) to undetectable levels, leading a 2012 court to update the 1998 decision. The law now states that an HIV+ person who has a low viral load (below 1500 copies/ml) AND uses a condom during intercourse is not required to disclose their HIV status, as “the realistic possibility of transmission is negated”. The ruling applies to vaginal sex, but it is generally assumed it would also apply to anal sex, and possibly to oral sex.

The broad use of sexual assault law to deal with HIV non-disclosure is contentious, especially for women. Heterosexual women are the fastest-growing subpopulation contracting the virus, most often through injection drug use and/or exposure from sexual relationships³⁹. These laws give rise to fears that a controlling, abusive and/or vindictive partner or ex-partner may claim that the person living with HIV either did not disclose their status, or did not use a condom.

A gendered analysis of the current use of the criminal law with respect to HIV reveals that criminalization is a blunt, punitive and inflexible approach to HIV prevention that does little to protect women from HIV infection, violence, coercion or sexual objectification. Moreover, it can also have serious adverse impacts on women living with HIV, especially if facing challenges due to their socio-economic situation, discrimination, insecure immigration status, or abusive or dependent relationships.

**Canadian HIV/AIDS Legal Network
Women and the Criminalization
of HIV Non-Disclosure (2012)**

“Women who are HIV positive, if they are in abusive relationships, are often essentially disciplined with the threat of, ‘If you don’t do what I say, or you try to leave me, I’m going to go to the police and I’m going to say you didn’t disclose and get you charged’”, lawyer Michael Vonn, policy director for the B.C. Civil Liberties Association, explained in a **March 2016 interview** with CBC radio. “It’s emotional blackmail.”

A related concern is that women living with HIV who are sexually assaulted will be too afraid to report the assault for fears that it will somehow “boomerang” back at them as an issue of non-disclosure.

HIV can be symptom-free for a decade, and an estimated one in five Canadians living with HIV are unaware that they are HIV positive⁴⁰. Women living in poverty, women who inject drugs, Indigenous women, women in the sex trade, women from countries where HIV is endemic and women subjected to sexual violence and coercion are at increased risk of acquiring HIV⁴¹. There is widespread concern that the criminalization of non-disclosure of HIV+ status is discouraging access to HIV testing, due to fears of the legal implications of a positive diagnosis.

39 Simoni J., Demasa P., Mason H., Drossman J., Davis M., (2000) *HIV Disclosure among Women of African Descent: Associations with Coping, Social Support, and Psychological Adaptation*,” AIDS and Behavior 4, 2, 147.

40 Public Health Agency of Canada (2014) *Summary: Estimates Of HIV Incidence, Prevalence And Proportion Undiagnosed In Canada*, 2014 Retrieved from <http://www.catie.ca/sites/default/files/2014-HIV-Estimates-in-Canada-EN.pdf>

About 185 people living with HIV have been charged as sexual offenders between 1989 and 2015, including 17 women. Marginalized women such as Indigenous women, sex workers, and women living with addiction are over-represented among those charged⁴².

The Canadian HIV/AIDS Legal Network has paid particular attention to how the criminalization of HIV non-disclosure affects diverse women. They maintain that the Supreme Court of Canada's characterization of HIV non-disclosure as an issue of consent to sex – as opposed to a physical harm or a public health issue – both overextends the criminal law against people living with HIV and threatens to damage hard-won legal definitions of consent aimed at protecting women's equality and sexual autonomy. Other concerns are that equating non-disclosure with sexual assault trivializes sexual assault, and also reinforces the stigma associated with HIV.

BC's Positive Women's Network advises people living with HIV to adopt strategies to prove they disclosed their HIV status to their sexual partners, including:

- Having the partner sign a document acknowledging the disclosure
- Taking partners to a caseworker or doctor's appointment and asking them to note their presence in the file
- Talking to the partner about their status in front of a trusted third person who would be willing to testify if needed
- Saving written, electronic, voice or video communications in which their HIV+ status was discussed
- Having up-to-date medical records confirming a low viral load
- Noting when partners have seen physical evidence of their HIV+ status, such as medications and medical appointment reminders.

Protection From Questions About the Survivor's Sexual Activity

In the past, a woman's prior sexual history was often used to attack her credibility in court in rape cases. In 1992, the Criminal Code was amended to re-establish a rape shield law, after a 1991 ruling (*R. v. Seaboyer*) struck down the earlier 1992 "Rape Shield" provisions as unconstitutional. The 1992 legislation (Bill C-49) refined the definition of consent, restricted the defence of honest but mistaken belief the victim had consented, and restricted irrelevant questions about a woman's sexual life.

41 Csete, J. (2005) Vectors, Vessels and Victims. *HIV/AIDS and Women's rights in Canada*, Canadian HIV/AIDS Legal Network, p. 21.

42 Patterson SE et al. (2015) *The impact of criminalization of HIV non-disclosure on the healthcare engagement of women living with HIV in Canada: a comprehensive review of the evidence* Journal of the International AIDS Society 2015, 18:20572

The fact that the survivor may have engaged in other sexual activity, either with the accused or with someone else, can no longer be used in court to show that the survivor:

- Is more likely to have consented to the sexual assault, or
- Is a less credible witness.

Restricting the Use of the Survivor's Personal Records in Court

Before a survivor reports a sexual assault to police, various records about her may already exist. For example, if she has a disability, she may have received health care. If she is Indigenous and was a student at a residential school, there will be school records. If she received counselling as a result of the trauma of the sexual assault, there will be case notes in her file.

In previous years, record-holders in a number of high-profile sexual offence cases, including anti-violence workers, counsellors, health care workers and residential schools, have been required to release records about sexual assault survivors, even if the records are unrelated to the investigation. Personal information contained in the records has sometimes been used to question survivors' credibility in court.

In 1997, sections 278.1 to 278.91 of the Criminal Code was amended to restrict the accused's access to records about the survivor in sexual offence cases. Since 1997, the accused must establish that the records they are requesting are relevant before the records are released, and a strict procedure must be followed.

Judges in sexual assault trials will not readily grant a defence request for the release of personal records. Defence is required to give specific detailed reasons why they feel the records are relevant, to avoid speculative "fishing expeditions". It is not sufficient for the defence to say that the record relates to the complainant's treatment or counselling; that it may be relevant to her credibility, or that it contains information about the circumstances of the charge.

Despite these restrictions, there will be some cases in which pre-existing personal records about the survivor may be released. If so, she and the producer of the records may be questioned about their contents in court. If the Judge does grant release of the records, it may be with restrictions. For example, he or she may only release selected pages; may order that the record be edited to remove irrelevant information; may stipulate that it can only be viewed in the courtroom, and/or that no copies can be made.

If the accused makes a formal application to have the survivor's records released, it is important for the survivor to get legal representation. Legal Services Society (legal aid) will pay for the woman to retain her own lawyer. Normal financial eligibility requirements do not apply in this case.

Record-holding agencies should consider seeking legal advice for their agency. This may be important to protect the reputation of the program as a confidential service. Agency interests may not be the same as the client's interests, so it is not appropriate to use the same lawyer. Record-holding agencies may be able to obtain legal aid under certain circumstances.

If an agency retains a lawyer to handle the application for production, the lawyer may ask:

- Has the defence lawyer provided any evidence that the type of information they are looking for is likely to be in the records they are demanding?
- Is it logical to infer from the surrounding circumstances that the records do contain such information?
- If the information is in the records, does it relate to an issue in the case?
- How important is client confidentiality to your agency's work? Do you have evidence to support the view that assurances of confidentiality assist women to come forward to seek help?

Agencies should inform Crown Counsel that they have been served with an order to produce their records, and the position they intend to take. While Crown Counsel does not represent the survivor or the agency, Crown may have a role to play in ensuring the correct procedure has been followed by defence, especially if the survivor has not yet retained a lawyer.

Crown may object to insufficiency or lack of notice. For example, if the records relate to group counselling and other group members who are not the target of the production application were not served with the Notice of Motion, Crown might object.

Protection of the Survivor's Privacy

Will the survivor's name be made public?

Generally Crown prosecutors will apply for publication bans. If so, the judge must order it. The ban prohibits the publication or broadcast of the survivor's name or of any information or details that would have the effect of revealing the survivor's identity.

In certain cases the survivor may want details of the case publicized. She may, for example, feel that this will help others come forward. If so, she should inform the Crown that she does not want a publication ban. A decision to "go public" has serious implications. It should be discussed with a community-based victim service or other support worker.

Will the accused get access to the survivor's personal records?

- As discussed earlier, the Criminal Code restricts the accused's access to the survivor's personal records. The accused cannot obtain these records without a court order.

- To obtain the order, the accused must first show that the records he is requesting are relevant to the case, and a strict procedure must be followed.
- If the accused applies for access to the survivor's records, the Crown prosecutor will inform the survivor and should suggest that she retain her own lawyer.
- Under the Victims of Crime Act, a survivor has the right to legal representation to protect her privacy rights if her circumstances meet the criteria set by Legal Services Society. The record holder (the agency which creates and maintains the records) should also consult with a lawyer.
- Eligible agencies may also be able to obtain legal aid.

Will the survivor be questioned about her sexual activities?

Such questions are restricted by the Criminal Code. The fact that the survivor may have engaged in other sexual activity, either with the accused or with someone else, cannot readily be used in court to show that the survivor:

- Is more likely to have consented to the sexual assault, or
- Is a less credible witness.

Before any questions are asked about the survivor's past sexual history, the accused must make a formal application. The Crown prosecutor will inform the survivor if this happens and let her know whether the Crown will object to the questions. A special hearing will be held, with the jury and members of the public excluded.

How can the survivor's concerns about privacy be addressed?

The survivor may fear her privacy will be violated if she reports to police and the case is prosecuted. Providing her with information about legal privacy protections allows her to make informed decisions.

Support workers can also provide emotional support to help address her concerns. This may be a key factor affecting the survivor's ability to participate in the prosecution.

The Doctrine of Recent Complaint

In some cases, there may be a delay of a few hours, weeks, months or even years, before a survivor reports a sexual assault to police. Under the old rape laws, if the woman did not complain or "raise a hue and cry" at the earliest opportunity after her attack, her credibility could be challenged in court. This rule, called the doctrine of recent complaint, was based on a fear of false accusations in rape cases and on the outdated notion that a "truly virtuous" woman who was raped would complain as soon as she could.

In 1983, the doctrine of recent complaint was eliminated by the Criminal Code. The law now recognizes that often the survivor does not call the police right away. She may be in a state of shock after the incident; she may be frightened, confused, feel shame, or be too overwhelmed to tell anyone, let alone go to the police immediately.

Sexual Assault of a Spouse

Changes to the Criminal Code in 1983 have made it a crime for one spouse to force the other into sexual activity.

Historical Cases in Criminal Court

In some cases there may be a delay of several years before a survivor reports a sexual assault. An adult, for example, may report sexual abuse she suffered as a child. The survivor may always have remembered the abuse, but lacked the emotional support to enable her to come forward. On its own, this delay should not prevent the case being investigated and prosecuted. There is a six-month limitation period for summary conviction offences under the Criminal Code, but there is no limitation period for indictable offences. This would include sexual assaults.

This means that, even if the sexual assault is not reported right away, the police can still investigate and recommend charges. There will be practical difficulties to consider, such as key witnesses may be hard to find or may have trouble remembering what happened, evidence may no longer exist, etc.

In other historical cases the survivor may have delayed reporting because she only recently recovered memories of the sexual assault. There is a great deal of controversy about the validity of recovered memory. Recent court decisions have recognized the legitimacy of recovered memory. Still, without supporting evidence, it would be rare for a court to convict an accused on the basis of recovered memory evidence alone.

A survivor of sexual assault also has the option of suing in civil court. For more information on this option, see “Suing in Civil Court” in Part 2.2.

Corroboration

Historically, courts have viewed rape survivors as unreliable witnesses. In rape cases it was common practice for judges to caution the jury about the danger of relying on the evidence of the victim alone. In other sexual offence cases, corroborating evidence (evidence from an independent source) was required to obtain a conviction.

With the 1983 reforms, it is possible for the survivor’s testimony alone to be sufficient to convict an accused, although the case is stronger if there is a witness or some other supporting evidence. Supporting evidence is especially useful in cases involving recovered memories of historical sexual abuse.

Unfortunately for survivors with intellectual disabilities, the courts did not see them as reliable witnesses until the Supreme Court of Canada decision of February 10, 2012, in the case *R. v. D.A.I.*, which ruled on the ability of adults with intellectual disabilities to testify in court. Prior to this ruling persons with mental disabilities (legal term) were often not allowed to testify unless they could explain the meaning of abstract concepts like promise, truth and falsehood, even though no other category of witness was required to meet this test.

Criminal Harassment

The offence of criminal harassment or “stalking” generally consists of repeated conduct that is carried out over a period of time and which causes those who are victimized in these ways to reasonably fear for their safety. The criminal behaviour does not necessarily result in physical injury. While stalking is not a form of sexual assault, it may be a precursor to violent sexual acts, particularly in situations where the survivor and the accused have had an ongoing intimate relationship.

Recognition of criminal harassment as a distinct criminal behaviour is relatively recent. The offence of criminal harassment was added to the Criminal Code in 1993 (section 264) as a specific response to violence against women, and, in particular, violence against women in relationships. The Criminal Code was amended again in 1997 to strengthen the stalking provisions.

The federal Department of Justice has created a resource titled *[A Handbook for Police and Crown Prosecutors on Criminal Harassment](http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/part1.html)*. It is intended to provide police and Crown with guidelines for the investigation and prosecution of criminal harassment cases and to promote an integrated criminal justice response to stalking. It is available on the Department of Justice website at <http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/har/part1.html>.

The British Columbia Ministry of of Public Safety and Solicitor General has a helpful fact sheet in its Help Starts Here series, *[Information on Stalking \(Criminal Harassment\)](http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/bc-criminal-justice-system/if-victim/publications/hsh-english-stalking.pdf)*. It is available at <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/bc-criminal-justice-system/if-victim/publications/hsh-english-stalking.pdf>.

Cyberbullying or Cyberviolence

Cyberbullying is harassment through the use of technology. Whether or not it constitutes criminal harassment depends on the individual case. According to the [Canadian Bar Association](#), “Cyberbullies use social media (such as Facebook, Twitter, Instagram, Snapchat, YouTube, etc.), blogs, texting, instant messaging, and other internet avenues to engage in deliberate, repeated, and hostile conduct intended to harm, embarrass, or slander someone. Although their work is public, cyberbullies are often anonymous and it is often harder to identify and stop them.”

Technology is being increasingly used both to harass and stalk women and girls, and to share images of a sexual nature over social media. In November of 2011, 15-year-old Rehtaeh Parsons from Nova Scotia went to a male classmate’s house where she, a friend and four male youths drank alcohol. One of the males took a photograph later that night of another male allegedly sexually assaulting Parsons while she was vomiting. She was unaware that the picture was being taken and did not give consent to it. She later took her own life after the pictures were distributed to fellow classmates. While the Crown did not feel there was enough evidence to support a charge of sexual assault, two 18-year-old boys were later charged with child pornography offenses – one with making and distributing child pornography, and one with distributing child porn. There have been a number of similar incidents across the U.S. and Canada.

As of March 2015, the Protecting Canadians from Online Crime Act created a new criminal offence of distributing an intimate image of someone without her or his knowledge or consent. The offence is punishable by a maximum of five years imprisonment if Crown proceeds by indictment, or six months imprisonment if charged as a summary offense.

2.3 Relevant Provincial and Federal Laws

In addition to federal Criminal Code changes, amendments have been made to a number of provincial laws that affect sexual assault cases.

Canadian Victims Bill of Rights

The federal Canadian Victims Bill of Rights came into effect in July of 2015. It provides victims of all Criminal Code offences with the:

- Right to information - About the criminal justice system, victim services and other programs available to them, certain case specific information about the status and outcome of the investigation and prosecution, and their right to file a complaint if they feel their rights were denied.
- Right to protection - The right to have their security and privacy considered at all stages of the justice process, and to be protected from intimidation and retaliation. This also extends to the right to have their identity protected or to ask for a testimonial aid such as a screen.
- Right to participation - This includes the right to present a Victim Impact Statement that must be considered by the court, and the right to express their views about decisions affecting their rights.
- Right to restitution - Victims have the right to have the court consider a restitution order, and to have an unpaid restitution order entered as a civil court judgement.

Most if not all of those rights were already in place under provincial and territorial legislation, but the federal legislation ensures a “level playing field” for victims across the country.

Victims of Crime Act (VOCA)

British Columbia’s [Victims of Crime Act \(VOCA\)](#) provides significant rights to all victims of crime, including:

- The right to be treated with courtesy, respect and without discrimination by all justice personnel
- The right to receive information on the justice system, victim services and related legislation

- The right to receive certain case-specific information on the investigation, prosecution, sentencing and release
- The right to be given a reasonable opportunity to provide victim impact information for presentation to the court before sentencing
- The right to receive independent legal representation, provided free of charge where they cannot afford it, for the disclosure of their personal records.

Under VOCA, the spouse, sibling, child or parent of the person against whom the offence was committed are also considered victims. Information that will be made available to the victim on request:

- Status of the police investigation
- Specific counts the accused has been charged with or convicted of
- The reasons why no charges were laid (if none were laid)
- The name of the accused
- Specific information on each court appearance that is likely to affect the accused's bail status or the case's final disposition and the outcome of these court appearances
- The start date and length of the offender's sentence
- How to report breaches of bail terms or probation orders
- How to contact agencies that may grant or amend parole conditions or authorize release from custody
- The eligibility and review dates of the offender's custodial status and how to make representations in such proceedings
- Copies of orders and permits setting conditions for the accused or offender that are relevant to the safety of the victim.

Cyberbullying or Cyberviolence

This manual is written primarily for support workers dealing with adults who have been sexually assaulted. Despite the focus on sexually assaulted adults, reporting requirements may still come into play. For example:

Known or suspected abuse or neglect of a child must be reported to:

- Provincial or territorial social service ministries or departments, OR
- Local child welfare services, OR
- Local police

- Where a young woman of 17 or 18 comes into your agency and discloses that she has been sexually abused.
- Where an adult woman comes into your agency reporting that her husband has sexually assaulted her in the presence of her child, in the context of domestic violence.

Canada's provinces and territories all have 24-hour a day child welfare agencies meant to ensure the safety of children. Canadian child welfare systems respond to reports of child abuse and/or neglect. The definition of "child" varies from province to province – in some provinces or territories a child is defined as a person under the age of 16, and in others as under the age of 18 or 19.

The [Canadian Child Welfare Research Portal](#) explains that child welfare agencies typically:

- Receive and investigate reports of possible child abuse and neglect,
- Provide services to families who need assistance in the protection and care of their children,
- Arrange for children to live with kin, foster families, or licensed group home facilities when they are not safe at home,
- Arrange permanent adoptive homes for children; and
- Arrange and support independent living services for youth leaving foster care.

Under Canadian child welfare laws, everyone has a legal duty to report situations where children need protection.

In British Columbia, the duty to report is outlined in the [Child, Family and Community Service Act](#) (CFCSA). Under section 14 of the Act, where a person has reason to believe that a child needs protection they must report the circumstances to a child protection worker at the Ministry of Children and Family Development. If it is after hours or you are not sure whom to call, phone the toll-free Helpline for Children at 310-1234 at any time of the day or night. You do not need an area code. If the child is in immediate danger, call 9-1-1 or your local police.

Section 13 of the Act lists specific situations where protection is needed. They include:

- Cases where the child has been, or is likely to be, sexually abused or exploited by the child's parent,
- Cases where the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by someone else and the child's parent does not protect the child, and
- Cases where the child is emotionally harmed by the parent's conduct.
- Living in a situation where there is domestic violence by or towards a person with whom the child resides.

For reporting purposes in BC, a child is anyone who is under the age of 19. Given the high rates of sexual assault against young women ages 14 to 24, support workers will encounter teen women who are legally defined as children who are reporting a sexual assault independently of their parents or guardians. When the assailant is someone who is not a family member and is not in a position of authority such as a teacher, religious leader, etc., it is not always clear whether or not the situation constitutes a child protection issue.

In BC, young women who have the mental capacity to understand consent have the right to access service independently from the age of twelve onwards. For more information on how to assess capacity to consent please see *Records Management Guidelines: Protecting Privacy for Survivors of Violence* at <http://endingviolence.org/publications/records-management-guidelines-protecting-privacy-for-survivors-of-violence/>.

When making a decision about who to tell about a sexual assault, many young people have fears about “getting into trouble” or their parents finding out what happened to them. Among other fears, these act to keep the violence a secret and contribute to the low reporting rates of sexual assault.

The various agencies participating in your community sexual assault protocol – community-based victim services, police, police-based victim services, MCFD, hospitals and health care providers – may have different mandates, policies or points of view about reporting requirements, and what age group the protocol covers. Before referring a sexual assault survivor under the age of 19 to a service, it’s very important that she is informed about reporting requirements and is sent to the appropriate program or service.

Support workers are encouraged to contact a child protection worker or the Helpline and seek guidance on whether or not they need to report. This is often called “running a hypothetical” in order to clarify the bounds of privacy you can provide to the young woman seeking support. Many times when the sexual assault was perpetrated by a peer, child protection workers do not deem it to be a child protection issue.

For more information, refer to EVA BC’s Community Coordination for Women’s Safety Program’s Information Bulletin, *Confidentiality for Sexual Assault Survivors under the Age of Nineteen*, available at <http://endingviolence.org/publications/confidentiality-for-sexual-assault-survivors-under-the-age-of-nineteen/>. The bulletin is intended to clarify some of the questions about legal and policy mandates, and to aid discussion when developing community or agency protocols.

Freedom of Information and Protection of Privacy

There is federal, provincial and territorial legislation addressing privacy issues and governing the rules for collection, protection and disclosure of personal information. Canada has two federal privacy laws, the **Privacy Act**, which covers the personal information-handling practices of federal government departments and agencies including the RCMP, and the **Personal Information Protection and Electronic Documents Act** (PIPEDA), the federal private-sector privacy law.

In British Columbia:

- The **Freedom of Information and Protection of Privacy Act (FOIPPA)** regulates access to information held by provincial government ministries, agencies, boards, commissions, Crown corporations, municipalities, municipal police, school boards and hospitals. Under this act, individuals are entitled to request information in records held by these public bodies. The Act also prevents public bodies from inappropriately using or releasing personal information.
- The **Personal Information Protection Act (PIPA)** contains safeguards to protect the privacy of personal information that is collected by private businesses and non-profit organizations in BC.
- Whether your program is covered by FOIPPA or PIPA will depend on the wording of your contract with the funding ministry. If the contract wording suggests that your records are under your agency or program's custody or control, then PIPA rules apply.

The Ending Violence Association of BC (EVA BC) and the British Columbia Society of Transition Houses (BCSTH) have prepared **Records Management Guidelines** for their member programs. EVA BC has also produced **The Personal Information Protection Act: An Overview**. Used together, these two policy documents help ensure compliance with provincial legislation and basic ethical requirements.

Parts 5.2 and 5.3 of this handbook provide basic practice tips on confidentiality and information management.

Civil Cases of Historical Sexual Assault

In civil cases, there is no limitation period for reporting sexual assault. This change reflects an awareness that years of emotional support and healing may be required before a survivor has the resilience to pursue her assailant in court. A survivor can now bring a civil action against the assailant many years after the assault.

Other Relevant Legislation

When you are providing support and practical assistance to women who have been sexually assaulted, other legislation may also be relevant.

- When you are working with older women, you may need to know about your provincial or territorial adult guardianship legislation. In BC, visit the website of the Office of the Public Guardian and Trustee at <http://www.trustee.bc.ca> to view this legislation.
- When you are working with teenagers who have been sexually assaulted, you may need to know about your provincial or territorial child protection legislation. In BC, refer to the Child, Family and Community Service Act at http://www.bclaws.ca/Recon/document/ID/freeside/00_96046_01.
- When you are working with members of the lesbian, gay, bisexual and transgender or queer (LGBT2SQ) community, you may need to know about federal, provincial and territorial human rights legislation and hate crimes legislation.

When you are working with women who are on pensions or social assistance, you may need to know about the legislation that governs these benefits. In BC, a good place to start is with the plain language publications *When I'm 64: Benefits* and *When I'm 64: Services*, published by The People's Law School and available online at <http://www.publiclegaled.bc.ca/category/resources/booklets/page/2/>

and *Your Welfare Rights* by the Legal Services Society, available online at <http://www.lss.bc.ca/publications/index.php>.

For links to provincial welfare legislation, go to the PovNet site at <http://www.povnet.org>.

- When you are working with women who are separating or divorcing, you may need to know about the provincial **Family Law Act**. There is a wealth of family law information available on the Legal Services Society website at <http://www.familylaw.lss.bc.ca>. EVA BC also has bulletins and information regarding the 2013 change from the Family Relations Act to the new Family Law Act on the Publications section of their website at <http://endingviolence.org/research-publications/>.
- If you are working with Indigenous women, you may need to know the Indian Act and about the policies of Indian and Northern Affairs Canada (INAC). For INAC, see the website <http://www.inac.gc.ca>. BC also has a Ministry of Aboriginal Relations and Reconciliation. Their website is <http://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/aboriginal-relations-reconciliation>.
- If you are working with women living with disabilities, you may need to know about the relevant provincial or territorial legislation affecting them. DisAbled Women's Network of Canada (DAWN Canada) has been advocating for women living with disabilities for over 30 years: <http://www.dawncanada.net/en/>. In BC, Disability Alliance BC may be able to assist you and your client: <http://www.disabilityalliancebc.org/>.
- If you are working with immigrant or refugee women, you may need to know about the Immigration and Refugee Protection Act (<http://laws.justice.gc.ca/eng/acts/i-2.5/>) and about what happens when the woman has been sponsored by her abuser. The Legal Services Society of BC has a helpful publication called Sponsorship Breakdown, available online at <http://www.lss.bc.ca/publications/subject.php?sub=10>.

Please note that even if you become familiar with these acts, only a lawyer can give legal advice. Please contact one of the above organizations (or its equivalent in your province or territory) or a lawyer if your client requires specific legal information.

2.4 Role of the Victim Services and Crime Prevention Division

The Ministry of Public Safety and Solicitor General, Victim Services and Crime Prevention Division (VSCPD), is responsible for victim services in British Columbia. Part of the VSCPD's mandate is to ensure that the needs of victims of crime are acknowledged and served throughout the criminal justice process, and that survivors of sexual assault receive emotional support and practical assistance to recover from the impact of this crime. The VSCPD seeks to accomplish this by:

- Educating communities and governments about the issue
- Developing effective legislation, policies and procedures that address survivors' needs
- Funding programs that assist survivors through the criminal justice and other processes
- Training and supporting victim service workers
- Administering the Crime Victim Assistance Program.

Services to Victims of Crime

Services to victims of crime, including sexual assault, are provided and funded through several government departments as well as through hospitals and community agencies.

1. Victim Support Programs

VSCPD funds a network of victim service programs across the province to ensure that victims have access to the services they need. These programs provide emotional support, information, practical assistance, accompaniment, and referral to victims of crime.

VSCPD funds three types of victim service programs: community-based, police-based and victim court support. In communities where community-based victim service programs exist, it is the community-based program that is mandated to provide the response to sexual assault.

Community-based victim service programs address the unique needs of survivors of family and sexual violence, including survivors of violence against women in relationships, survivors of sexual assault, child and youth survivors of violence, and male survivors of sexual abuse.

There are also community-based victim service programs that have been designed to respond to the needs of Indigenous peoples and victims from culturally diverse communities. In larger communities, the specialized community-based victim service programs are the primary service provider for survivors of sexual assault.

Police-based victim service programs serve victims of all types of crime and assist the police and community in situations where there are multiple injuries and deaths. In smaller communities with no community-based programs, police-based victim service programs provide services to survivors of sexual assault.

The victim court support program complements services currently provided by the local police-based and community-based victim service programs. Victim court support caseworkers receive referrals for court support from justice and community organizations such as Crown Counsel, other justice agencies, local victim service programs, as well as self-referrals from victims.

These programs are provided by staff located at the courthouse. They work closely with Crown counsel, justice personnel, and other victim service providers to ensure coordinated information and support is provided to victims, witnesses and their families.

Stopping the Violence Counselling Programs provide counselling for women who have experienced violence in relationships, childhood abuse, or sexual assault, to help them deal with the trauma of the experience.

Outreach Services Programs respond to the needs of women and their dependent children who have experienced, or are at risk of violence. These programs deliver services that include supportive counselling for women, referrals to community services, local transportation, accompaniment and advocacy.

Multicultural Outreach Services Programs support women and their dependent children from diverse cultures who have experienced, or are at risk of violence. The program services include supportive counselling for women, referrals to appropriate community services, local transportation, accompaniment and advocacy. These services are provided in up to 24 languages to ensure women are assisted by people who speak their own language and are familiar with their culture.

Provincial associations work closely with VSCPD to address the issues and concerns identified by staff and volunteers of the victim service programs. The Ending Violence Association of BC (EVA BC) works to coordinate and support the work of anti-violence programs in British Columbia by:

- Providing issue-based consultation and analysis
- Providing support and training
- Undertaking research
- Developing and distributing resources and tools
- Educating the public and government bodies on the needs of survivors of power-based crimes
- Developing and maintaining service standards
- Fostering cross-sectoral coordination and collaboration.

EVA BC member programs include community-based victim services programs, Stopping the Violence Counselling programs, Stopping the Violence outreach programs, multicultural outreach programs and Sexual Assault/Woman Assault Centres.

Police Victim Services of British Columbia assists and supports frontline police-based victim services programs. Members include victim services program managers, staff and volunteers who work within police agencies or detachments across the province.

2. VictimLINK (1-800-563-0808)

VictimLINK is a 24-hour, toll-free, multilingual, province-wide telephone service that provides support and information to all victims of crime across BC and the Yukon. VictimLINK provides information and referral services and immediate crisis support to survivors of sexual violence.

All VictimLink BC staff are trained victim service workers and can connect people to a network of community, social, health, justice and government resources. They also provide information on the justice system, relevant federal and provincial legislation and programs, crime prevention, safety planning, protection order registry, and other resources as needed.

3. Victim Safety Unit

Victims have a legal right to information about the status of an offender who has been sentenced to a period of custody in a provincial correctional centre. The Victim Safety Unit (VSU) was established to promote victim safety by providing them with access to offender information.

Survivors who register with the VSU for notification may be provided with ongoing information about the status of an accused or a convicted offender, including whether or not they are currently in provincial jail, when they may get out of provincial jail, what community they may be in, and what conditions the accused or offender may have to follow.

The Victim Safety Unit (VSU) provides a coordinated and enhanced response to victims of crime and protected parties. The mandate of the VSU is to promote victim safety by:

- Working with local victim service programs to ensure that victims are aware of and have access to services for their safety.
- Representing victims' perspectives and concerns at the provincial High Risk Recognizance Advisory Committee (HRRAC).
- Administering the Victim Travel Fund to provide funds for victim travel for justice-related proceedings in BC.
- Notifying protected parties (victims of criminal offences, including victims of designated High Risk Offenders, and parties protected by civil restraining orders) regarding the provincial custody status of their offenders.
- Working with the BC Vital Statistics Agency and the Vancouver Police Department's Provincial Protective Measures Unit to provide assistance when there are requests for confidential name change.

4. Crime Victim Assistance Program

The Crime Victim Assistance Program is governed by the Crime Victim Assistance Act and its regulations. The program supports survivors who may require financial support and various services to aid in their recovery from the physical and psychological effects of their victimization. The benefits offered through the Crime Victim Assistance Program are intended to help eligible victims and others recover from the effects of violent crime so that they may participate fully and safely in their communities.

In most cases applications must be received within one year of the date the crime occurred. There is an exception for applications from survivors of sexual offences, in which case there is no time limit.

Benefits which may be available to eligible victims include:

- Medical, dental and prescription drugs
- Counselling
- Protective measures such as security or communication equipment, or self defence courses
- Relocation and/or home security expenses
- Replacement of damaged or destroyed eyeglasses, clothing, disability aids
- Income support or lost earning capacity
- Transportation and related expenses
- Maintenance for a child born as a result of a sexual assault.

See Part 5.5 for more information on the Crime Victim Assistance Program.

For more information on the Crime Victim Assistance Program, visit www.gov.bc.ca/crimevictimassistance.

Services supporting a change of name, location, or identity

These services are provided at the federal and provincial levels. The federal government has developed a process for confidential change of identity for women in life-threatening situations (domestic or familial). The process is called Confidential Service for Victims of Abuse (CSVA).

In BC, the Vancouver Police Department's Provincial Protective Measures Unit (PPMU) is the main coordinator for CSVA. The PPMU provides liaison with the Federal CSVA Program in Ottawa and the BC Vital Statistics Confidential Name Change Process, and provides confidential support with victim relocation. The BC Vital Statistics Agency of the Ministry of Health is responsible for managing the confidential name change process. Vital Statistics is responsible for assessing, processing, and restricting access to information on new documentation.

For more information on services and support for both victims and frontline workers available through the Ministry of Justice, visit <http://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/public-safety-solicitor-general>.

2.5 Criminal Justice Policies

Justice system personnel operate within an overarching framework of provincial and federal laws. More detailed, day-to-day practice is guided by policy. In the area of sexual assault, a number of policies come into play. Some of these apply to all parts of the justice system. They are often referred to as umbrella policies. A provincial Violence Against Women in Relationships Policy is one example of an umbrella policy.

Other policies apply only to one arm of the justice system, such as police, Crown counsel or Corrections. They are sometimes called operational policies. The RCMP Violence in Relationships Policy is an example of an operational policy.

As a support worker, it is important to be aware of the types of policies that apply. They will affect key decisions made during the investigation, prosecution and ultimate disposition of the case. If you have questions about a particular decision made in a case, the relevant policy can be used as a guide to understand local practice.

Below is an overview of some the major policies related to sexual assault. Like legislation, policies continue to evolve. It is important to make periodic checks with the relevant Ministries or your local RCMP/police department to find out if the information you have is up to date.

Umbrella Policies

Violence Against Women in Relationships Policy (VAWIR)

In BC, this policy applies to all justice system personnel including Crown Counsel. It deals with violence against women in relationships, including sexual violence from a former or current partner. In 2010, the Ministry of Justice and the Ministry of Children and Family Development updated their collaborative Violence Against Women in Relationships policy. The policy can be found online at <http://www.pssg.gov.bc.ca/victimservices/shareddocs/pubs/vawir.pdf>.

Some key aspects of this policy:

- Acknowledges that police, as first responders, have a key leadership role and critical responsibility in managing issues around keeping victims safe.
- Directs the justice system to emphasize the criminality of violence in relationships and to take necessary measures to protect women and children at risk.
- Requires police, where there are grounds to believe an offence has occurred, to arrest when it is in the public interest.
- Requires police to conduct a complete risk-focused investigation in every case, including cases that may not proceed to prosecution.
- Calls on police to inform victims of any community-based specialized victim services and refer them to those services.
- Recognizes the special needs of women living with disabilities.

- Recognizes the special needs of victims in same-sex relationships.
- Acknowledges that Indigenous women are at greater risk of violence than non-Indigenous women.
- Recognizes that there are additional barriers to immigrant and visible minority women to reporting violence and accessing support services.
- Addresses violence against males in homosexual relationships and against vulnerable males in heterosexual relationships.
- Acknowledges that where abuse occurs, there is usually a power imbalance between the partners.
- Instructs the investigating officer to do a primary aggressor analysis when the parties allege mutual aggression.

Sexual Assault Policy

Provinces and territories are increasingly realizing the need for comprehensive sexual assault policies, actions plans and/or strategies, and beginning to institute them. For example, the province of Ontario launched [**It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment**](#) in March of 2015.

In BC, there is not yet a provincial umbrella policy dealing specifically with sexual assault outside the context of an intimate relationship.

Operational Policies

RCMP Policy

The RCMP Federal Operational Manual provides guidance to members on sexual assault investigations, outlining specific provisions to address the need for sensitivity in dealing with sexual assault survivors. Among the directives:

- Members must receive adequate training in sexual assault investigations, and have continued access to needed resource and training materials.
- Only those members with adequate training should investigate sexual assault complaints.
- Sexual assault complaints are to be investigated promptly, thoroughly and with sensitivity.
- Priority is to be given to the needs of the victim(s), and medical and psychological services should be offered.
- Victims should be referred to Victim Services, where available.
- A sexual assault evidence kit may be completed.
- Responding officers should use appropriate interview techniques and follow established procedures for video and audio recording statements.
- Members should use their judgement when framing questions, to avoid implying judgment of the victim.

- When investigating a crime of a sexual nature with an unknown offender, members must contact the provincial/territorial Sex Offender Registry for a list of known sex offenders in the region.

British Columbia's RCMP "E" Division's Operational Manual also contains policy around Criminal Code Investigations on Sexual Assault. "E" Division's operational policies refer largely to the federal RCMP Operational Manual.

The "E" Division policy directs officers to use special sensitivity when dealing with specific communication needs (e.g., deaf, English as a second language, intellectual disability) and to coordinate with victim services, and to refer all power-based crimes to a community-based victim services program where available.

If a victim does not want to cooperate, there is narrow discretion not to complete an investigation. Members are directed to use specific documentation procedures, and to consider videotaping the victim's statement using the KGB procedure. A KGB statement is a statement that a victim makes to police (sometimes videotaped). It may then be used in court in lieu of her direct testimony provided certain conditions are met. To be admissible, the statement must have been made under oath, solemn affirmation or solemn declaration, after an explicit warning to the witness that making a false statement is a serious criminal offence.

Other provisions direct officers to provide victims their contact information and to keep victims and witnesses apprised of the status of the case. They are also directed to make appropriate referrals, including to transition houses.

The fact that the victim or the suspect was drinking, or a lack of corroborating evidence, cannot be the basis for not completing a full investigation and forwarding a Report to Crown Counsel.

Victim safety should be of primary importance, and consideration should be given to any fears of further victimization expressed by the victim.

"E" Division's Operational Manual also includes the following highlights:

- It informs members that a ten-day Sex Crime Investigators course is available through the Pacific Region Training Centre.
- It directs that all complaints of reported Criminal Code Offences must be investigated according to the Violence in Relationships directive if the victim and offender are in, or have been in, a relationship.
- It allows for third party reporting as a means for a victim of a sexual offence to report the incident to police while remaining anonymous.
- The third part reporting policy specifies that a victim of a sexual offence may attend any community-based victim assistance agency in the province and anonymously complete a Third Party Report providing details of the incident and the assailant.

- The GIS member is to ensure that an operational file is created when a Third Party Report is received.
- The Commander/Delegate is to ensure that a preliminary assessment is conducted for all Third Party Reports and that a criminal investigation is initiated if warranted.

For more information on Third Party Reports, refer to Part 8.1.

Municipal Police Policy

Municipal police in BC are directed to follow the provincial VAWIR policy in cases of sexual violence against women perpetuated by intimate partners. Municipal police may also have individual operational policies dealing specifically with sexual assault cases. For example, the Vancouver Police Department has specific guidelines regarding sexual assault against sex workers and the enforcement of sex work-related laws. Contact your local municipal police department for further information.

Crown Counsel Policy

A number of different Crown policies relate to adult sexual assault cases. These include the following:

Charge Assessment Guidelines (CHA 1) applies to all cases, including sexual assault. The charge assessment policy requires Crown Counsel to examine the case at each stage of the prosecution and decide whether there is a substantial likelihood of conviction and if so, whether prosecution is required in the public interest. This cannot be determined solely by the wishes of the complainant.

Sexual Offenses Against Adults (SEX 1) applies to sexual assault cases and historical sexual offences that occurred during childhood but are reported when the survivor is an adult. The policy instructs Administrative Crown Counsel to ensure that the procedures in their offices provide for:

- Early identification and assignment of the case.
- Assignment to a Crown Counsel who has received specialized training whenever possible.
- Early identification and notice to the victim of accommodations available under sections 486 to 486.31 and 486.7 of the *Criminal Code*.

All cases of violence or abuse of sex workers are treated as serious criminal matters. When a sex worker speaks to a VPD officer or attends a police station in-person alleging violence, an officer should be assigned to investigate. The victim should not be directed to return at another time, or to complete a written statement and return it later. The timeliness of the victim's report (e.g., several days or weeks after the event) does not lessen the severity of the incident and must not affect the police response.

**Vancouver Police Department
Sex Work Enforcement
Guidelines (2013)**

- Vertical prosecution – every effort should be made to have these cases handled by the same Crown Counsel from beginning to end. As long as a positive rapport has developed with the victim, that Crown Counsel should remain with the case until final disposition at trial; and
- Priority in scheduling to ensure that the case moves expeditiously through the criminal justice system.

In addition, the SEX 1 policy includes the following directions to Crown Counsel:

- All victims of sexual offences should be advised of available specialized victim services.
- In cases where charges are not approved, or there is a stay of proceedings or an acquittal, they should consider whether the safety of the victim requires an application for a Section 810 or 810.2 recognizance (peace bond) with supervision conditions.
- Restrictions on the use of alternative measures. Alternative measures can be used only in exceptional circumstances, and only with the approval of Regional or Deputy Regional Crown Counsel. They are not to be considered in cases of aggravated sexual assault, or offences involving the use of a firearm in the commission of an indictable offence for which there is a minimum sentence (including sexual assault with a weapon).
- In cases where there is a significant danger of harm, either psychological or physical, to a victim or witness, and it is reasonable to believe that they would be adversely affected if required to participate in multiple judicial proceedings, they should consider the applicability of the Direct Indictment (DIR 1) policy.
- To seek a warrant whenever necessary to protect the victim, or other potential victims, by seeking a detention order or conditions of release.
- Where an accused has been arrested and then released by the police on a promise to appear or recognizance with conditions, Crown Counsel should review the conditions to ensure that they are adequate to protect the victim and the public and are enforceable, and then, if necessary, request a warrant and an amendment of the conditions under sections 499(4), 503(2.3) or 512 of the Criminal Code.
- Relevant risk factors should be communicated to the court to ensure protection of the public.
- When dealing with victims reluctant to participate in the criminal process, Crown Counsel should attempt to ascertain the reasons for the reluctance to testify and develop strategies to address the reluctance.
- Recognize that a criminal trial is very challenging for a sexual assault complainant, and make known to victims any victim services programs or other agencies which may be able to assist the victim.

- Every victim has the right to request testimonial aids when appearing as a witness. Crown Counsel assigned conduct of the file should identify at the earliest stage in the prosecution, as practicable, witnesses that may require accommodation.
- Every victim has the right to present a Victim Impact Statement to the appropriate authorities in the criminal justice system and to have it considered, through the mechanisms provided by law.
- The abuse of a spouse and abuse by person in a position of trust or authority are aggravating factors on sentencing.
- A breach of a court order is an identified risk factor for re-offending, Crown Counsel should consider laying charges for breaches of bail and probation, and consider applications for revocation of bail and of conditional sentence orders.

The entire Crown Counsel *Sexual Offences Against Adults Policy* can be found online at <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/sex-1-sexual-offences-against-adults.pdf>

Spousal Violence (SPO1)

The Crown Policy defines a spousal violence offence as physical or sexual assault, or the threat of physical or sexual assault, against an intimate partner, defined as a person with whom the offender has, or has had, an ongoing close and personal or intimate relationship, whether or not they are legally married or living together at the time of the assault or threat.

The policy notes that Section 718.2 of the Criminal Code provides that abuse of one's spouse, common law partner or child is an aggravating factor on sentencing.

Sections 13 and 19 of the Canadian Victims Bill of Rights provides that every victim has the right to request testimonial aids when appearing as a witness in proceedings relating to the offence, through the mechanisms provided by law. Crown Counsel should consider whether testimonial accommodations or a publication ban are available under sections 486 to 486.5. See the guidelines in the Branch policy on Sexual Offences (SEX 1).

In specific circumstances, the court can make an order for: the exclusion of the public or the witness to be out of the public view (section 486(1)); a support person (section 486.1); the witness to give testimony from a different room or behind a screen or other device (section 486.2); cross examination by appointed counsel (where the accused is unrepresented) (section 486.3); and, publication ban re victim's identity (sections 486.4 and 486.5).

BC Crown Counsel Spousal Violence Policy (2015)

The Crown Counsel spousal violence policy is available online at <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/spo-1-spousal-violence.pdf>.

Another Crown Counsel policy that may be relevant in cases of sexual assault include Criminal Harassment (CRI 1) (<http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/cr-1-criminal-harassment.pdf>), which establishes guidelines for stalking cases.

The Alberta Justice and Solicitor General Criminal Justice Division has created an excellent handbook for police and Crown, *Best Practices for Investigating and Prosecuting Sexual Assault*. The handbook, a comprehensive compilation of best practices and current information, is available online at https://justice.alberta.ca/programs_services/criminal_pros/documents/sexualassaulthandbook-policecrown.pdf.

Corrections Policy

BC Corrections provides correctional services and programs to people 18 years of age or older who are awaiting trial, serving a jail sentence of less than two years, serving a sentence in the community or being held pending an immigration review. The Community Corrections Branch Policy Manual contains specific sections dealing with sexual offenders. For further information, contact the Ministry of Justice at 604-660-2421, or visit their website at <http://www2.gov.bc.ca/gov/content/justice/criminal-justice/corrections>.

Victim Services Policy

Policy for victim services is included in BC's VAWIR policy. In addition, victim service programs will be guided by the policies of the agencies or police departments/detachments within which they work. Policy and protocols guide information sharing, protection of privacy, referral, and coordination with other victim service programs.

Victim service contracts direct that programs have protocols with other victim services in their community with respect to keeping victims informed about the progress of the case.

Program Standards for Victim Services

All agencies providing community-delivered services under contract with the Province of BC are required to meet specific program and organizational standards. The Ending Violence Association of BC worked with the provincial Ministry of the Attorney General (now the Ministry of Public Safety and Solicitor General) to develop Program Standards to guide programs in delivering consistent, comprehensive and effective services across the province. These Program Standards are available on EVA BC's website at <http://endingviolence.org/wp-content/uploads/2014/06/Community-based-VS-Program-Standards-FINAL-full.pdf>.

Referral Policy for Victim Services

The Ministry of Public Safety and Solicitor General, Victim Services and Crime Prevention Division's Referral Policy for Victims of Power-Based Crimes is intended to ensure that victims of power-based crimes are referred as soon as possible to the appropriate Victim Service Program to receive assistance. The policy is supported in provincial and police force policy, including the provincial government's Violence Against Women In Relationships Policy (VAWIR), the RCMP "E" Division Policy, and municipal police department policies.

"Power-based crimes" refers to violence in relationships (e.g., adult, youth, or child), sexual assault, criminal harassment, child abuse, or family violence.

The policy states that:

- Community-based Victim Service Programs are the contracted primary service providers for victims/survivors of power-based crimes. Police and police-based victim service programs should refer all victims and survivors of power-based crimes to community-based victim service programs in an appropriate and timely manner.
- In cases where the police-based victim service program is the first point of contact with the victim (e.g., at the crime scene), the police-based program will refer the victims/survivors to the community-based victim service program as soon as practicable.
- If there is no community-based victim service program serving the community, police will refer victims/survivors to the police-based victim service program.
- Where there is no police-based or community-based victim service program, victims/survivors should be referred to VictimLINK or other local services.

The policy also requires that communities with both police-based and community-based victim service programs develop and adhere to a local victim service protocol that contains the following provisions:

- a. Regular meetings with other local victim service program(s),
- b. Consistent referral procedures, and
- c. Detailed procedures for handling disputes and grievances.

For more information on the Referral Policy for Victims of Power-Based Crimes, visit <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/victims-of-crime/vs-info-for-professionals/info-resources/power-based-crimes-referral-policy.pdf>.

2.6 Overview of the Support Worker's Role in Sexual Assault Cases

Anti-violence workers, in collaboration with justice, social service and other community partners throughout the province, provide support services to women who have been sexually assaulted. Sexual assault is a serious, violent and under-reported crime; survivors may need support and information in order to come forward for help. Bear in mind that most survivors choose not to report to police, and support workers need to support them in whatever decision they make. It should not be a support worker's goal to have a survivor disclose to the police.

In sexual assault cases, support workers may provide or facilitate a great many services. They may:

- Provide crisis intervention and assess the survivor's safety and immediate needs (medical attention, shelter, childcare, financial assistance...)
- Provide information about reporting options, including third party reports.
- Provide information about medical procedures.
- Provide accompaniment to medical, police and other appointments.
- Assist survivors in identifying their strengths and coping mechanisms.
- Validate the signs of recovery.
- Keep survivors informed of the criminal justice process.
- Provide emotional support and practical assistance throughout the criminal justice process.
- Assist in getting copies of protection and other court orders.
- Assist with forms and applications (Victim Safety Unit registration, Crime Victim Assistance, BC Housing, Victim Impact Statement...).
- Assist with the development of safety plans.
- Prepare survivors for the court experience.
- Provide court orientation and accompaniment
- Refer them to other services that may help them to move through the justice system and to deal with the emotional and physical aftermath of sexual assault.

The role of an anti-violence worker is multi-faceted and continually changing. It is dependent upon and responsive to the particular needs of the survivor, where the individual is in the recovery process, and how each client wants to proceed with services. The worker must be able to support survivors in determining their needs and preferences and addressing them by providing emotional and practical support, information, and referrals to appropriate community resources.

Workers and agencies should also be aware of and actively address barriers to service, so that all survivors may have ready and equal access to the program. Barriers likely to require attention include language differences, illiteracy, sexism, ageism, racism, ableism and other barriers to people with disabilities, homophobia, poverty, lack of childcare and lack of transportation.

Support workers must always keep in mind that their actions should never jeopardize the safety of the survivor or violate confidentiality requirements.

Provision of Information and Assistance

Notification

Larger communities in BC will have a community-based victim service program. All victim service programs are mandated to have written coordination protocols in place for their community. These protocols should provide that community-based victim service programs notify survivors of sexual assault of any pertinent facts relating to charges as they proceed through the criminal justice system from police involvement to court disposition, in liaison with police, Crown Counsel and Court Services.

Justice system related information that must be provided to the survivor includes the status and outcome of the police investigation into the offence, the arrest of an accused, if the accused is released and with what conditions, status of the charges (such as court appearance dates, reasons and outcomes), disposition of the charges, and how to obtain a peace bond if needed. Either the Victim Safety Unit, probation or victim services must advise the survivor of any conditions of bail or probation.

In all cases, it is important to be aware of who has the responsibility for notifying the survivor about the legal status of the case. At some stages, police or a bail supervisor will notify her. At other stages, local protocols dictate who notifies her. For example, from first appearance to sentencing, programs need to rely on local protocols. Survivors have a right to request notification at any point in the process.

Community-based victim service workers can provide survivors with needed support and information about their rights with respect to the Canadian Victims Bill of Rights, the Victims of Crime Act, the Crime Victims Assistance Act, the Criminal Code, the Protection Orders Registry and the Victim Safety Unit. Workers should also act as a liaison between the survivor and police or Crown Counsel to help them monitor the survivor's safety.

Support

Anti-violence workers should provide support, orientation and information throughout the medical, court or other processes. Whenever possible, additional assistance should be given to survivors who require transportation or childcare, have special needs, or have specific concerns such as a fear of seeing the accused in the courtroom.

Referrals

Support workers should be able to give information or referrals to survivors about available counselling services to help them deal with the trauma of the assault (such as Stopping the Violence counsellors), transition houses, low cost housing, financial supports, outreach workers, the guardianship of children, maintenance, the ability to obtain legal counsel, or any other advocacy assistance they may require.

Victim Impact Statements

Depending on their job description, workers may be asked to help the survivor to complete and forward a Victim Impact Statement (VIS) to Crown Counsel. Completing a VIS can be a complex process for a survivor in a sexual assault case. For this reason, it is important to ensure that the survivor can complete it without being under time pressure. If a VIS is not completed, note the reasons on her file. For more information, see Part 5.6.

The Roles of Sexual Assault Service Professionals

Professionals who work in specialized sexual assault services across the province offer a variety of support services to children, youth, and adults who have been sexually assaulted or sexually abused. These professionals are trained to understand the societal myths, beliefs, and attitudes that contribute both to the act of sexual assault by perpetrators as well as to the lack of intervention or support by bystanders, and sometimes those close to the victim.

In addition, these professionals have a thorough knowledge of the short and long term impacts on those victimized by these crimes as well as effective interventions to support the person through the initial trauma, through police and court processes when they are utilized, and toward longer term healing.

***Best Practices for Investigating and Prosecuting Sexual Assault
Alberta Justice and Solicitor General (2013)***

2.7 Coordination in Sexual Assault Cases

A coordinated approach is the most effective way to address survivors' needs for health, safety and security and the needs of an efficient criminal justice system should the survivor choose to report. Violence Against Women Coordination Committees often incorporate sexual assault into their work, and may include representatives from community-based and police-based victim services programs, specialized counselling programs, outreach programs, transition houses, the criminal justice system, Indigenous and immigrant services, child welfare, income assistance, faith groups and the health and education systems.

Local community coordination committees have played a strategic role in coordination initiatives by providing a forum for collaborative problem solving at the community level, helping to identify gaps in policies and programs, identifying priorities for action, and providing a community voice in the analysis of difficult and complex issues. A primary focus is to support implementation of criminal justice policies by creating partnerships among the justice system, community groups, and other social and health-related services.

Many communities have a Sexual Assault Response Team (SART) or a Sexual Assault Nurse Examiner program (SANE). Most SARTs or SANEs focus specifically on coordination of health care and the collection of evidence at the local level. The goal is to reduce trauma for the survivor by ensuring a timely, coordinated, sensitive response by specially trained nurse examiners and anti-violence workers.

The SART or SANE model varies widely across communities. In some communities, SART or SANE teams consist of community-based victim services, sexual assault nurse examiners, and police; police-based victim services may also form part of the team. In other communities, the team consists of a roster of specially trained doctors working with community-based victim services; in other communities, the physician teams work relatively independently. Check with your local community-based victim services or Health Authority to learn more about the sexual assault services available in your community.

Third Party Reporting Protocol

In 2008, a province-wide Third Party Reporting (TPR) Protocol was implemented in British Columbia by EVA BC's CCWS program, in partnership with a provincial Work Team that included the BC Association of Chiefs of Police, RCMP "E" Division, Saanich Police Department, Vancouver Police Department Sex Crimes Unit, and the BC Ministry of Justice (now the Ministry of Public Safety and Solicitor General). Local coordination of the BC protocol is facilitated by community-based victim services programs, in collaboration with RCMP and Municipal Police.

BC's provincial TPR protocol is intended to ensure that every effort is made to encourage reporting of sexual assault to police, particularly in high risk cases or cases involving serial offenders or sexual predators. It also provides an option for adult victims (19 and over) to report details of a sexual offence/assault to police anonymously, through a community-based victim services program. This "Third Party Report" is an option of last resort for survivors who would not otherwise provide information to the police. It is not a substitute for a call to 911, nor is it in and of itself a police investigation.

The intent of the BC TPR protocol is not to circumvent the criminal justice system but to build a bridge, better enabling particularly vulnerable survivors to access the system. The hope is that the existence of the TPR option may encourage vulnerable people to seek the help of a community-based agency and build a relationship of trust with that agency, rather than remaining invisible to and unsupported by any response system. With enough information and the knowledge that she could have support through the entire process, some survivors may choose to make a full report to police.

The process is described in full detail in the EVA BC/CCWS publication *[Third Party Reporting Guidebook: Increasing Reporting Options for Sexual Assault Victims November 2015](http://endingviolence.org/publications/third-party-reporting-guidebook-increasing-reporting-options-for-sexual-assault-victims-november-2015/)*, available on the EVA BC website at <http://endingviolence.org/publications/third-party-reporting-guidebook-increasing-reporting-options-for-sexual-assault-victims-november-2015/>. The Guidebook has been developed to increase the use and effectiveness of Third Party Reporting in BC. It includes Protocol Guidelines as well a template for a local interagency TPR protocol, a sample TPR report cover sheet and a sample TPR report form.

Goals of Coordination for Sexual Assault

In addition to the central goal of coordinated service delivery, sexual assault coordination initiatives typically have the following goals:

- To work towards a shared definition of “safety” for survivors of sexual assault
- To change or recommend changes to structures, systems, procedures and practices to reflect this definition of safety so that sexual assault survivors receive a consistent and sensitive response
- To ensure that all policies, procedures and practices are developed through this lens of coordinated safety.

Benefits of Coordination to Sexual Assault Survivors’ Safety

Community coordination increases women’s safety in the following ways:

- Identifies key players in the community’s safety/anti-violence network.
- Acknowledges the existing work in a community and brings players together, thus breaking isolation and providing support to workers.
- Has the potential to teach players to analyze their practice from the point of view of survivors’ safety.
- Broadens a responder’s perspective of “safety” beyond their professional notion of what it might be.
- Develops “best practices” that include new processes, agreements or protocols for more consistent and supportive responses to sexual assault survivors, and increased offender accountability.

- Analyzes and improves (or make recommendations for improvement of) systemic processes such as information links and flow, policy implementation and legislation.
- Empowers members of a professional community to make substantive changes that will make a difference to assaulted women in their community and, in many cases, in the province.
- Connects work to end violence against women across the province and provides the potential for a unified voice regarding issues affecting assaulted women everywhere (e.g., restorative justice, child protection, etc.).

Written Coordination Procedures

A key to successful coordination is the development of written protocols. A protocol is a formal agreement that records all procedures for providing a service and is signed by all relevant agencies. A written protocol:

- Builds confidence and establishes trust between referring community agencies.
- Enhances cooperation and accountability between programs.
- Identifies and reduces gaps in and duplication of services to survivors.
- Improves inter-agency relations, which in turn enhances the referral process and provides higher quality service to survivors.
- Ensures that all participating organizations are aware of one another's mandates and methods of operation.
- Provides a more cost-effective and efficient service to victims of crime.
- Provides an agreed-upon and consistent process that will be used by agencies when responding to cases.
- Ensures that the complement of services provided by victim service programs is coordinated in the most efficient and effective manner so as to minimize any confusion for the survivor.
- Ensures that victims receive all the information and possible assistance by those agencies that are best equipped to meet their needs.
- Provides a structured process to help resolve misunderstandings or problems between participating agencies.
- Establishes initiatives and implements strategies that will enhance the delivery of services in the region.

Supporting Local and Provincial Coordinated Responses

The Community Coordination for Women's Safety (CCWS) program of EVA BC focuses on supporting cross-sector community coordination across BC. EVA BC has many useful resources about coordination that were developed by the CCWS. These are available on the EVA BE website at <http://www.endingviolence.org>.

PART 3: THE IMPACT OF SEXUAL ASSAULT

3.1 Sexual Assault Responses and Aftermath

This section is designed to provide you, in your role as a support worker, with general knowledge about the impact of sexual assault and needs common to survivors. The section also provides suggestions for any anti-violence worker, counsellor or other support person assisting survivors in the early stages after an assault, and in the later stages of recovery.

As well as the general information in this chapter, you should have on hand referral information about other sources of help in the community. This includes information about Indigenous resources, interpretation and translation services, services for women living with disabilities, services for immigrant and refugee women, and counselling and therapy services including private practitioners experienced in helping survivors of sexual assault.

Each woman copes with sexual assault in a different way based on factors including her culture, her family ties, her support system, her age, her past experiences of abuse and assault – including any previous experiences of disclosure, the response of the people with whom she comes in contact after the assault and, of course, the sexual assault itself.

Responses to sexual assault are as complex as the women who survive them, and there is not one model that can predict what a survivor will experience. There are different theories about the ways an individual is affected by sexual assault and how she moves through the healing. A crucial aspect of your role as a sexual assault support worker is becoming familiar with the variety of responses to sexual assault and being able to convey what a survivor can potentially expect from her longer-term recovery.

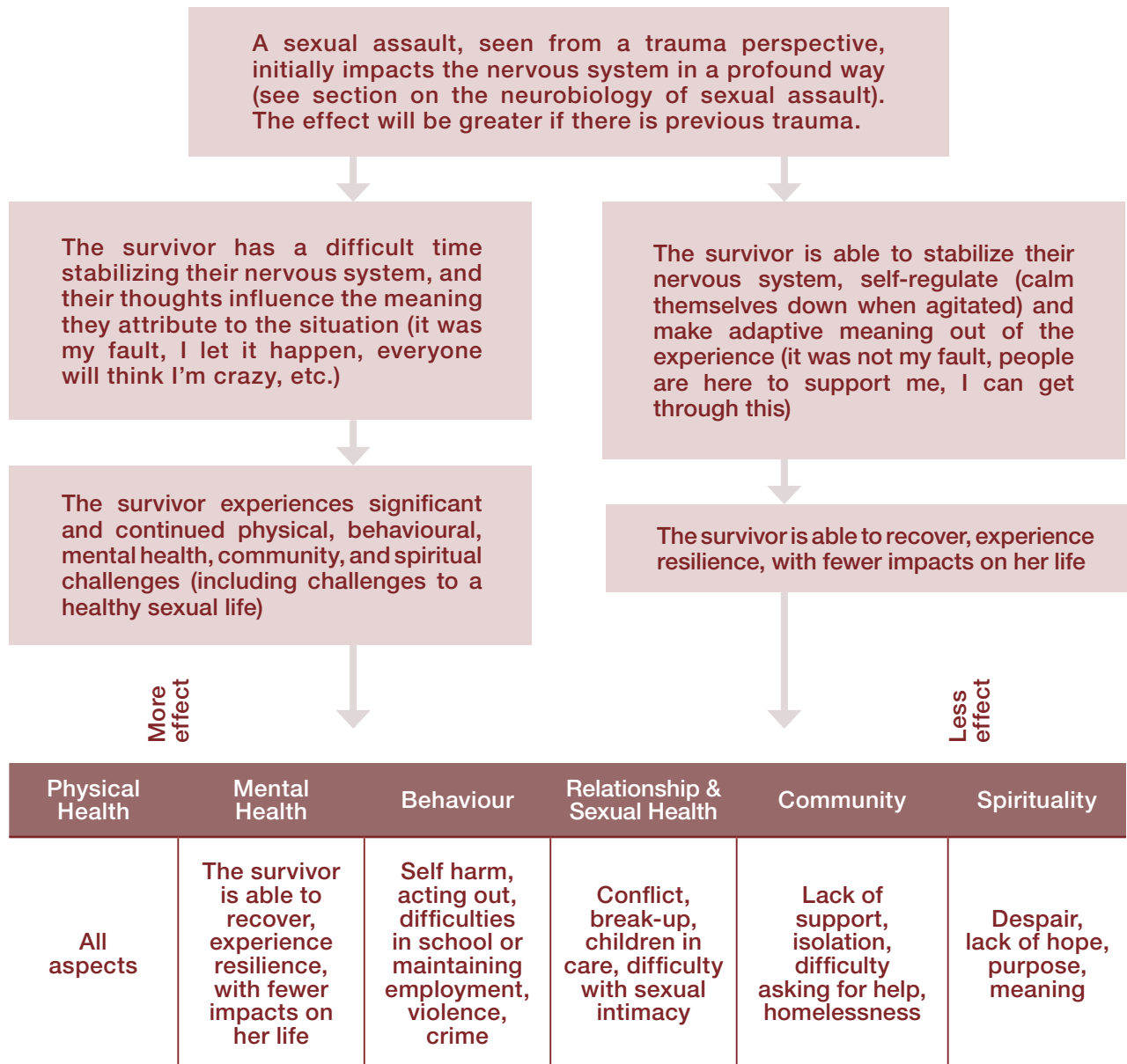
Understanding Sexual Assault From a Trauma-Informed, Strength-Based Perspective

Here are some basics that are helpful in understanding sexual assault responses from a trauma informed, strength-based perspective that honours the capacity for overcoming trauma, and the inherent resilience of survivors.

Recovery from a sexual assault is not a linear process. Individuals may find themselves “back” in earlier phases at different times, and may feel discouraged by what feels like a lack of progress. It is important to normalize and help survivors understand this process in your role as a sexual assault support worker.

The important thing to convey to survivors is that what they feel and how the assault is affecting their life will change over time. Even though it might not happen in a completely forward motion, they will move from the sexual assault being the primary focus of their life, to the assault encompassing less and less space as they move forward in their healing.

The **Trauma Informed Model** offers an understanding of trauma as an adaptive response to a serious external threat, rather than an individual pathology or injury. This is an important distinction, because survivors often feel like there is something “wrong” with them, that there’s a “right” way to heal, and that they are somehow tainted by the experience. These feelings can greatly interfere with the process of healing. A trauma informed models looks at two streams of healing, and the possible consequences of each stream as outlined below:



As you can see from this model, survivors’ first encounters after a sexual assault are critical in helping set them on the path to future stability. Their initial ability to get support, self regulate, and make sense of the event can set them on a path of healing with relatively diminished long-term difficulties.

While initial interventions are crucial, there are also a myriad of the factors that influence a woman's response to and healing from sexual assault:

- Individual personal circumstances and emotional resilience – how much emotional stability and support does she already have?
- Prior history of violence (physical, emotional, sexual) – there is a cumulative effect of trauma on the nervous system
- Individual's relationship to the perpetrator – knowing the perpetrator can add a level of complexity and confusion to a survivor's reaction
- The presence of other people during the sexual assault and whether they construed the event as an assault or as consensual
- The individual's culture, socioeconomic location, and identity location – does she think her family and community will accept her and believe her?
- How safe she feels accessing social supports (often learned from past experience) – Is she living in poverty, involved in the sex trade, or otherwise marginalized? – are there societal, culture, gender norms that the survivor does or does not fit into and which affect her ability to access service?
- The availability of the resources and how welcoming they are to the diversity of needs
- Prevailing dominant culture attitudes about sexual assault and about women in general⁴³.

Another model for understanding a survivor's longer-term response to sexual assault is the previously referred to four phase model developed by Mary Koss and Mary Harvey⁴⁴.

This perspective appreciates each phase as a survivor's attempt to preserve a sense of self and invulnerability in the face of a terrifying and destabilizing traumatic event. As a sexual assault support worker, it is important (to you and to survivors) to keep your attention focused on what you hear survivors doing to keep themselves safe, to preserve a sense of self, to manage what can feel like unmanageable emotions, to start to reconnect with what is important to them.

"For most people, healing is a long process that happens in stages. The healing process is not always linear."

**Sexual Assault Advocacy
& Crisis Line Training Guide
Colorado Coalition Against
Sexual Assault (2011)**

43 Neville, H. A., & Heppner, M. J. (1999). *Contextualizing rape: Reviewing sequelae and proposing a culturally inclusive ecological model of sexual assault recovery*. *Applied & Preventive Psychology*, 8: 41 – 62

44 Koss, M. R., & Harvey, M. R. (1991). *The rape victim: Clinical and community interventions* (2nd ed.). Thousand Oaks, CA: Sage.

Looking for exceptions to their story of themselves (I'm a mess; I'll never get over it.) can be very useful to point out. Where do you see them being strong? Competent? Using creative coping skills? Looking out for themselves?

Sometimes these exceptions are not easy to see. Here are some ways they might appear:

- The body's miraculous attempt to preserve itself during the assault (fight, flight, freeze, including tonic immobility). Freezing may have saved her life.
- The body's attempt to cope with the immediate aftermath (vomiting, shaking, sweating) as the capacity to move the built up energy of fear (See Peter Levine's work⁴⁵).
- Difficulty focusing and making decisions as the psyche's ability to prioritize in time of crisis.
- Negative self talk and meaning (I should have seen it coming; I didn't fight back enough; it's my fault; no one will believe me) as the psyche's attempt to regain a sense of power even at the expense of self blaming and disappointment, and to make sense of a frightening situation.

It is important that you really see these things as strengths so that your reflection of them is heard as genuine. Many of the behaviours that the survivor may be experiencing shame over are in fact adaptive responses to a highly traumatizing, potentially life threatening event. Holding that trauma informed lens for yourself and for the survivor assists her in moving out of shame and self blame into a place of resiliency and appreciation of her strengths.

Specifically, it can be helpful to assist the survivor to identify ways in which she lessened harm to herself during the assault (acted friendly to the assailant, not fighting back against someone who could easily hurt her further, etc.).

It will also help you to experience the situation in a more hopeful way (see section on self care in Part 5.4 for more about this).

The Neurobiology of Sexual Assault

Looking for exceptions to their story of themselves (I'm a mess; I'll never get over it.) This section will outline the way the sympathetic nervous system reacts during a sexual assault, the effect of this reaction on survivors' ability to think and act during the assault, and on their ability to remember the details of it afterwards.

In the face of a traumatic event such as a sexual assault, the sympathetic nervous system (SNS) becomes activated in order to survive. Our bodies are flooded with stress hormones and we experience very real physical manifestations of trauma. It is commonly known as the **Fight/Flight/Freeze Response**, and is hard wired in the brain. It is useful to understand the basics of this response, so that you can pass that understanding on to survivors, and normalize an experience that may feel "crazy" to them. The following is a basic description of the neurobiology of trauma and its effect on memory.

45 Levine, P.A., (2008). *Healing Trauma: A Pioneering Program for Restoring the Wisdom of Your Body*. Boulder, Colorado, Sounds True.

There are three major glands in the body responsible for the trauma response. The hypothalamus and pituitary sit in the brain, and the adrenals sit on top of the kidneys. They form what is called the HPA axis. When a trauma such as a sexual assault occurs, the amygdala (part of the brain that processes emotion) sends a signal to the hypothalamus that activates the HPA axis. The hypothalamus sends a signal to the pituitary, which sends a message down to the adrenals. The message is, “There is a traumatic thing happening to the body. There needs to be a hormonal release to help the body respond to this traumatic event⁴⁶.”

The adrenal glands then secrete the stress hormones necessary to help the body survive. There are four types that serve two primary purposes:

Purpose: Fight or flight:

- Catecholamines – dopamine, norepinephrine, epinephrine (adrenaline) – increase heart rate, blood pressure, and blood glucose levels
- Cortisol – hormone that gives energy

Purpose: Physical and emotional pain management:

- Opiates for physical pain
- Oxytocin for emotional pain – attempt to increase feeling of well being

When the sympathetic nervous system (SNS) is activated in this way, the survivor may notice some or all of the following effects:

- | | |
|--|---|
| <ul style="list-style-type: none">• Accelerated heart and lung function• Dilated pupils• Tunnel vision• Dry mouth• Nausea, diarrhea• Increased blood flow to large muscles and major organs | <ul style="list-style-type: none">• Paling or flushing or alternating between• Loss of hearing• Shaking• Sweating• Dizziness• Constricted blood flow to the thinking part of the brain |
|--|---|

All these hormones and the body’s reaction to them can effect how survivors respond during the sexual assault, including interfering with their ability to fight or flight, sometimes causing them to freeze.

46 Campbell, R. (2012). Office for Victims of Crime Training and Technical Assistance Center. Retrieved from <http://www.ovcttac.gov/saact/module4.cfm>

Tonic Immobility

Tonic immobility (also known as rape induced paralysis) is a response to the flood of hormones that results in survivors actually becoming paralyzed during the assault. This is an involuntary response in which survivors cannot speak or move easily, or at all. It happens in anywhere from 12% to 50% of sexual assault experiences, and is more likely if the survivor has had previous assaults, including childhood trauma.

As is imaginable, tonic immobility can increase feelings of shame and self-blame, and can affect how “believable” survivors are to friends, family, and the legal system. One study of young survivors found that women who reported resisting an attacker were half as likely to experience psychological distress as their counterparts who “froze” and could not resist⁴⁷. It is therefore very important to be able to listen for and normalize this experience, as flooding with hormones was completely out of their control.

Because they had this reaction, they're afraid of how it's going to be perceived by others, so they're very reluctant to seek help. And when they do come for help, it's always there in the back of their mind. They are dreading that question “What did you do?” Because their answer is one that they don't think anybody's going to understand and quite frankly they don't understand, because their answer is “I did nothing. I couldn't do anything. I just laid there.”

Dr. Rebecca Campbell⁴⁸ (2012)

Presentation: The Neurobiology of Sexual Assault

<http://nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>

Counsellors in particular need to provide a simple and concise orientation to the impact of trauma on brain function to sexual assault survivors. It is recommended that counsellors practice explaining these challenging concepts using simple language. This orientation to the neurobiology of trauma needs to be woven into an understanding of her specific response to the assault to heighten its relevance to the survivor. The nature of traumatic memory and trauma responses will be returned to again and again in the counselling process.

The following is a sample script that counsellors may adapt in their own words, tailoring the level of information required and relevancy to the survivor she is talking with:

“May I give you a very brief description of what happens in our brain and our nervous systems when we have been assaulted? The information is in fact relevant to any person who experiences a trauma that caused them to fear for their safety or the safety of a loved one.”

47 Feehan, M., Nada-Raja, S., Martin, J.A., Langley, J.D., (2001) *The prevalence and correlates of psychological distress following physical and sexual assault in a young adult cohort*. Violence Vict. 2001 Feb;16(1):49-63.

48 Campbell, R. (2012). Office for Victims of Crime Training and Technical Assistance Center. Retrieved from <http://www.ovcttac.gov/saact/module4.cfm>

It is important at this point to pause and wait for permission and to check to see if the woman is fully present in the room (not dissociated). In order to help her stay orientated to the coming information, it is recommended that the counsellor use a handout with a simplified diagram of the brain. Numerous ones are available, counsellors may wish to access a handout from Psychology Tools, in particular the one that explains PTSD and memory (see <http://psychology.tools/ptsd-and-memory.html>) or a simplified image of the brain and brain functions such as the one found at <http://image.slidesharecdn.com/traumainchildrendaytx-12607250350641-phpapp02/95/trauma-in-children-20-728.jpg?cb=1260703742>.

The script could continue with, "All of us have an area of the brain called an amygdala whose sole function is to scan our environment for possible danger. Those of us who have had early experiences of a lack of safety have a very sensitized amygdala, which is helpful in order to alert us to the possibility of danger. It can, however, be unhelpful in that it can give false signals of danger, often going off like a very sensitive smoke detector. The amygdala is our brain's smoke detector and its sole function is to send messages to two other areas of our brain that we are in danger.

"The amygdala is right beside another part of our brain called the hippocampus. This is our personal library, where our brain stores autobiographical memory. When the amygdala yells to the hippocampus that we are in danger, the hippocampus responds by riffling through our autobiographical file folders to see if we have anything stored that would confirm we are in danger. If we have had previous experiences that resulted in not being safe, then the hippocampus confirms the danger message and this message is then sent up to the thalamus.

"The amygdala yells to the thalamus that we are in danger, and the thalamus sends hormones throughout the body to provide us with physical protection. These hormones can give us the energy and strength to fight back, or flee, but they may also take over the body and numb it. This numbing response makes it extremely difficult to move, feel or talk but its positive purpose is to minimize any actual physical injury to us.

"The flood of hormones in our body will, however, impact the hippocampus' ability to store the information of what is happening in a coherent memory. A confirmed danger signal and a flood of hormones result in a fragmented and sensory but typically not detailed memory. Our inability to remember aspects of our experience is due to the flood of hormones that the body required to survive.

"Once these three areas of the brain have moved into action, it is really important to know that we are now responding from an automatic, non-thinking, survival place. There is a larger part of the brain, which we call our pre-frontal cortex, which is where our logic, planning, language and more are located. That area of our brain is basically off line while these three areas of the brain are confirming we are in danger and releasing hormones to raise our chances of survival. Once the danger signal is confirmed, we move into an automatic response of either fight, flight or freeze. It is important to know that these responses aren't chosen or logically sorted out, but are automatic and that each one has the function of surviving a threat."

Counsellors need to be aware that most sexual assault survivors struggle significantly with self blame, which is magnified if they experienced the “freeze” response. Understanding the automatic nature of the body’s response and that it’s intent is to minimize physical harm to the body – its function is protective – is invaluable. This is information that the counsellor will return to often in her sessions with the survivor.

For survivors who are struggling with their own shame response for having not spoken back or fought back against their assailant, it is helpful to ask whether they were ever in fear for their life during the assault. Many survivors will report that they were, and the counsellor can then frame their quiet, seemingly passive response as a protective measure. Additionally, it is helpful to examine the impact of shock on the survivor’s immediate cognitive processing of the assault. Helping the survivor to name her internal experience of disbelief, shock, and her inability to process that this was happening to her may assist her in becoming an ally to her own self.

How the body’s response to sexual assault affects memories of the assault

The same hormones (catecholamine, cortisol, opioids, oxytocin) that are released in an attempt to help the body survive the sexual assault also greatly impair the brain’s ability to think clearly, and to encode and consolidate memory.

With ordinary memory, the hippocampus in the brain is the organ that takes in sensory information, organizes it (encoding) and makes sense of it (consolidating) in a linear fashion. During a traumatic event like a sexual assault, information comes in through the amygdala in the brain’s limbic (or old brain) system. The amygdala is responsible for picking up emotionally charged information and it does this in fragments. Remember, it is the organ that starts the hormonal process by sending information to the hypothalamus in the HPA axis.

Information that comes in this way is fragmented because the hippocampus and the amygdala are very sensitive to hormonal fluctuations. So depending upon what hormones are in the body at the time of encoding and consolidation, it’s going to be easier or harder for the brain to do the work that it needs to do to lay down memory.

While these hormones (catecholamine, cortisol, opioids and oxytocin) are released to protect the body and emotions during an assault they affect how clearly survivors can think during the assault itself, and also negatively affect the laying down of coherent memory in the brain.

These hormones, while meant to protect, impair the circuits in the brain that control rational thought (in the prefrontal cortex). So the body is essentially working at cross-purposes. It is protecting itself with high levels of hormones, while impairing the ability to problem solve and create and file coherent memories.

“So a victim under sort of normal levels of catecholamine – meaning not being victimized – might be able to look at a situation and say, “Oh, well of course the rational, logical thing for me to do is this.” But during an assault, the brain has lost its ability to think logically.”

Dr. Rebecca Campbell⁴⁹ (2012)

Presentation: The Neurobiology of Sexual Assault

<http://nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>

This is important information to convey to survivors if they are feeling shame or anger at themselves, or confusion about why they didn't act in logical ways during the assault. It also helps to explain why their memories may be fragmented and return only slowly and in pieces. It is important to let survivors know that their memories may return with enough time and space, and to help them ask for that from people who are questioning her. An exception to this is where alcohol or drugs were involved, since they impair brain function and memory in the first place. This, of course is more problematic, and if this is the case, care must be taken to not induce blame and to look at how to work with what is there.

Integrated remembering of a sexual assault may also be difficult for women who dissociate easily, which is often the case for women with histories of childhood sexual or physical abuse. It is important not to prioritize remembering, but to normalize gaps in memory and stress that her healing is what is most important.

Jumbled memory is a frustrating and powerless experience for women who wish to experience justice through our criminal justice system, and requires a sensitive and compassionate response. The reality is that too few sexual assault survivors will experience a conviction through the criminal justice system, a reality that has much to do with our rape culture, an overburdened system and the impact of neurobiology on memory.

This knowledge of the nervous system and the brain can be very useful to:

- a) Explain to survivors in simple terms why any and all reactions they had during the assault are normal
- b) Provide a basis to advocate to others working with or supporting the survivor that a lack of coherent memories does not mean they are not telling the truth
- c) Provide a basis to advocate to others working with or supporting the survivor to give survivors lots of time and space to remember the event in a more integrated manner.

49 Ibid

Sexual Arousal During a Sexual Assault

Something that's not often talked about when it comes to sexual violence is that some survivors experience sexual arousal and/or orgasm during an assault. A 2004 article published in the *Journal of Clinical and Forensic Medicine*⁵⁰ reported that survivors reported physical arousal in as many as 21 percent of sexual assaults, despite also experiencing high levels of violence, fear and distress.

This is important information to share with survivors, as those who experienced arousal are often too embarrassed, confused and/or ashamed to bring it up. They need to be reassured that:

- Sexual response to an assault, although not well documented, is not uncommon.
- Fear can correspond with and lead to other forms of arousal, including sexual⁵¹.
- Our sexual organs cannot distinguish between a loving touch and a terrifying and painful sexual assault. Our bodies respond automatically to sexual stimulation. That does not mean that the survivor “enjoyed” or “wanted” the sexual assault.
- Some scientists theorize that lubrication in women during a sexual assault is a protective physical reflexive response that has evolved to protect them from genital injury.
- Some rapists will deliberately attempt to evoke a sexual response. This adds to their sense of power and control, and may lessen any guilt they have over perpetrating.

Quite simply, our bodies respond to sex. And our bodies respond to fear. Our bodies respond. They do so uniquely and often entirely without our permission or intention. Orgasm during rape isn't an example of an expression of pleasure. It's an example of a physical response whether the mind's on board or not, like breathing, sweating, or an adrenaline rush. Therapists commonly use the analogy of tickling. While tickling can be pleasurable, when it is done against someone's wishes it can be a very unpleasant experience. And during that unpleasant experience, amid calls to stop, the one being tickled will continue laughing. They just can't help it.

Jenny Morber
What Science Says
About Arousal During Rape
Popular Science (2013)

Pandora's Project, an American nonprofit organization dedicated to providing information, support, and resources to survivors, has posted an excellent article on women who respond physically to sexual assault at <http://www.pandys.org/articles/arousalandassault.pdf>.

⁵⁰ Levin, R. and van Berlo, W. (2004) *Sexual arousal and orgasm in subjects who experience forced or non-consensual sexual stimulation – a review* *Journal of Clinical Forensic Medicine*, Volume 11, Issue 2, April 2004, Pages 82-88

⁵¹ Ibid

Rape Trauma Syndrome

Survivors of sexual violence suffer physical and emotional trauma during and after a sexual assault, resulting in disruptions to normal physical, emotional, cognitive, and interpersonal behavior known as Rape Trauma Syndrome, a form of post traumatic stress. Rape Trauma Syndrome was initially identified by researchers Ann Burgess and Lynda Holstrom in the 1970s⁵². The process of RTS was elaborated on by Mary Koss and Mary Harvey in 1987.

The Sexual Assault	Immediate Aftermath	Post-Trauma	Long-Term Aftermath
Anticipatory Phase (During the Assault)	Impact Phase	Reconstitution Phase	Resolution Phase
<i>Attempts to preserve sense of invulnerability</i>	<i>Intense Fear</i>	<i>Trying to Regain Sense of Self & Safety</i>	<i>Beginning of Integration</i>
Dissociation Suppression Rationalization Strategies of fighting, coping, avoiding	Physical reactions (vomiting, shaking) Disorganization/confusion Shock/numbness Disbelief Guilt Self-questioning Expressive or somatic reaction	Attending to basic living considerations (changing phone number, etc.) Denial Outward appearance of adjustment Going through the motions Feelings start to resurface with varying degrees of disruption Experiences related to going through the legal system surface	Sexual assault no longer central focus Some behaviours from other stages flare up but less often and less intensely Transition from victim to survivor

Adapted from the [Sexual Assault Advocacy & Crisis Line Training Guide CCASA](#)⁵³ Colorado Coalition Against Sexual Assault (2011).

52 Burgess, A. W. and Holmström, L. (1974). *Rape Trauma Syndrome*. Am J Psychiatry 131 (9): 981–986.

53 K. Moldovan, E. Jemison, & A. Priddy (Eds.) (2011) *Colorado Coalition Against Sexual Assault Manual*. Boulder, Colorado, Chapter 5

1. Anticipatory Phase

The survivor in this phase, prior to and during the sexual assault is starting to think about how to get away, how to minimize injury, or how to talk the attacker out of the attack. She may have remained calm and be able to memorize a lot of details. Or she may have been highly upset, paralyzed, or unable to fight back, and remember little. Remember – a woman’s reaction before and during the assault is adaptive. It is her attempt to survive a terrifying experience.

2. Impact Phase

During and immediately after the assault, the survivor is likely experiencing intense fear, whether she shows it on the outside or not. What you might see is:

- Physical reactions (vomiting, shaking, sweating).
- Disorganized or confused thinking, intense crying, or other indications of intense emotions.
- Previous difficulties such as anxiety reactions, or other mental health challenges, or physical symptoms.
- Shock, numbness, a sense of disbelief and questioning of her own perceptions of the events.
- Physical pain directly from the assault (see below), or indirect somatic responses such as headache, exhaustion, sleeplessness, changes in eating, jumpiness.

Again, all are adaptive ways to cope with a serious and profound breach of personal integrity and safety. The severity of the trauma during this phase may be intensified by:

- What happened during the assault itself – such as the degree of violence, the extent of injuries and the woman’s prior relationship with the assailant.
- The lack of resources available if the woman has a disability and needs special services.
- The lack of culturally sensitive services, or services available in her first language.
- Inappropriate or unhelpful responses of professional helpers, family and friends.
- The circumstances of the survivor’s life prior to the assault, such as previous assaults and the level of support or blame attached to them, the death of someone close, or other crises in important relationships.

Here are some reactions you might witness:

- **Emotional shock:** “I feel so numb. Why am I so calm? Why can’t I cry?”
- **Disbelief:** “Did this really happen to me?”
- **Embarrassment:** “What will people think? I can’t tell my family.”
- **Shame:** “I feel so dirty. My body is disgusting.”
- **Guilt:** “I must have done something to make this happen to me. If only I had...”
- **Powerlessness:** “Will I ever feel in control again?”
- **Disorientation:** “I can’t sit still. I’m having trouble getting through the day. I’m just overwhelmed!”
- **Retriggering:** “I keep having frightening flashbacks.”
- **Denial:** “It was ‘just’ a rape. I’ll get over it.”
- **Fear:** “I’m afraid of so many things. I’m afraid to go out anywhere alone. I’m afraid I’ll never want to be intimate again. I have nightmares that terrify me.”
- **Confusion:** “I don’t know what I’m feeling. I think I’m going crazy.”
- **Anger:** “I want to kill him!”

The woman’s feelings of anger, fear and anxiety may be expressed in crying, sobbing, shaking, restlessness and tenseness, or she may appear calm and composed. Often this controlled response is misinterpreted as evidence that the assault did not really affect the woman, or that it did not even occur. It is important not to interpret a controlled response as evidence that the assault did not really happen or that the events did not affect the woman.

Physical reactions. A survivor's immediate physical reactions may include soreness and bruising to specific areas where she may have been injured (throat, neck, breasts, thighs, arms, legs, or genitals); headaches, fatigue, and sleep disturbances; loss of appetite and nausea; vaginal discharge, infection, and pain associated with gynecological symptoms; and side effects from anti-pregnancy medication and from medication to prevent sexually transmitted infections, such as nausea or temporary disruptions of her menstrual cycle.

It is impossible to overstate the profound disruption that sexual assault can have in a person's life. The aftershocks of sexual assault usually impact survivors on multiple levels and may last years. The recovery process is often difficult and taxing. Secondary responses to a sexual assault such as substance abuse, eating disorders, self injury and dissociation are not unusual and will likely play a role in many of the lives of clients you meet as an advocate.

**Sexual Assault Advocacy & Crisis Line Training Guide (2011)
Colorado Coalition Against Sexual Assault**

disturbances; loss of appetite and nausea; vaginal discharge, infection, and pain associated with gynecological symptoms; and side effects from anti-pregnancy medication and from medication to prevent sexually transmitted infections, such as nausea or temporary disruptions of her menstrual cycle.

In the midst of this emotional upheaval, the woman will also be struggling with decisions about medical care, police involvement, physical safety, and whether to tell anyone, such as her family or friends, about the assault. As a result, she is likely to feel tense and exhausted and may have difficulty concentrating and performing routine tasks.

Your Role as a Support Person

During this phase, it is important to allow the woman to fully experience her emotions. Expressing feelings physiologically by crying or shaking can relieve tension and restore her ability to think rationally and make decisions. Peter A. Levine has written extensively on the ways trauma is stored in the body and how healing from trauma necessitates releasing the stored physiological arousal from the trauma.

Counsellors and support workers can recommend his book, *Healing Trauma*⁵⁴, a resource for survivors that is accompanied by a CD, which provides physical movements intended to assist in discharging stored arousal. Allowing a survivor time and supported space to shake, cry, moan or use other non-verbal expressions supports her in discharging arousal.

Slowing things down and letting her set the emotional tone and talk about the assault in her own way and at her own pace, and following her lead as much as possible, can help counteract her feelings of helplessness. At this point, support her existing defence mechanisms as normal and useful. She may need to talk about the assault in detail, or she may need to act like it wasn't a big deal.

⁵⁴ Levine, P.A., (2008). *Healing Trauma: A Pioneering Program for Restoring the Wisdom of Your Body*. Boulder, Colorado, Sounds True

Counselling a survivor who remains defended against the trauma of the assault can be challenging, as we wish to remain respectful of the defense mechanisms she needs, but are also aware that this minimization or denial will impede her healing from the assault. Maintaining consistent compassion for her pain even if she is not able to show or speak of it, is important modeling of the compassion we would hope she could hold for herself.

Counsellors may gently explore with the survivor her fears around allowing herself to connect with the feelings and thoughts she had during the assault and its aftermath. Providing a framework that her matter of fact approach could be her determined effort to hold onto a sense of herself pre-sexual assault may be beneficial for the survivor to understand her response.

Pay attention to signs that the survivor may be reliving the attack, and her nervous system is activating. This can be re-traumatizing and unhelpful. You can tell this is happening if she keeps repeating the same parts of the story over and over and her symptoms keep increasing as she talks. If she loses eye contact, or appears to be back in a state of flight, flight, or freeze, it is important to help her stay connected to you and in the present moment. Encourage her to keep her eyes open, take deep breaths, and take a break from reliving the events.

As a support person, you must respect the ability of a woman who has been sexually assaulted to deal with the assault. You must demonstrate this respect at all stages of your involvement with her.

You can help a survivor re-establish confidence in her decision-making ability by respecting and reminding her of her ability to deal with the assault, and by working with her to identify what decisions she needs to make at this time, what she needs to do, what she can put off for now, and what steps she needs to take next.

At the beginning of the helping process, when the woman is still in crisis, she will be more open to suggestions and offers of support from you. Although this can be an enormous advantage in terms of ensuring that she receives the help she needs, the woman is also more vulnerable to manipulation and control. It is therefore extremely important that you, as the worker, respect and encourage her autonomy and self-reliance during this period.

It is important that you explain to the woman that the information she gives you may not be confidential if she decides to report. For example, the Crown Counsel and the police have a legal obligation to disclose certain information. Tell her that should there be legal proceedings and if you are subpoenaed to testify in court, you may have to reveal to the court the information she has told you. You also must inform her that if you are given information about a child who may be at risk of abuse, you are required to report the matter to the Ministry for Children and Family Development.

Keep in mind that if you are working with a survivor with an intellectual disability you will need to ensure that she understands what consent and confidentiality mean – do not make assumptions. Always use plain language when explaining the process. You may want to build a relationship with your local Independent Living Centre to better understand the needs of survivors with intellectual disabilities.

3. Reconstitution (Outward Adjustment) Phase

In this phase, survivors are working toward regaining a sense of themselves and their safety in the world. They will start to attend to basic living needs, including practical things they need to do after the assault (medical matters, changing phone number, tasks related to legal system involvement if applicable).

They may be striving to come to terms with the assault and reframe it as something that they can understand. What they can expect in this phase is some combination of:

- **Lifestyle changes.** This may involve general upheaval in their living patterns, such as curtailing normal activities or not going to work or school. They may change their place of residence or their employment in order to avoid being constantly reminded of the assault, and they may change their phone number to give themselves a feeling of safety. They may reach out in new directions for support.
- **Nightmares.** Survivors report two main types of nightmares: flashback dreams of the actual assault in which they wake up screaming or fighting, and mastery dreams (or fantasies) in which they gain power over the assailant or obtain revenge. Both are the psyche's attempt to integrate the experience, and will diminish in time.

For counsellors, a survivor will likely need help in understanding the function of mastery dreams or fantasies as many survivors feel horrified at the violent images and behaviours they see themselves engaging in. A common question survivors ask when they are experiencing mastery dreams or fantasies is whether that makes them like their assailant. Survivors need assistance in understanding that the violence they are imagining or dreaming remains in the realm of imagination and is their subconscious attempt at overcoming the significant level of powerlessness that they felt or continue to feel. It is helpful to reassure a survivor that these dreams or fantasies will reduce in time, particularly as they move towards greater empowerment.

- **Ongoing fears.** Trauma survivors may develop ongoing fears in reaction to the circumstances of the assault. They may be afraid of being alone, of leaving the house, or of people who remind them of the assailant. Previous anxiety challenges such as phobias and obsessive-compulsive behavior can make survivors vulnerable to these reoccurring. They may engage in excessive washing behavior, checking locks, and other activities that speak to the sense of danger they experienced.

Again, these are their best attempts to manage feelings of fear, anxiety and panic to the point that they can continue with the activities of daily life. If these reactions are worrying, the support worker can suggest and help survivors access counselling with a feminist-based trauma counsellor who knows how to work with complex trauma (see the next section on PTSD and complex developmental trauma).

- **Sexual trauma.** Survivors may experience a range of reactions such as physical pain, loss of pleasure or interest in sex, dread of sex or increased sexual activity that she orchestrates. Sexual activity may trigger flashbacks and feelings of vulnerability and disgust. This too may diminish with time, or require more professional help when they are ready.
- **Compound trauma.** Survivors' trauma can be compounded by issues with family, community, social location, poverty, school, work, substance misuse, chronic mental health challenges, and/or lack of support. Support systems that are not welcoming to survivors' cultural, sexual, or gender identity may also intensify the exposure to trauma. It is important to name these challenges as a reality for survivors.

You might also see some reluctance to acknowledge the severity of the sexual assault at this time, and an outward appearance of being “over it”. Survivors may want to “pull away” from the sexual assault experience. They may talk about how it is “behind them”. The acute pain of the initial trauma may have subsided, as they gradually return to their daily activities, and they may no longer wish to focus on the assault.

As this is a common reaction in the impact phase leading to reorganization, it is vitally important for support services (in particular counselling services) to be immediately available to a survivor of a recent sexual assault. She will often present for service during the first days of the impact phase when she is still in a crisis state. As she moves through this phase, some women may choose to withdraw from counselling or support at this time in an effort to forget the experience and move on. Many, not wanting to be reminded of the assault, want criminal charges to be dropped.

Anticipating this withdrawal from service, support workers and counsellors should always offer a survivor information on the rape trauma syndrome as a potential road map of what she might experience in the year to come. Providing the survivor handouts on rape trauma syndrome to be used at her discretion with family and friends may also be a tangible support. Make sure to provide information in alternative formats for survivors with disabilities or who lack English literacy skills.

4. Resolution Phase

This phase takes place unevenly over the years following a sexual assault. The sexual assault is no longer the central focus of the survivor's life. At this stage, deeper healing is possible. As well, the traumatic reactions from previous phases can flare up, although less often and sometimes with less intensity. Survivors may be grappling with the deeper effects of the sexual assault, including humiliation, despair, ongoing fear, feeling hopeless, anger (at individuals, and at society).

All the mitigating factors that are true for the Reconstitution Phase are true for this phase as well. It is useful to appreciate survivors as a whole person who lives within a social, and cultural context, with varying degrees of access to a sense of personal and societal power, as these will all inform how they make meaning of their experience and heal.

Survivors may continue to contact or meet with you during this phase, or they may leave and then return for more support if they realize that they are still in need of services. During this "working-through phase," they may continue to need support to address issues that have arisen from the assault.

It is common for survivors to bounce back to earlier stages of the crisis as they are now able to work through the deeper emotions of the assault, one step removed from its initial impact. They may start to experience longer-term effects such as depression, suicide ideation, difficulties adjusting to regular life, difficulty communicating, especially with an intimate partner.

As they move through this stage, women may mourn the former image of themselves and their environment. If this is the first personal trauma a woman has experienced, she has been forced to give up the belief that she is safe from violation or that others are unquestionably trustworthy. If this is not the first trauma, her beliefs that she is unsafe, and the world untrustworthy have been reinforced.

Additionally, some survivors of previous trauma have adopted "rules" or norms of behavior that they felt would ensure they would never again be victimized. Women who consciously adopted ways to inoculate themselves from future trauma may experience intense anger at themselves and/or the world, and an intense accompanying grief that this protection has seemingly failed them. A sexual assault can raise deep questions regarding their identity, which are grappled with in this resolution stage.

You can help survivors work through and come to terms with the emotional pain associated with the assault by helping them define the impact of the assault on their lives. You can help them identify their own strengths and existing coping mechanisms and draw on their responses to previous stressful situations. This may be the time that survivors seek more in-depth psychotherapy for help with longer-term healing from the assault and its effects, especially in the case of complex trauma.

The support worker can reinforce that survivors are reworking their feelings about the assault from a position of greater strength, and reassure them that this is not a step backward, but a positive and natural part of the healing process.

Termination of Support

At some point, either because services can no longer be offered, or because the survivor is ready, she will end her relationship with you. This is an opportunity to take time to appreciate her strength and resilience, evaluate her progress, and anticipate her future.

As they approach the end of their relationship with the anti-violence worker, survivors may have to address some issues of loss. After sharing so much of themselves with you in your role as support person, survivors may find it difficult to end the helping relationship. They may worry that they will lose the gains they have made when you are no longer available. They may feel abandoned and may express anger towards you. In order to delay the end of this relationship, they may bring up a new set of concerns or emphasize what a difficult time they are having.

It is helpful to provide sufficient time to address the loss of relationship, and to talk about how letting go of a connection often stimulates other losses one has had in life. It is important to remain reflective and non-reactive to the survivor's distress, and focus on her strengths. Reviewing your relationship with each other, naming its meaning and significance and honouring the trust she was able to engender at a vulnerable time in her life is a powerful way to close the relationship. Conversely, some survivors may experience pride and relief that your working relationship is ending, marking a significant milestone in their recovery.

Complex Trauma and Post Traumatic Stress Disorder (PTSD)

Survivors' traumatic responses to sexual assault will be affected by any previous trauma they have experienced, including experiences of racism, poverty, incarceration, human rights violations or war. In particular, childhood, or developmental trauma (physical, sexual, emotional abuse or neglect) may likely have created the need for adaptive responses in survivors. These responses at the time enabled the child to survive the abuse, but in the present may cause difficulty coping.

The adaptive Fight, Flight, Freeze response of adult survivors of sexual assault will often dissipate over time, as they move through the phases of recovery. When an individual is affected by childhood trauma, the sexual assault can activate old coping mechanisms that are more long lasting and potentially problematic. This is often called complex trauma response to indicate the complexity of old trauma overlaid on newer trauma (see Lori Haskell's *First Stage Trauma Treatment: A Guide for Mental Health Professionals Working with Women*⁵⁵).

55 Haskell, L. (2003) *First Stage Trauma Treatment: A Guide for Mental Health Professionals Working with Women*. Toronto, Ont.: Centre For Addiction and Mental Health

Some indications of complex trauma response:

- **Flight response:** urge to flee difficult situations, intense fear response to even the smallest reminder of trauma that does not lessen over time, refusal to talk, continued avoidance of previous relationships and activities.
- **Fight response:** when the survivor suddenly responds aggressively to someone/thing that frightens her.
- **Freeze response:** numbing behaviours (TV, drugs, alcohol, food, video games), or dissociation (unreal feeling, losing conversations or chunks of time), continued inability to make decisions, inability to care for oneself, unable to interact or sustain relationships.

If survivors recognize any of these more entrenched responses as reactions that they know stem from other areas of their life, it can be useful to talk briefly about complex trauma, and suggest a referral to a therapist who is experienced in this kind of work.

Post Traumatic Stress Disorder

With or without complex trauma, some survivors develop ongoing symptoms that interfere with their lives. Post Traumatic Stress Disorder (PTSD) is a psychiatric diagnosis that is often given to survivors of trauma.

PTSD has been recorded in the Diagnostic and Statistical Manual of Mental Disorders, of the American Psychiatric Association (DSM) as an anxiety disorder since the early 1980's (DSM III), and has links to the experiences seen in soldiers returning from war. The latest version of the DSM (V) has made some changes to the diagnosis that takes it out of the list of anxiety disorders, linking it clearly with the experience of trauma itself.

The DSM V has included in the criteria for PTSD, not just exposure to a traumatic event first hand, but repeated or extreme exposure to “aversive details of the traumatic event”. This serves to include first responders (police, paramedics, emergency room personnel, anti-violence workers) and others who work to support survivors of trauma (see Part 5.4 on self care and vicarious traumatic response).

Here is a brief outline of what constitutes a diagnosis of PTSD:

- Symptoms that cause distress or impairment of an individual's social interactions, capacity to work, or other important areas of functioning (not explained by other causes)
- Involves 4 diagnostic clusters:
 1. Re-experiencing (flashbacks, nightmares, etc.)
 2. Avoidance (distressing memories, feelings, reminders)
 3. Negative cognitions and mood (self-blame, estrangement from others, decrease in interest in life)
 4. Arousal (aggressive, reckless, self destructive behaviour, sleep problems, hyper vigilance).

These symptoms must continue for at least a month in order for a diagnosis to be made. While a psychiatric diagnosis can bring with it the stigma of “disorder”, it may seem like a contradiction of the strength-based, contextualized approach to trauma, and may be at odds with your own values around psychiatric diagnosis and intervention. However, it can also be useful for the survivor.

A psychiatric diagnosis can serve a number of important functions for survivors. It can help them see their experiences as serious and something well understood, and that others experience as well. It can let them off the hook if they are continuing to have symptoms related to the trauma, or if these experiences are getting more difficult. It can be helpful in accessing further psychological or medical support. It can be useful when applying for Crime Victim Assistance awards, when requiring workplace accommodations, and in legal proceedings. It provides a “professional” language and credibility that can be of service in helping survivors access resources.

It is important, when using the language of the psychiatric system, to frame PTSD as a cluster of reactions that are the individual’s adaptation to a serious traumatic event.

Only medical professionals can formally diagnose PTSD, so it may be useful for survivors to seek medical or psychological help if they are concerned about ongoing challenges. Sometimes old symptoms reminiscent of PTSD resurface after a sexual assault, sometimes survivors will already have had a diagnosis, and sometimes this will be a completely new concept to them. Your understanding and information can help them decide on appropriate help.

For counsellors who suspect that the sexual assault survivor’s responses fall outside of the range of rape trauma syndrome and more within the framework of PTSD, it is beneficial to introduce this possibility to the survivor. The raising of the possibility of PTSD is done within a lens of understanding her reactions more thoroughly, and assisting her in naming the breadth and depth of her reactions.

Although diagnosis is not within the scope of an anti-violence counsellor, there are numerous PTSD checklists that can be used to assist both the counsellor and survivor in naming her experiences. Using the Impact of Event Scale – Revised⁵⁶ is one such assessment that provides an indication whether PTSD is an issue, but also provides valuable information for the counsellor on the levels of intrusion, avoidance and hyperarousal the survivor is experiencing, allowing the provision of more tailored coping mechanisms for those symptoms.

Additionally, there are two versions of the Trauma Symptom Checklist⁵⁷ devised by Dr. John Briere and Marsha Runtz which are easy to administer and provide a helpful window into the symptoms a survivor may be experiencing.

56 May be accessed at [http://www.atft.org/research/Impact of Event Scale - Revised.htm](http://www.atft.org/research/Impact%20of%20Event%20Scale%20-%20Revised.htm)

57 May be accessed at <http://www.johnbriere.com/tsc.htm>

What Sexual Assault Survivors Need

Research undertaken on empowerment of women who are survivors of violence⁵⁸ identified four pervasive themes describing what women found to be empowering. These were:

1. An integrated approach
2. To be treated as deserving of the best response possible
3. A proactive response
4. A sense that their voices were being heard.

Within these four pervasive themes, three empowerment components were consistently important to survivors: provision of information, timeliness of responses, and being treated with respect.

The following list summarizes what research and experience has taught us about what women survivors of violence need:

Safety. Survivor safety is paramount in cases where women are being sexually assaulted by their partners. Safety planning and ongoing threat assessments of the offender should be undertaken.

Empowerment, including involvement in the decision-making process. Sexual assault is a profoundly disempowering experience, and survivors need to have control of their lives returned to them as much as possible. Survivors' views should be actively solicited, and their comments incorporated in decisions.

Respectful treatment. Validation of survivors' experiences and ability to cope with their lives are crucial aspects of empowering them to keep themselves safe. Maintaining confidentiality is also part of respectful treatment.

Practical, accurate, and comprehensive information. Timely information, presented in easily understood terms, is one of the most basic needs of victims of crime. Survivors need information about the healthcare, justice and other systems that they will have to navigate, the progress of their case through the system, what to expect both in terms of "normal" reactions to being victimized and in terms of a system response, and resources they can access to help keep themselves safe and to get on with their lives.

Timely responses. Timeliness of police response, the charging and court process, and provision of support services and referrals are all crucial to survivors' safety and their successful use of the justice system.

⁵⁸ Russell, M. (2002) *Measures of Empowerment for Women Who Are Victims of Violence and Who Use the Justice System*. Vancouver: Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General.

Advocacy. Survivors may need an advocate if they are not able to access the services they need, or if the system is not working as it should for them.

Culturally appropriate services. Survivors from different cultural backgrounds need services that are not only accessible in terms of language but also sensitive to various cultural pressures and conflicts.

Services that meet their special needs. Indigenous women, women living with disabilities, very young women, older women, street-involved women, LGBTQ2S people, and rural and isolated women all have specific needs that must be addressed. A basic need of all people who have been victimized is sensitivity to their particular circumstances.

A sense of security. As much as possible, survivors of sexual assault need to have their sense of security restored. Workers need to be aware of community resources that can meet this need, such as women's centres, Stopping the Violence Counselling, home security checks and crime prevention programs, and specialized initiatives such as protective cell phone programs.

Closure. It is important to keep the survivor informed of the final case outcome and to debrief with her on the outcome and the process.

Follow-up. It is important for support workers to check in regularly with survivors to see how things are going, to let them know what is happening with the offender and if, when, and under what conditions the offender is being released.

3.2 Impact of Sexual Assault on the Survivor's Family

Sexual assault affects not only the woman who has been assaulted, but also those closest to her, frequently touching on their fears and misconceptions as well. Family members may experience reactions similar to those of the survivor: feelings of anger, helplessness, shock, disbelief, guilt, fear. They may feel angry with themselves or with the woman (“If only I had gone with her!” or “Why did she go there alone?”).

The anger of family members may be directed at the survivor (“Why didn’t you fight more; lock the door; walk with someone?” or “I told you this would happen if you went out with someone who is not from our community.” or “Why didn’t you tell me first?”). Young women in particular may receive anger and blame from family members if the sexual assault happened during an activity that they had participated in without their family’s knowledge. For example, going to a party without the permission of family members and then being sexually assaulted at that party places survivors in a more vulnerable position with their family members since they defied family rules.

It is important for family members to be able to voice these reactions to the sexual assault rather than internalize them. They may need to clarify their feelings and perhaps break down some of their personal misconceptions about sexual assault. Refusal to discuss the sexual assault or pretending that it didn’t happen because of a fear that the assault has brought shame on the family is a reaction that the woman may have to deal with in some communities.

While it is perfectly natural to feel angry, family members may need some assistance in directing anger at the appropriate person – the offender. Sometimes that anger leads family members to want to harm the offender, which is not only illegal and could bring further repercussions onto the family, but can often take power away from the survivor, and leave her feeling more vulnerable to retaliation from the offender, his supporters or her larger peer circle.

Support people can be helpful in these circumstances to validate their anger and assist family members in seeing the longer term repercussions of acting out their anger. People often distance themselves from their own feelings of anger, shock or powerlessness by judging or blaming the woman who has been assaulted. This tendency to blame is reinforced by the widely held misconception that somehow the woman asked or deserved to be assaulted. If family members blame the woman in any way, it will only hinder her recovery.

Family members may feel they need to protect the survivor after the assault. Initially, the woman may ask for this protection and appreciate it. However, family members need to be aware that they may be overprotecting the woman. Making sure she is never alone, always escorted and never out at night can be isolating and stifling for the survivor. She needs to feel that she is working towards normalizing her life, and the family must allow her to do this. The family should be encouraged to decide if their need to protect the woman constantly is in response to her fears or their own.

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- Listen to her
- Believe everything she says
- Support her choices and decisions in every way possible
- Help her find the resources she may need (e.g., therapist, babysitters)
- Help her out at home if she needs some time off from taking care of her family
- Go with her to court to support her and to keep in touch with what is happening in the case
- Recognize their own feelings as separate from hers
- Realize their own limitations in supporting her (taking time out when they need it)
- Acknowledge that whatever she is feeling or experiencing is a normal reaction to an abnormal situation
- Talk to other extended family members about the assault if necessary in order to quell gossip and rumours.

3.3 Impact of Sexual Assault on the Survivor's Partner and Friends

The reactions of family members also apply to the partner and friends of the survivor. In addition, a partner may feel obliged to be patient, supportive and available 24 hours a day. This sense of obligation, particularly in intimate relationships, can lead to feelings of resentment if the disruption arising from the sexual assault continues over a long period of time.

It is often difficult for a partner or friends to witness the pain of the sexually assaulted woman. It can be agonizing for the partner to allow the woman to experience her pain fully without trying to “make it better.” It is, however, essential that both partner and friends give the woman room to experience her pain.

The sexual assault will inevitably introduce changes into the sexual relationships that a woman has. Sexual assault leads to an extremely stressful situation, and woman's partner may find that personal issues are intensified, partially because of the sexual nature of their relationship.

A partner may focus on the sexual nature of the crime more than the violent or dangerous aspects. Occasionally, partners experience feelings of jealousy as a result of the attention and support the survivor receives. The sense of violation that the woman and her partner may feel after the assault may affect their ability to be intimate sexually. A survivor's partner may experience the following reactions to the sexual assault:

Disgust. FZWK may feel that fZWkd partner has been “soiled” and is “unclean” or “damaged” and so is now sexually undesirable. This reaction will interfere with the survivor's ability to regain a feeling of self-worth and will damage the relationship.

Mistrust. Regardless of the survivor's non-compliance with the assault, fZWK may feel that she was deliberately unfaithful and thus reject her, or become sexually coercive with her.

Blame. FZWK may assume she allowed the sexual assault by not putting up enough resistance. This accusation questions her judgment and promotes her self-doubt.

Disinterest. FZWK may feel that she has overreacted to a simple sexual act, leaving her feeling isolated by fZWkd lack of understanding.

Previous problems in the relationship between a woman and her partner, whether in a heterosexual or lesbian relationship, may be magnified and a great deal of additional work may be required to maintain the relationship. The nature of the relationship before the assault will have a significant impact on the partner's ability to cope.

(Adapted from Benson and Maier, *Sexual Assault: Information for Partners and Friends*, Victoria Women's Sexual Assault Centre, 1987.)

3.4 The Three I's of Secondary Victimization

Secondary victims are those people related to the primary victim who are also affected by the crime. These secondary victims represent the informal and unofficial support system for the victim, and often develop the same reactions as those of the primary victim.

Secondary victimization results from inadequate responses to victimization, and often stems from the acts of the criminal justice system, which has historically focused its attention on the offender rather than on the victim or her family.

The Three I's

1. Injustice

- Fear of reprisal
- Lack of information
- Perceived lack of interest by the police, courts and correctional system
- Delays in the court process
- Lack of contact and response from appropriate players in the system
- Loss of income or job.

2. Indignity

- Sexual assault examination
- Police investigation and questioning
- Blame from uninformed persons.

3. Isolation

- Exclusion by family, friends and others who may blame the survivor for the incident
- Exclusion by others because of their own fears, suspicions, insecurities or feelings of vulnerability
- Discomfort of others in talking about the incident with the survivor
- Exclusion by others with the attitude that the incident has made the person or family different in some way.

As an anti-violence worker, you have an important role to play in reducing the impact of secondary victimization. The emotional support you can provide in helping the survivor cope with the primary victimization, and the information you can give about subsequent procedures and referrals, will help to minimize the survivor's feelings of injustice, indignity and isolation.

3.5 Values And Beliefs of the Support Worker

Remember that even an anti-violence worker can fall into the trap of blaming the survivor, especially if efforts to assist her have not been successful and the worker is feeling frustrated. Assaulted women, like all other people, are not perfect. They may be angry and overwhelmed. They may have difficulty concentrating, and be unable to remember appointments or to follow up on referrals. You may find some of them unlikable. It may be tempting at times to believe that a woman's choices are at least partly responsible for the assault.

When subtle or overt blaming of the survivor is surfacing in a support worker, it is important to recognize how this is impacting your provision of service and to examine yourself for the roots of this attitude. We have all been influenced by mainstream socialization, and at times we may find we have absorbed some of this socialization as a means to hold onto some sense that we can be inoculated from threat of assault. As women, we often hold onto beliefs that if we act in certain ways we will remain safe.

Supporting a sexual assault survivor can challenge our belief that we can remain safe from assault, and we may find ourselves blaming her or feeling angry at her in response to our own construction of safety being challenged. At other times our blame or anger at the survivor may be a direct reflection of our own sense of powerlessness to make things better in her life, or to activate a slow to respond system. Recognizing any shifts in our attitude towards the survivor is paramount, staying curious about our reactions, unpacking them and finding support for ourselves will assist in getting us back on track with the survivor.

In order to provide effective assistance and emotional support to sexual assault survivors, you must examine your own values and beliefs. The following is a list of values and beliefs that form the basis for effective work with survivors:

- No behaviour of any woman causes or justifies violence.
No woman ever deserves to be sexually assaulted.
- Women do not ask to be sexual assaulted and do not get pleasure from being sexually assaulted.
- Women remain in violent relationships for a number of reasons.
Social messages are communicated that women are less competent than men to succeed in the workforce, should defer to the dominance of their husbands or boyfriends, and are incomplete without a man.
- Different women experience different demands and expectations within their families and their communities. Your ability to provide effective support depends on your understanding of those demands and expectations, and your respect for each woman's experience.
- Many cultures value interdependence and cooperation among family members above independence and assertiveness. You need to be aware of your own attitudes about these values, and not project your particular values as the solution.

PART 4: DIVERSITY AS A FACTOR IN DISCLOSING SEXUAL ASSAULT, SEEKING SUPPORT AND MAKING CHOICES

4.1 Understanding Privilege

In providing services to women who are survivors of sexual assault, it is important to understand and respect the diversity of cultures and communities that women identify with. Any interaction between you and a client will be enhanced if you are aware of how her views have been shaped by her experience, and how your views have been shaped by your experience.

An important step in this process is to understand how the dominant culture privileges certain groups above others. The term “dominant culture” is used to refer to the culture created by the group that controls key institutions, including politics, religion, education and media. These institutions all play major roles in shaping culture.

“Privilege” is a set of unearned advantages, benefits, assumptions and expectations granted based on membership in a culturally dominant group. The dominant culture in Canada has generally considered white, Christian, heterosexual, able-bodied males as the norm by which to judge all others. This is the group of people that continues to hold the most privilege in Canada – and therefore the most power.

There has been a growing recognition of the many rich, diverse and varied experiences and perspectives that make up Canadian culture. Many values and beliefs are the same across cultures; however, the way in which these values and beliefs are expressed may be culturally determined.

If we are from the dominant culture, we often make assumptions about what women from other cultures believe and value. We need to avoid imposing the beliefs and values of the dominant culture upon all women. We all have a responsibility to ask questions and clarify assumptions before presuming to know how a particular woman will react to a particular situation.

The roots of sexual violence are deeply entrenched in our cultural values. As a result, sexual violence impacts the people who have the least power in our culture more than those from more dominant groups. Women, children, people of color, people with disabilities, people who are gay/lesbian/bisexual, people who are transgender, and people who are from many other historically marginalized groups are more often victimized than men in dominant culture groups.

**California Coalition
Against Sexual Assault
Support for Survivors (1999)**

Women's experiences of abuse and violence will be directly influenced by their experiences of discrimination, oppression and exclusion. As support workers, we are challenged to recognize the impacts of these experiences and create an environment where everyone feels welcome and accepted. In order to proceed with the utmost of respect to women from diverse cultures, we need to be aware of the visible and invisible barriers that women face.

In order to enhance your effectiveness with survivors from all communities in society, you need a better understanding of how your perspective has been influenced by sexism, racism, heterosexism, homophobia, classism, ageism, and ableism, and to be aware that these are intersecting social locations.

In working with women from diverse communities or with unique needs, it is very important to be familiar with appropriate community resources.

4.2 Being Sensitive to Diverse Communities' Unique Needs

Working With Indigenous Women

As in past years, Statistics Canada's 2015 General Social Survey (GSS)⁵⁹ of self-reported criminal victimization in the Canadian provinces confirmed that Indigenous women are at greater risk of sexual violence than non-Indigenous women:

- Indigenous women reported a rate of 155 sexual assaults per 1,000 women in 2014, compared to a rate of 35 per 1,000 for non-Indigenous women.
- Males were perpetrators in 94% of the violent incidents
- 44% of those sexual assaults were committed by a stranger

A 2014 report by the Native Women's Association of Canada also clearly demonstrated that Indigenous youth and women disproportionately experience sexual violence and exploitation, including sex trafficking⁶⁰.

The causes of violence against Indigenous women and girls are varied and complex, and need to be recognized to effectively address the issue. It is well understood that the origin of violence is rooted in the colonization of Indigenous people, traumas experienced in residential schools and government policies that led to Indigenous peoples' loss of control over family and culture. This history has contributed to systemic barriers and negative social, health and economic impacts...

**Federal-Provincial-Territorial
Justice Framework to Address
Violence Against Indigenous
Women and Girls (2016)**

59 Perreault, S. (2015) *Criminal Victimization in Canada, 2014* Retrieved from: <http://www.statcan.gc.ca/daily-quotidien/151123/dq151123a-eng.pdf>

60 Native Women's Association of Canada (2014) *Sexual Exploitation and Trafficking of Aboriginal Women and Girls: Literature Review and Key Informant Interviews* Retrieved from <http://www.canadian/0230.0women.org/sites/canadianwomen.org/files//NWAC Sex Trafficking Literature Review 2.pdf>

The needs of Indigenous women who have been sexually assaulted are the same as those of other women: to be heard, to be believed, to be respected and to be safe.

It's important to remember the wide diversity of Indigenous peoples – there are over 600 distinct First Nations, Inuit and Metis communities in Canada. In BC, there are more than 232 First Nation communities with their own distinct cultural practices, and 69 different Nation Groups with 11 distinct language groups. Across Canada there are over 100 First Nations languages. Many Indigenous people report that they continue to experience the effects of discrimination and racism, but it is critical to approach each Indigenous survivor as an individual with a unique set of cultural traditions, strengths and practices.

Many Indigenous survivors are wary of accessing mainstream services because they have witnessed and/or experienced discrimination and racism by social and legal institutions. If their assailant is Indigenous, they may be reluctant to report him to a system that has historically discriminated against him – Indigenous men are over-represented in Canadian courts and jails. They may also be reluctant to report their assailant if they are related to him, living in community with him, or if the assailant is related to individuals who hold power in community (e.g., Chief and Council).

Family may play an important role in providing assistance and support. Strategies and safety planning might involve members of the woman's immediate and extended family and Elders with whom she feels safe.

Some Indigenous women will want to access and use traditional approaches and culturally specific strategies such as healing or sentencing circles as part of their support and healing process, while others may consider that such alternatives minimize the seriousness of the crime that has been committed against them.

Some Indigenous women may feel that an adversarial justice system that does not allow the "victim" a central role in the process is not aligned with the Indigenous concepts of truth, healing, respect and restorative justice, and thus be reluctant to report, and to discuss the sexual assault with a mainstream service provider.

Indigenous women who experience violence may face the following barriers in disclosing sexual assault and accessing help:

- Stereotypical attitudes towards Indigenous people
- The impact of residential schools on Indigenous communities
- Distrust of "white institutions", including the civil and criminal justice systems
- Family or community denial of the violence

- History of multiple forms of abuse (child sexual abuse, violence against women in relationships, sexual assault)
- Lack of services and support in remote communities
- Lack of access to phone, internet and other forms of communication
- Fear of her children being removed due to high rates of child apprehension in Indigenous communities
- Fear of being isolated or shamed for reporting the abuse
- Lack of confidentiality within the community
- Fear of identifying a biological parent due to violence and/or potential custody issues. This leaves the child involved without status under the Indian Act, reducing the services and programs available to her/him. If an assailant is the biological father and his identity is not disclosed at birth, the government makes the automatic assumption that the child is non-Indigenous, and thereby not eligible for status.
- If an assailant is named on a birth certificate, then the assailant's community has access to custody rights of the child. This creates an unsafe emotional environment for the mother, who may need to face the community or assailant's family in court regarding violence that may become embedded within a child custody and family law scenario instead of viewed as a criminal act.
- Barriers to accessing education include living off reserve in order to access services for herself or her children. This isolation from community may cut her off from her support network.

Working With Indigenous Women in Communities

Supporting an Indigenous woman who lives in community (on reserve) presents some unique challenges in terms of access to services, disclosing a sexual assault, and safety. Some of these challenges would be shared with any survivor of sexual assault who lives in a rural or remote community, and some are unique to Indigenous community.

As already stated in this manual, Indigenous women experience sexual assault at higher levels than women from more privileged groups, and are more often assaulted by strangers. Rates of violence against women within Indigenous community, including sexual violence, are startlingly high – evidence of the effects of poverty, lack of economic opportunities, lack of self governance within a Nation, and the lasting effects of colonialization and residential schools.

The Ontario Native Women's Association reported in their 1989 study of Indigenous women living on reserves that 80% had been abused or assaulted⁶¹. Reflecting on their communities, Indigenous women reported that in 57% of the situations of family violence they were aware of, the abuse took the form of sexual abuse⁶². Further, 15% of the women reported that they had no access to a telephone, and 31% stated they had no reliable transportation in order to leave the community⁶³. The majority of respondents stated that they wanted and needed help, but very few ever received help from anywhere outside of their families⁶⁴.

If an agency wishes to provide services to Indigenous women in community on an ongoing basis, it is vital to follow the appropriate protocols in order to enter their territory, respectfully and with permission. For example, it is important to seek permission from the elected Chief prior to establishing service within a community. Once permission has been granted by the elected Chief(s), then a meeting with an Elder and the Hereditary Chief should be sought to outline intentions and pay respects. This creates a relationship and builds trust that will be helpful for further successful service provision.

All Indigenous communities have had recent and painful experiences of their children being taken from their communities into residential schools or off-reserve foster care. Some communities are still dealing with the effects of substandard health care through the establishment of Indian Hospitals. Given this recent history (residential schools operated into the 1990s, with the last federally run facility, the Gordon Residential School in Saskatchewan, closing in 1996), distrust of outside professionals is warranted. Learning the Clan or House system of the community your agency wishes to serve, meeting with Chief and council, and seeking permission to participate in community events and ceremony (where appropriate) are all important steps in establishing that trust and offering informed service.

As already acknowledged, Indigenous cultures vary significantly, and this reality extends to each reserve community. Some communities are self-governing with established Treaty, have control over their own natural resources, are the providers of social and health services, and have their own business enterprises. Others are dependent on the Department of Indian Affairs and have levels of extreme poverty. Indigenous community may be situated within an urban setting or exist many kilometres removed from a mainstream community, with or without roads that link them to the mainstream community.

61 Ontario Native Women's Association (1989). *Breaking Free: A Proposal for Change to Aboriginal Family Violence*. Thunder Bay: Ontario Native Women's Association. Retrieved from <http://www.oaith.ca/assets/files/Publications/Breaking-Free-Report.pdf>

62 Ibid

63 Ibid

64 Ibid

Access to support services is a primary challenge when an Indigenous woman who is living in community needs our help. Having access to a telephone, having privacy to make that call, and having transportation to connect with our services should never be assumed, especially in rural, remote or “fly in” only Indigenous communities where there is no public transportation.

Offering outreach service (if an agency is equipped to do so) presents numerous challenges to privacy for the survivor. Determining a safe environment from which to offer service in a location that a community member can access without losing their privacy and confidentiality is a significant concern. Often space may be available through a band office or health services office, but support workers need to be aware that these spaces are staffed by community members, all of whom will be known to the survivor you are wanting to support. It is imperative to ask the woman where she wishes to connect with you, and what would be a proper meeting space. An unknown car arriving at her home will be noticed by other community members and remarked on or discussed later. Neutral places such as the community store/gas station or recreation centre may be her preferred place to be picked up.

Given that telephone access may be through another party or sporadic depending on paid minutes, it is important to establish appropriate and safe ways for future communication during your first contact with an Indigenous woman living in community.

Reporting a sexual assault by a community member, Elder or person in authority (Chief or council member) is fraught with additional concerns of safety and retribution. It is vital to listen to the survivor’s safety concerns and to honour her concerns regarding possible repercussions if her disclosure of sexual violence was to become known in her community.

Lateral violence in Indigenous communities has been the subject of ongoing analysis, commentary and community-based interventions by Indigenous educators and activists. Lateral violence in community is a form of bullying that stems from the abuse of power within colonial attitudes and practices and the structures within residential school⁶⁵. Some of the behavioural practices of lateral violence include not respecting privacy, rumour mongering, excluding people, and mobbing or ganging up on a person⁶⁶.

It may also involve online cyberbullying on social media like Facebook and/or Instagram. The introduction of Bill C-31 for Status of Indigenous women also created lateral violence involving who has status and who does not, who lives on reserve, and who has Band registration. All of these stated identities include resources (or not), and so a “scarce resource” mentality can become attached to a community member’s identity, and lateral violence used to maintain position within a community.

65 Native Women’s Association of Canada (2011). *Aboriginal Lateral Violence*. Ottawa: Native Women’s Association of Canada. Retrieved from <http://www.nwac.ca/wp-content/uploads/2015/05/2011-Aboriginal-Lateral-Violence.pdf>

66 Ibid

Similar to mainstream small community, stratification of power and access to resources may depend on one's family name or House/Clan in Indigenous communities. Most Indigenous communities manage their own housing, social benefits, education funds and health benefits. A few manage their own child welfare system. A survivor may be very concerned that if it became known that she was accusing a community member of a crime, she or her family may be deprived of access to any of these benefits. Support workers need to validate these concerns and assist the survivor in identifying peer supports that she feels safe in accessing.

Safety planning within Indigenous community is challenging, as it is in any rural or remote community. The survivor's housing may be inadequate, isolated, and without a phone, and police response may be delayed due to geographical distance. If the perpetrator wishes to keep track of the survivor's activities, it is not difficult for him to monitor the movements of her and/or her vehicle. Additionally, the survivor's housing is often in the assailant's name if he is a community band member. This means she and her children could potentially lose their home.

Living in a community in which everyone knows each other reduces one's privacy and makes it extremely difficult to avoid a perpetrator. If the perpetrator and survivor belong to the same Clan or House, then there are even greater chances of continued contact when participating in ceremony, funerals and other gatherings, as Clan or House members sit together and communally fulfill their responsibilities. It is vital that a support worker be aware of the unique characteristics of the Indigenous communities in her catchment area, and invites the survivor who lives in community to express her concerns regarding her ongoing safety and security.

For counsellors working with Indigenous women, it would be appropriate to inquire whether she is aware of and open to any healing traditions and ceremony that may support her journey to resolution of the violation. If the survivor is open to accessing cultural practices but is not aware of the practices herself or does not have access to an Elder/knowledge keeper that she knows and trusts, it would be beneficial to facilitate that connection, with the survivor's permission. Having this connection arises from engaging in an ongoing process of relationship building with the natural leaders of the community.

Counsellors must be aware of the tendency of non-Indigenous peoples to regard native traditions from a pan-Indian standpoint. It is not appropriate to suggest a well-known Native tradition (e.g., smudging or sweat lodges) if it is not a tradition from the community the survivor belongs to. If a survivor wishes to incorporate a different tradition into her healing rituals, that is entirely her decision, and counsellors should follow her lead.

Across Canada, Indigenous peoples who attended residential school and their family members are entitled to counselling and cultural support through the Indian Residential School Resolution Health Support Program, which is administered by the First Nations Health Authority in BC. Once approved for service, crisis support over the telephone is available 24/7, one on one or group counselling provided by a counsellor approved by the program, or cultural support from an Elder or cultural advisor is available.

Short-term crisis mental health counselling for any Status First Nation person is also available under a separate program. It may be appropriate to discuss these avenues of support with the survivor. More information on supports available in BC can be accessed at <http://www.fnha.ca/benefits>.

Counsellors need to be mindful that not all Indigenous women who live in community have access to Band membership and/or Status and the services attached to Status. This may be an area of sensitivity, as it is attached to the impacts of Residential school and lateral violence around the designation of Bill C-31.

Working With Young Women

As referenced in Part 1 of this manual, young women between the ages of 15 and 24 are particularly vulnerable to sexual assault. For young women attending university or college, the risk of sexual assault increases even more – 15% to 20% of women attending these institutions will be sexually assaulted, and 75% of them will know their perpetrators.

Canadian Centre for Justice Statistics reveal that 44% of young women who are sexually assaulted are assaulted by acquaintances. This grim picture worsens when we consider the high rates of violence (physical, emotional and sexual) in young woman's dating and peer relationships. As discussed in Part 1, four out of five female undergraduates report that they have experienced violence in their dating relationships. One BC study of young women ages 16 to 24, *Girls Speak Out*, revealed that 85% of the women reported experiencing violence and/or abuse in their dating and social relationships⁶⁷. These extremely high incidence rates make it abundantly clear that violence is normalized in young women's lives.

The young women in the *Girls Speak Out* study conveyed that it was difficult for them to recognize assaults as assaults, as they lacked experience with healthy dating patterns, witnessed abuse all around them and often found themselves "sandwiched" between violence at home and in their social relationships.

There are additional dynamics at play that constitute barriers for young women in naming their experiences accurately. As mentioned earlier, Dr. David Lisak's research on perpetrators of sexual violence identified that perpetrators choose women who would be likely victims – women who may be vulnerable, isolated and naive. Perpetrators test their prospective victim's boundaries and groom her for their eventual assault. This selection and grooming process, situated in a societal context of normalization of sexual aggression, exploitation and transgression of young women, makes it difficult for a young woman to trust her gut instincts, name her experiences as assault, and to reach out for help.

67 Armstrong, N., Godard, L. and Abi-Jaoude, A. (2013) *Girls Speak Out: Understanding Violence, Substance Use and Mental Health Support Needs Among Young Women in British Columbia*. Vancouver, B.C. Women's Hospital and Health Centre. Retrieved from http://www.bcwomens.ca/Population-Health-Promotion-Site/Documents/Girls_Speak_OutFinal1.pdf

A survivor may be experiencing significant trauma symptoms following an assault, but wonder what is wrong with her if what she has experienced is normal in the relationships she sees around her. Normalization of violence may also lead to a pervasive feeling of helplessness and hopelessness, resulting in the young woman withdrawing from social and dating relationships as a way of feeling safer.

Although this is a resistance strategy, the self-imposed isolation may extend into all forms of connection and relating, thus making disclosure more unlikely. When working with a young woman survivor, it's beneficial for a support worker or counsellor to ask about her perceptions of social and dating relationships generally, and whether she has had previous experiences of violence or exploitation. Helping her frame her experience as coercive and exploitative of power will be an essential component of your work with her.

There are additional barriers to accessing services for young sexual assault survivors. The Girls Speak Out report stated that young women often thought the existing services were not available to them, but there only for adult women. There may be a heightened concern for under-aged women that they will not be allowed to access support services without their parents' knowledge. According to the Infants Act in BC, adolescent women (12 years of age and over) who have the cognitive ability to determine risks and benefits of a health service and can provide informed consent are entitled to access any health service independently.

The Child, Family and Community Service Act in BC states that only youth who are assessed to be at risk for further sexual abuse or exploitation must be reported to the Ministry of Children and Family Development (MCFD). Clearly any assault by a family member of a minor woman must be reported to MCFD (see Part 1 of this manual for more information on the duty to report). In light of the perception that services are not available to young women independent of their guardians, it is important to circulate accurate information through social media outlets and in public areas where young women gather. It is not effective to provide only the name and contact information of our services – we must also convey that we are relevant to young survivors, and provide some framework defining normalized exploitation as assault.

Further barriers exist for young women whose main sources of support have been through the youth justice system or child protection systems. Young women report that once they “age out” or complete their conditions of a justice order they feel cast out of adult supports that they have relied upon. Young women who have essentially been raised within these systems may be less connected to positive peer supports, and may not have a reliable supportive person to disclose their experiences of sexual violence to. The degree of isolation and lack of positive mentoring that young women who have aged out of either the child protection or youth justice systems experience render them significantly vulnerable to exploitation and abuse.

For younger women, disclosure of sexual assault, accessing services and making choices throughout the healing and justice seeking processes is greatly shaped by their relationship to their parents. Young women whose experiences of sexual assault occurred during activities that were not condoned by their guardians face a myriad of concerns regarding the possibility that their families may discover they have been assaulted.

Young women may fear condemnation from their families for not only being sexually assaulted, but also for having broken the rules of their families and/or for having lied to them. If they have engaged in activities that are not allowed – gone to a party, consumed alcohol or drugs, associated with a forbidden group of people, worn certain styles of clothing, etc. – their self blame may be intensified. It is important for a support worker or counsellor to assure the survivor that no matter what her choices, she did not deserve to be victimized.

The young woman who is regretting that she did not follow her family's rules and is assuming some responsibility for her victimization will benefit from understanding that her self blame is a way to offset the powerlessness she is currently experiencing. If she can identify a behavior that she feels put her at risk, then she can believe that she could have prevented the attack (and can prevent future attacks). This is a way of lessening the helplessness she feels.

Younger women may be apprehensive about their families discovering they have been sexually assaulted for fear of being subjected to more controls and having their independence curtailed. Women may face censure or outright banishment from their families due to their sexual victimization, or from engaging in forbidden activities. They may be concerned for their safety in their own homes if their experiences of sexual assault were to be discovered by family members. Women from some cultures who have been sexually victimized may be considered "sullied" and no longer eligible for marriage, and their victimization a source of disgrace for the whole family. These repercussions place tremendous pressure on a young survivor and will impact her ability to report and to seek support services.

Younger women who lacked sexual experience prior to the assault often experience some unique impacts. A woman who has had minimal or no sexual experience may fear that her experience represents what she can expect from sex. She may be more apt to blame herself, and may have intensified grief that she has lost her sexual innocence in this manner. These possible impacts are best explored and supported within a counselling relationship. Once trust has been established in the counselling relationship, it would be appropriate to ask about her level of sexual experience. In youth culture, it is often assumed that older teenaged women are sexually active, and it is often a closely held secret if women are not. It should not be assumed by the counsellor that the survivor would disclose her sexual status prior to the assault, and a gentle inquiry is warranted.

The counsellor should make herself available to answer questions regarding sex and what the survivor experienced physically during the assault. Explanations of arousal cycles and the impact fear has on arousal is very important. A young survivor may be confused regarding what is normal sex versus coercive sex, depending on what she has witnessed in her peer relationships and what her sex education has been. A woman who has chosen to forestall sexual relationships for the right time or relationship, may have intense grief that this choice has been taken away from her. She may have concerns that her first sexual partner will judge her or see her differently now that she has been sexually assaulted. These concerns will be informed by her religious beliefs and the cultural mores she holds, and will need to be sensitively supported.

As support workers and counsellors, we must be mindful of the possibility of our counter-transference reactions to a young survivor. The age of the survivor may bring forth your safety concerns for other young women in your life. You may experience judgement regarding the “risky” activities or behaviours the woman engaged in, and find yourself irritated that she was not more careful. Speaking in a paternalistic manner or giving advice more frequently than you would to other survivors may indicate that you are experiencing counter-transference.

As with any counter-transference reaction, it is best to seek debriefing with a trusted colleague or supervisor and bring your communication back on track with your client. It may be appropriate to disclose your awareness that you had communicated in ways that may have left her feeling judged or discounted. Young women are used to being directed and lectured by adults, and they will be sensitized to this form of communication and may be waiting for “the lecture”.

Ensure you seek her expertise on her experiences and give her time to form her responses. As with all survivors, it is helpful to ask permission before giving information, and to explore what she already knows about the topic. By inquiring about her knowledge regarding the morning after pill for example, you have the opportunity to correct any misinformation or misperception she may be holding regarding this medication. These communication strategies convey our respect for the young survivor, and make her more likely to continue with our services.

Working With Women Living With Disabilities

There is a shortage of current Canadian statistics on sexual violence against women living with disabilities, but a 1989 study of 245 women conducted by the Disabled Women’s Network (DAWN) found that 40 per cent of women who responded to a questionnaire reported that they had experienced abuse, and 12% had been raped. Less than half of these incidents were reported to police⁶⁸.

68 Ridington, J. (1989) *Beating the Odds: Violence and Women With Disabilities*. DisAbled Women’s Network (DAWN)

According to the DAWN Canada survey:

- Violence and fear of violence are the most critical issues facing women living with disabilities.
- The degree of risk of sexual abuse of persons living with disabilities appears to be at least 150% greater than that for individuals of the same sex and similar age without disabilities.
- Only 20% of the cases of sexual abuse involving people living with disabilities are ever reported to police, community service agencies or other authorities.

Violence against women and girls living with disabilities is not just a subset of gender-based violence; it is an intersection of gender-based and disability-based violence. Sexism and ableism set standards for “woman” and “normal” that exclude, devalue

and marginalize women with disabilities. The confluence of these two factors results in an extremely high risk of sexualized violence. Examples of disability-based violence include restraints; abusive treatment while bathing and dressing; destruction of assistive devices; denial or withholding of services, equipment or medications; and threats of being institutionalized.

Women with disabilities have experienced discrimination, segregation, isolation and high rates of poverty. Historically, women with disabilities have

“Women and girls with disabilities are at a high risk of experiencing gender-based and other forms of violence due to social stereotypes that often serve to reduce their agency by infantilizing, dehumanizing and isolating them, making them vulnerable to various forms of violence, including institutional violence.”

**Stephanie Ortoleva and Hope Lewis
Forgotten Sisters - A Report on
Violence against Women with
Disabilities (2012)**

experienced systemic violence; an example of this is the BC Sexual Sterilization Act of 1933, which was repealed in 1973. Many women with disabilities were subjected to forced sterilization because they were seen as a burden on society and unfit to be parents.

A 2006 American study comparing the rates of instances of sexual and physical assault among women with and without disabilities determined that women living with disabilities were over four times more likely to have experienced a sexual assault⁶⁹. According to the World Health Organization, women living with intellectual disabilities appear to be the most vulnerable⁷⁰.

69 Martin, S. L., Ray, N., Sotres-Alvarez, D., Kupper, L. L., Moracco, K.E., Dickens, P. A., Scandlin, P., and Gizlice, Z. (2006). *Physical and sexual assault of women with disabilities*. *Violence Against Women*, 12, 823-837.

70 Hughes K., Bellis, M.A., Jones L., Wood S., Bates G., Eckley, L., McCoy E., Mikton C., Shakespeare T., Officer, A. (2012) *Prevalence and risk of violence against adults with disabilities: a systematic review and meta-analysis of observational studies*. *Lancet* doi:10.1016/S0410-6736(11)61851-5. Retrieved from http://www.who.int/disabilities/publications/violence_children_lancet.pdf?ua=1

Some disabilities are visible; many are not. Disabilities can be physical, intellectual, or psychological and often are not immediately noticeable, but may impact a woman's ability to understand or retain the information you are giving her, especially if she has an acquired brain injury or intellectual disability. It is important to not make assumptions, be patient, and to allow more time for the process with women with communication disabilities.

Some women living with disabilities have to rely on others to help them with mobility, personal hygiene, eating or other daily tasks. Dependence on other people for basic needs increases the chances that a woman who is living with a disability will experience sexual assault. She may be desensitized to being touched because of regular help with very intimate, personal care and may not realize, or may be confused about, what is or is not appropriate if she is touched sexually.

Women living with disabilities are often abused not only by an intimate partner, but by a family member or caregiver, including social workers, healthcare service providers, and institutional and residential staff. This is due to the fact that women with disabilities live in a range of different types of domestic or housing arrangements, which can include group homes, Home Share, living with family members or intimate partners or living in long-term care facilities. Where and how she is living can increase the targeting and vulnerability to violence. Persons living with disabilities who are in institutions are two to four times more likely to experience sexual abuse than people living with disabilities in the community⁷¹.

Reporting and detection rates are even lower among women living with disabilities than among the general public for a variety of reasons. Canadian researchers Fran Odette and Doris Rajan identified a number of these factors in their 2013 paper, *Violence Against Women with Disabilities and Deaf Women*⁷²:

- Not knowing that what they were experiencing was abuse. People living with disabilities are often seen as “asexual” and provided little or no sex education. For many women, the abuse is the “norm” in their lives.
- Not knowing where to go to seek help and a lack of appropriate services – women living with disabilities may not see themselves represented in services, or they may not know what services are available that can provide support and connection to the community outside of the abusive relationship.
- Not knowing how to leave the abusive relationship.
- The need of the caregiving support that the abuser provides.
- A lack of money or financial support.
- Staff working with women lacked skills, training and knowledge for working with women living with disabilities, and specifically diverse women living with disabilities.
- A lack of respect, compassion, and help from service providers.
- Not being believed, or having the abuse minimized.

71 Ibid

72 Odette, F. and Rajan, D. (2013) *Violence Against Women with Disabilities and Deaf Women: An Overview* Learning Network, Centre for Research and Education on Violence Against Women and Children Retrieved from http://www.vawlearningnetwork.ca/sites/learningtoendabuse.ca.vawlearningnetwork/files/L_B_12.pdf

In *Forgotten Sisters, A Report on Violence Against Women With Disabilities*⁷³, Stephanie Ortoleva and Hope Lewis point out, “Perpetrators may believe assault will not be discovered, or the woman with disabilities’ testimony will not be credible in law enforcement and court systems. Law enforcement and legal agencies may see women and girls with disabilities who require assistive communication or reasonable accommodation in communication as well as women with psycho-social and intellectual disabilities as lacking credibility.”

Even if women do seek help, they often face long waiting lists for services or referrals to inappropriate services. They often have to deal with service providers who lack training to adequately support a woman’s disability needs. While many services are wheelchair accessible, the majority do not have the necessary equipment or adaptations to meet the needs of women who have visual, hearing, developmental, speech-related or psychological disabilities. This limits the options available to women with these disabilities. A broad definition of accessibility is required and includes everything that helps or supports a person with a disability in their daily life to be independent and to participate fully in community.

Working With Women From the Deaf Community

Deaf women may identify being deaf as belonging to a specific culture and speaking a specific language and not as having a disability. If her abuser is also a member of the deaf community, a deaf woman may fear hurting the deaf “family” or culture. If she was sexually assaulted by her partner, she may fear not being able to find a new deaf partner.

The needs of deaf women who have been sexually assaulted include:

- Availability of sign language interpreters for interviews and court appearances
- Access to email and smart phones
- TTY systems to enable them to make and receive phone calls
- Information materials and forms written in plain language
- Referrals to services and programs that have knowledge of deaf culture and experience working with women who live with disabilities.

As with all clients, recognize a deaf woman’s expertise and her ability to advise you of her needs, and take direction from her on how best to meet those needs

Service providers need to be aware that in every community the deaf community is small and usually close-knit, so this needs to be taken into consideration regarding confidentiality when using sign language interpretation services.

VictimLink, a toll-free, confidential, multilingual telephone service available across BC and Yukon 24 hours a day, 7 days a week, is TTY accessible. Call TTY at 604-875-0885. To call collect, call the Telus Relay Service at 711. Clients can also text to 604-836-6381, or email VictimLinkBC@bc211.ca.

73 Ortoleva, S. and Lewis, H. (2012) *Forgotten Sisters- A Report on Violence Against Women with Disabilities: An Overview of its Nature, Scope, Causes and Consequences* Northeastern University School of Law Research Paper. Retrieved from <http://ssrn.com/abstract=2133332>

Working With Lesbian, Gay, Bisexual, Two-Spirit and Queer Survivors

People who are not heterosexual often identify as lesbian, gay, bisexual, two-spirited, or queer, but some people may not identify with any of these terms. “Two-spirit” is an umbrella term traditionally used by Indigenous people to describe individuals who have qualities of, or fulfill the roles of, both genders. The use of the word “queer” as an umbrella term for sexual and gender minorities who are not heterosexual and/or cisgender (their self-identified gender corresponds to the sex they were assigned at birth) is sometimes controversial. It was often used derogatively in the past, but has increasingly been reclaimed as a term of empowerment by the LGBT2SQ community since the late 1980’s. This reclaimed term may not be appropriate when serving an older population, some of whom may find it offensive. Take the lead from your client as to how she identifies and refers to herself. Here, for simplicity and inclusivity, we refer to people who are interested in same-sex relationships or who are gender non-conforming as LGBT2SQ (lesbian, gay, bisexual, transgender, two-spirit, queer).

LGBT2SQ survivors of sexual assault experience the same traumatic effects as heterosexual survivors of sexual assault. However, stereotyping of LGBT2SQ people often creates an atmosphere of disbelief, denial, shame, and minimizing about sexual assault perpetuated against them. Myths about violence in LGBT2SQ relationships can have an added negative effect for those who were sexually assaulted by a partner.

When reporting incidents of sexual assault to a counsellor, police officer or medical personnel, LGBT2SQ people often experience (or fear they will experience) homophobia and biphobia which deny the reality of lesbians’, gay men’s and bisexual people’s lives, and also the seriousness of sexual assault when it happens.

Homophobic and biphobic myths and attitudes include:

- LGBT2SQ people usually have unhealthy relationships and lives – therefore violence is to be expected.
- Women raping women isn’t as serious as men raping women.
- Women aren’t violent – a woman wouldn’t harm another woman.
- You can’t rape someone if you don’t have a penis.
- Men can’t be victims of violence – it’s just an argument.
- All gay men are sexually promiscuous, so this goes with the territory.

Survivors of sexual assault perpetrated by a woman may not necessarily think of using the language of “sexual assault,” “rape” or “sexual abuse” to describe their experience, because they associate the language with male violence against women and/or penetration by a penis.

Limited services exist specifically for sexually assaulted LGBT2SQ people. While most women’s anti-violence programs will provide services to lesbians and bisexual women survivors of sexual assault, there are few specialized services for sexually assaulted trans and two-spirited women, and even fewer for men who are gay, bisexual, queer, and two-spirited.

In disclosing sexual assault and seeking services, some LGBT2SQ people may face a choice between omitting their sexual orientation or coming out, which is a major life decision. “Coming out” is the process of becoming aware of one’s sexual orientation, accepting it, and telling others about it. This is an ongoing process that usually occurs in stages, and may not include telling everybody in all aspects of the LGBT2SQ person’s life. Older people, in particular, may never have “come out” and may find it very difficult to be open about their lives with health, social service, or justice system personnel.

Accessing support services to help deal with sexual assault is more difficult when the survivor faces oppression. They may fear that disclosing will lead others to see LGBT2SQ relationships as dysfunctional, and therefore fuel homophobic stereotypes. They may fear repercussions from the perpetrator – being part of a smaller community means it can be more difficult to avoid him or her or maintain privacy. They may know or have a relationship with the perpetrator, and be concerned that he or she may face mistreatment or discrimination. Survivors of sexual assault within a same-sex relationship may also not speak about the experience for fear of being accused of betraying the LGBT2SQ community.

LGBT2SQ people of colour, low-income LGBT2SQ people and LGBT2SQ people living with disabilities experience additional barriers related to systemic racism, classism, and/or ableism.

Working With Trans Survivors

Studies show that 50% of transgender people experience sexual violence at some point in their lifetime⁷⁴. One of the first tasks in providing services to trans survivors is to understand terms used by the trans community. “Trans”, or transgender, refers to people who break away from society’s basic expectations about sex and gender, including the expectation that everyone is either a man or a woman, that gender is fixed, that gender is rooted in physiological sex, and that our behaviours are linked to gender.

It is important to remember that, like all groups of people, the trans community includes many different people, with a wide range of beliefs and attitudes.

74 Stotzer, R. (2009) Violence against transgender people: A review of United States data. *Aggression and Violent Behavior*, 14, 170-179

There is still a great deal of confusion in society about the difference between sexual orientation and gender identity. Sexual orientation is the pattern of romantic interest in and/or sexual attraction one feels for the same, the opposite or either sex. It is not a choice, and reflects feelings, rather than behaviours. Sexual orientation is often confused with sexual preference – the types of sexual partners and sexual activities one prefers and/or chooses, which can change. For example, a bisexual person, while attracted to both sexes, may prefer one sex over the other.

Gender identity is the internal perception of one's gender, and how one views oneself – man, woman, trans, genderqueer, or genderfluid. Most transgender people identify with the sexual orientation corresponding to their gender. For example, a trans woman who is attracted to women might identify as a lesbian, and a trans man who is attracted to women might identify as a straight man.

Intersex people have physical characteristics of both sexes. Gender identity may be male, female, or a blend of both.

Social justice comedian Sam Killermann's "The Genderbread Person" edugraphic on the following page explains the gender spectrum using continuums. The graphic and a comprehensive list of these and other LGBT2SQ terms and definitions, is available online at <http://itspronouncedmetrosexual.com/2013/01/a-comprehensive-list-of-lgbtq-term-definitions/>.

Vancouver Coastal Health's Transgender Health Information Program also has an excellent glossary online at <http://transhealth.vch.ca/trans-101/glossary>, as does QMunity, BC's Queer Resource Centre, at http://qmunity.ca/wp-content/uploads/2015/03/Queer_Terminology_Web_Version_Sept_2013_Cover_and_pages_.pdf.

People who are visibly or openly trans often experience abuse or abandonment by family, friends, and communities of origin. Many trans people remain closeted out of fear of discrimination and internalized stigma, choosing not to publicly reveal their gender identity.

Trans people may face some of the following barriers to accessing services:

- Emotional barriers, such as their own denial, minimization of the incident, embarrassment, or shame.
- Social factors such as assumptions that they won't be believed, fear of state intervention such as removal of children, or past negative experiences with systems.
- Disproportionately high incidence of depression, poverty, alcohol and drug abuse, suicide, high school dropouts, and street-involvement.
- Fear of being ridiculed by police, a belief that there is nothing police can do to protect them, or fear that if they report a crime to police their trans identity will be made public by the perpetrator or through the legal process.
- Discomfort with using a service that has no history of being open or supportive to trans people, or that does not appear to be inclusive.

Trans survivors of sexual assault often have additional concerns:

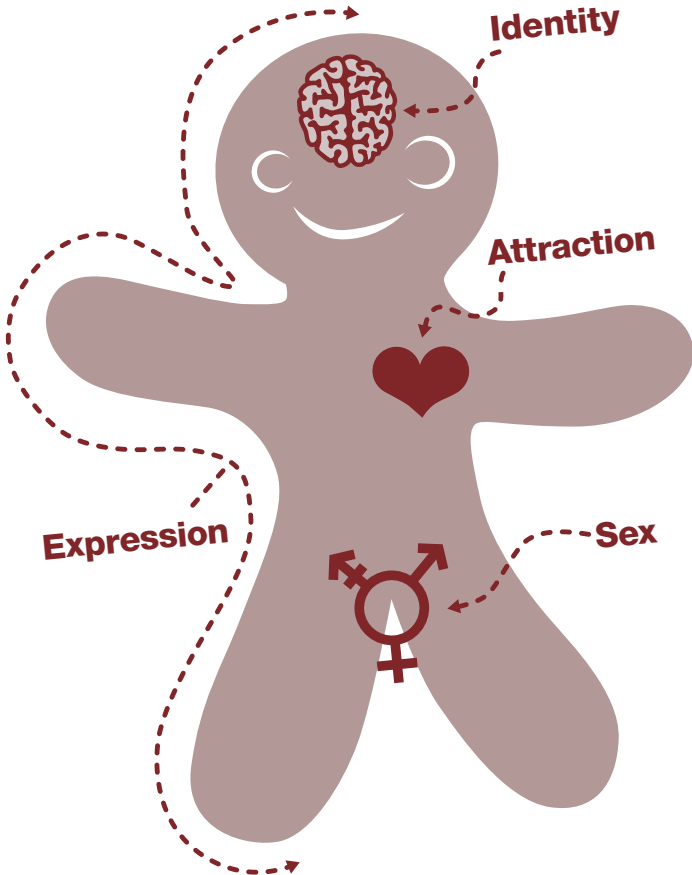
- Describing the sexual violation that took place is painful for all survivors. For someone who is gender variant or has discomfort relating to body parts that were violated, it can be even more traumatic.
- Trans people may be very distressed by having to reveal their genitals for a medical exam or rape kit. If at all possible, a trans survivor of sexual assault should have intensive support available, and be allowed to choose the gender of the person conducting the examination.
- A female-to-male (FTM) trans person who has a uterus and one or more ovaries may be able to conceive. This topic should be discussed with great sensitivity, preferably with assistance from an endocrinologist or other medical professional with experience in hormone treatment.
- Involuntary physiological reactions such as erection, ejaculation or orgasm are not evidence of consent, nor do they indicate that the survivor found the traumatic experience pleasurable. Trans people who experience discomfort or distress because of the mismatch between their biological sex and gender identity may find involuntary reactions such as these particularly confusing and/or distressing.
- One of the enduring myths about sexual assault is that the survivor “asked for it.” This can be particularly agonizing for trans people who were assaulted following disclosure of their gender identity. It can be helpful to remind the survivor that retaining autonomy over decisions of who, when and how to disclose is an important right.

(Excerpted with permission from *Trans People and the Criminal Justice System: A Guide for Criminal Justice System Personnel*⁷⁵, by Joshua Mira Goldberg, for the Women/Trans Dialogue Committee and the Justice Institute of BC, 2003.)

75 Goldberg, M.J. (2003) *Trans People and the Criminal Justice System: A Guide for Criminal Justice System Personnel*. Retrieved from <http://endingviolence.org/wp-content/uploads/2014/03/04crimjustmanual.pdf>

The Genderbread Person v3.3 by *itspronouncedMETROsexual.com*

Gender is one of those things everyone thinks they understand, but most people don't. Like *Inception*, Gender isn't binary. It's not either/or. In many cases it's both/and, a bit of this, a dash of that. This tasty little guide is meant to be an appetizer for gender understanding. It's okay if you're hungry for more. In fact, that's the idea.



Plot a point on both continua in each category to represent your identity. Combine an ingredients to form your Genderbread.

Gender Identity

⊘ Indicates a lack of what's on the right.

→ Woman-ness
 → Man-ness

How you, in your head, define your gender, based on how much you align (or don't align) with what you understand to be the options for gender.

→ "woman"
 → "man"
 → "two-spirit"
 → "genderqueer"

4 (of infinite) possible plot and label combos

Gender Expression

⊘ Indicates a lack of what's on the right.

→ Feminine
 → Masculine

The ways you present gender, through your actions, dress, and demeanor, and how those presentations are interpreted based on gender norms.

→ "butch"
 → "femme"
 → "androgynous"
 → "gender neutral"

Biological Sex

⊘ Indicates a lack of what's on the right.

→ Female-ness
 → Male-ness

The physical sex characteristics you're born with and develop, including genitalia, body shape, voice pitch, body hair, hormones, chromosomes, etc.

→ "male"
 → "female"
 → "intersex"
 → "MTF Fema"

Romantically Attracted to

Nobody { → (Women/Females/Femininity)
 → (Men/Males/Masculinity)

Sexually Attracted to

Nobody { → (Women/Females/Femininity)
 → (Men/Males/Masculinity)

In each grouping, circle all that apply to you and plot a point, depicting the aspects of gender toward which you experience attraction.

For a bigger bite, read more at <http://bit.ly/genderbread>

Working With Members of the Kink or BDSM Community

Individuals whose sexual activity preference is outside of the norm of equal, non-painful, non-fetish sex often adopt the term “kink” to describe and affirm their preference. Individuals who explore the erotic practices of bondage, dominance and submission, sadomasochism and role play typically describe themselves as practicing BDSM. Either term (kink or BDSM) is a broad descriptor for sexual practice and arousal that is outside of “the norm”, and refers to a sense of self identity.

Kinksters refer to kink or BDSM as a community, as there are formal and informal structures that assist in finding play partners, offering safe space to express one’s sexuality, and teaching of the myriad of techniques involved in their erotic expression. Individuals may play solely within a monogamous relationship, or in communal spaces called play parties.

The motto “Safe, Sane and Consensual” is a guiding statement for the kink community that emphasizes that attempts should be made to identify and prevent risks to health of all participants. Activities should be undertaken in a sane and sensible frame of mind (not high on substances), and all activities involve the full consent of all parties involved.

Safeguards are emphasized in recognition of the risk of unintended or undesired harm. Safeguards include monitors for safety or “dungeon monitors” at play parties, having prospective play partners provide references, negotiating all activity prior to contact, and pre-identifying safe words that a submissive may use at any time to bring an immediate halt to the encounter. However the kink or BDSM community is not exempt from attracting individuals who wish to exploit, humiliate and otherwise violate those who are vulnerable.

Although no formalized research exists on the rates of sexual assault within the BDSM community, commentators from within the community suggest that the rates are significant, and that the perpetrators are often leaders in the community – individuals who have power through status, reputation and the ability to offer resources to the community as a whole. Commentary suggests that female and gay submissives are typically targeted.

Debate regarding kink activity and consent has entered into mainstream discourse through the recent sexual assault allegations against Jian Ghomeshi. Ghomeshi’s defense that his violent treatment of the women he was dating was an expression of kink sexuality has been solidly challenged by respected kink-friendly commentators. Dan Savage, journalist, activist and sex advice columnist, tweeted about Jian Ghomeshi, “I oppose the demonization of consensual kinksters. I despise abusers who cover for their crimes by claiming to be consensual kinksters.” Blogger and commentator on kink community Ayako Black wrote, “Savage hit the nail on the head: The problem is not kink itself – it’s confusing kink with abuse, or pretending abuse is kink when it’s clearly not⁷⁶.”

76 Black, A. (2015) Why I Left the BDSM Community, The Daily Dot [online news]. Retrieved from <http://www.dailydot.com/lifestyle/kink-bdsm-consent-problem/>

A survivor of a sexual assault within a kinky or BDSM relationship or play encounter will experience the same impacts as any survivor of sexual assault. There are, however, some unique repercussions for her or him relating to their ability to define her or his experience as sexual assault, and their identity within the kink community. Many sexual assault survivors experience confusion over their experience, and this confusion is often intensified for a submissive who has experienced unwanted sexual contact.

Ayako Black, in her article describing why she left the BDSM community, talks about her experience of rape when she was first involved, and how it took her 15 years to define her experience as rape. Because she had consented to spanking, and she didn't say no when her perpetrator included other violent activity that had not been pre-negotiated, she ignored her feelings and defined it as consensual. Black was a newcomer to the scene and her perpetrator was experienced and twenty years older than her, and she states she had wanted to be a good submissive⁷⁷.

A support worker or counsellor may need to assist the survivor in comparing her or his experience to the guideline of Safe, Sane and Consensual, and carefully unpack with the survivor what she or he did and did not consent to. It is imperative that service providers recognize and put aside any bias or personal aversion they may have at the sexual practices being discussed, and to do their best to not put the survivor in a place of being their educator.

It may be appropriate to discuss with the survivor who they trust to disclose their experience to within the kink community who can assist them in naming their experience from a kink-friendly and informed place. However, support workers and counsellors need to be aware that disclosure of sexual assault within the kink community may feel very risky to the survivor. She or he may legitimately be worried about being ostracized, labeled as problematic, blamed, disbelieved and potentially barred from participating in play events.

Another kink commentator wrote about the responses his friend who was sexually assaulted by a kinkster received from community members, "She should have known what she was getting into when she agreed to play with him." I've heard folks say, 'Well, she should have checked his references (or established a safe call or not played with him in private or any of a dozen other things) and this wouldn't have happened⁷⁸.'" Victim blaming and protection of the more powerful members within the community appears to follow the norms of rape culture within the mainstream community.

Given the misperceptions and strong judgment against BDSM practices from the mainstream community, support workers and counsellors need to understand that a survivor of sexual assault from within the kink community is being very brave to discuss his or her experiences outside of their community. The survivor may need to be reassured that you regard them as a survivor and do not judge or blame them for the violation they experienced.

77 Ibid

78 Veaux, F. (2011) Assault and Consent in the BDSM community [on-line journal]. Retrieved from <http://tacit.livejournal.com/359244.html>

Safety planning for a survivor who wishes to remain active within the BDSM community, particularly in play events, requires specialized knowledge of safeguards in the community. Honouring the expertise of the survivor is important. Inquiring about the possibility of participating only in events where there are safety monitors, checking references, and playing only in public rather than the private areas available at events are some potential steps to helping the survivor enhance safety.

Working With Immigrant and Refugee Women

Every woman is unique – each is a mixture of characteristics and qualities unlike anyone else. It is easy to assume that because a woman comes from a particular cultural group, there are certain behaviours or reactions that you can expect. Your effectiveness depends on your ability to treat each woman as an individual with her own history and personal experiences.

- To build trust, you must first tune in to her personal experiences and find out how her values and beliefs have shaped and influenced them.
- Let each woman tell her story in her own way and in her own time.
- Be open and honest about the limitations of the help and support you can provide. You may be able to assist her to get counselling or report to police, but the woman may be more worried about losing her extended community or her sponsorship.
- Acknowledge your own limitations regarding language and cultural knowledge.
- Offer practical and concrete suggestions that are realistic in terms of the woman's current situation.
- Focus on safety and safety planning to build trust.

Isolation is a factor for all women who experience violence. For immigrant and refugee women, particularly immigrant and refugee women of colour, the isolation is often compounded by language and cultural barriers, racism, distance from friends and families, lack of knowledge about the social service and justice systems, distrust of authorities, fewer resources, and reluctance to speak publicly about intimate subjects such as sexual assault.

Many immigrant and refugee women are affected by changes in status and occupation, culture shock, loss of community, changing family roles, and the process of migration. Immigrant and refugee women will likely have many fears about the consequences of disclosing sexual assault, especially if the offender is a spouse, a family member, or a member of the same cultural community.

Fear of bringing shame to herself, her family, or her community, and fear of isolation and economic hardship, may prevent her from disclosing the assault or seeking help. In some cultures, virginity is such a virtue that if a woman is raped, she is thought to be of less value.

If the offender is her spouse, the threat of sending a woman back to her country of origin gives an abuser a powerful weapon to use against her. If the threat of having her children taken away is added to the mix, her compliance and her fear of reporting her circumstances may become even greater. Even if her residency status is not in question, she may believe that she will not be able to obtain the type of work that will allow her to support herself and her children without him.

The University of Toronto's 2014 Migrant Mother's Project Policy Report⁷⁹ underlines some of the problems faced by women with precarious immigration status: "Because women are more likely to enter Canada as a dependent spouse, or on a 'low-skilled' temporary work visa, immigration policies also place women in vulnerable situations where their sponsor (usually their intimate partner or employer) has control over their immigration status. The threat of detention and deportation poses an additional danger for women, who fear being reported to immigration authorities should they seek help from the police or try to access services."

The *Migrant Mother's Project Policy Report* describes people with precarious immigration status as a diverse group that includes temporary foreign workers, international students, sponsored spouses with conditional permanent residence, people who enter Canada on a visitor visa, people who are awaiting a decision on a refugee claim that they submitted inside Canada; and people who do not have immigration status.

Extended family members may experience divided loyalties or fear that the woman's behaviour will put the rest of the family in jeopardy. For example, traditional families that value arranged marriages may fear that other unmarried children will not be able to find suitable partners, as the whole family will be stigmatized.

Even in families where the actual violence is condemned, seeking assistance from outside the family may not be supported. Many immigrant and refugee women come from cultures where there is a belief that there is no place for the law in such intimate matters or where the legal system is not to be trusted.

Barriers to seeking assistance for an immigrant or refugee woman may include:

- Systemic discrimination and racism
- Social isolation
- Lack of English language skills
- Lack of family support
- Lack of confidential and appropriate translation services
- Fear of the police because of negative experiences with the police or military in their home countries, where the police themselves may commit human rights violations.
- Lack of knowledge about their rights and options
- Lack of immigration status
- Fear of deportation

79 Bhuyan, R., Osbourne, B., Zahraei, S., Tarshis, S. (2014) Unprotected, Unrecognized: Canadian Immigration Policy and Violence Against Women, 2008-2013 Retrieved from <http://www.migrantmothersproject.com/wp-content/uploads/2012/10/MMP-Policy-Report-Final-Nov-14-2014.pdf>

- Lack of English language skills
- Lack of family support
- Lack of confidential and appropriate translation services
- Fear of the police because of negative experiences with the police or military in their home countries, where the police themselves may commit human rights violations.
- Lack of knowledge about their rights and options
- Lack of immigration status
- Fear of deportation
- Lack of knowledge about immigration law
- Lack of accreditation for her educational credentials
- Difficulty in obtaining employment that will maintain her dignity and support her and her children
- Dependency on her sponsor for financial and emotional support
- Lack of childcare services
- Lack of culturally appropriate counselling and support programs

Immediate service needs may include:

- The need to be informed, in clear and simple language, about her rights and the laws about immigration and assault/violence
- The need for a supportive network to offer understanding and caring
- The need for opportunities to discuss and examine her own beliefs about violence and sexual assault and to talk about these issues with people who respect her culture and can communicate with her in her own language
- The need to know that family members can also get help.

Working With Women of Colour

It is important to differentiate between women of colour who were born and/or educated in Canada and immigrant and refugee women of colour who are relatively new to Canada. Don't make the assumption that all women of colour are recent immigrants to Canada.

Many women of colour report experiencing discrimination and racism by social and legal institutions. As a result, they may be wary of accessing services. Many Canadian-born women of colour have also experienced being treated as if they are uneducated, do not speak or understand English or are not familiar with the customs and traditions of the dominant Canadian culture. Years of being treated as “others” make it difficult for some women to come forward and believe that they will be helped by the system.

Working With Women From Faith Communities

For many women from faith communities, spirituality is an important part of life. Practicing their faith creates hope and encourages a belief in transformation. For women in these communities who experience sexual assault, their faith or spirituality may be something constant and predictable that allows them to remain optimistic. For such women, churches, temples, mosques and other faith-based communities may offer valuable support.

Women from faith communities need to feel that their beliefs are valued and respected and that their need for prayer, meditation, reflection, etc. is incorporated into whatever assistance is provided.

Whether women are involved in organized religion or in their own personal quest for spirituality, they will need time to integrate what has happened to them in the secular, material world with their religious/spiritual beliefs. Allowing women to move at their own pace and reach the necessary conclusions on their own and within their own context is critical to their ability to stay safe and to heal.

Working With Older Women

Violence against women is frequently viewed as affecting only women of childbearing and/or childrearing age. Public awareness materials portray survivors as young women, often with dependent children. Sexual assault can and does affect older women, but there are few recent studies or statistics in this area.

According to Statistics Canada, women over the age of 55 are half as likely as younger women to self report sexual assault⁸⁰. One limitation of this data is that the results of the General Social Survey that is the basis for those statistics may exclude those older Canadians who may not have access to a telephone, those living in institutions such as long-term care facilities, and those living in the territories.

A small 2005 Canadian study⁸¹ compared the sexual assault of 61 women between 55 and 87 years with women in age groups of 31 to 54 years and 15 to 30 years. They gathered data on the nature of the sexual assault, the degree of coercion, and injuries sustained from a database of patients treated at a hospital-based Sexual Assault Care Centre.

The researchers found that sexual assault against women in the 55 to 87 age group shared many characteristics with the assaults against the younger groups. Women in the oldest group:

- Were just as likely to be assaulted by an acquaintance as by a stranger.

80 Brennan, S. (2012) Victimization of Older Canadians, 2009 Statistics Canada Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11627-eng.pdf>

81 Del Bove G, Stermac L, Bainbridge D. (2005) Comparisons of sexual assault among older and younger women. *J Elder Abuse Negl.* 2005;17(3):1-18. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/16931466>

- Were just as likely to experience physical violence and restraint as the two younger groups, although sexual assault against younger women was more likely to involve weapons.
- Were just as likely to suffer a sexual assault that included penetration.
- Sustained similar injuries, including bruising and lacerations, but slightly higher rates of vaginal injuries than younger women.
- Were more likely to be assaulted in their own homes, and to be living alone at the time of the attack. However, 15% of the women were living in a group setting, which the researchers suggest could mean a residential or institutional home.
- Older survivors of sexual assault tended to report higher rates of vulnerabilities such as psychiatric and cognitive disabilities than did younger female survivors.

“These findings indicate that sexual assault is not just a young women’s issue,” the researchers concluded.

Older women who are sexually assaulted by a spouse might not think of themselves as survivors of abuse, due in part to generational norms and views of marriage. Remember that prior to 1983, a husband could not be charged with the sexual assault of his wife. The abuse may have started when they were dating, when they were first married, during their first pregnancy or when the children left home, and escalated to include sexual violence. Many grew up in a generation where women stayed with their spouses despite hardships or unhappiness.

Barriers to service include the following:

- Older women may be reluctant to access services that they think are meant for younger women.
- While older women share many of the same challenges that younger women face in seeking help or in dealing with sexual assault, they may be more vulnerable economically than younger women.
- An older woman reporting sexual or other violence by a family member may fear the loss of jointly owned assets that have been accumulated over a lifetime; the loss of health care benefits; difficulty in obtaining pension benefits, finding employment or otherwise replacing lost income; difficulty in receiving medical care and assistance because of chronic health conditions or functional limitations; and transportation problems.
- Older women are not always believed when they speak about their experiences of sexualized and other violence. Sometimes their disclosures are discounted and attributed to confusion or the onset of dementia.
- Some older women may feel that they have coped with the violence for so long, it is not worth making the difficult changes at this point in their lives.
- Some older women may be embarrassed about having put up with the violence for so long, so they minimize or trivialize what is happening to them.

- Older women with physical impairments, deteriorating health or disabilities may be highly dependent on their abuser. Disclosing the sexual abuse may leave them without the supports they need.
- Many older women are uncomfortable with the language used to describe what has happened to them, finding it especially difficult to talk about anything sexual with a younger person. Workers will need to use words to describe the abuse that are consistent with the words used by the particular woman.
- Older immigrant women are often fully dependent on their adult children who sponsored them. There may be little family support if they require medical attention following a sexual assault.

Community Response Networks (CRNs)

Many communities in BC have community response networks. A CRN provides information and help to older people who are being abused and neglected. They provide local protocols for responding to the needs of older women abused in their relationships. CRNs do not replace, but rather incorporate, agencies and processes already in place to address the concerns of older women who are abused. For more information about CRNs, visit <http://www.bccrns.ca/generated/homepage.php>.

Working With Sex Workers

Until very recently, the exchange of sexual services for money in Canada was not criminal, but past and current laws around how you can and cannot conduct sex work have made sex workers more vulnerable to violence, exploitation and criminalization.

In 2007, three Ontario sex worker activists challenged the adult prostitution laws in Canada's Criminal Code, saying they violated the right of sex workers to security of the person. Those laws forced sex workers to work outdoors in dark, isolated and potentially dangerous locations, made it illegal for them to hire drivers or security, and did not allow them time to properly communicate with and screen customers. They also served as a disincentive for sex workers to go to the police when they were hurt or in danger.

Sex Workers are disproportionately impacted by intersecting social and structural inequalities, such as sexism (including transphobia), racism, colonialism, and poverty that undermine their access to social, health, and legal supports. Among other things, we advocate for: affordable housing; access to health and substance use services; child custody and supports; tenant rights; family reunification; and, legal access reforms.

**The Providing Alternative,
Counselling & Education
Society (PACE)**
<http://www.pace-society.org/>

In December of 2013, the Supreme Court of Canada agreed, striking down the provisions of the law that criminalized 1) communicating for the purposes of sex work, 2) operating a “bawdy house”, and 3) living on the avails of sex work as unconstitutional. The Court said, “The prohibitions at issue do not merely impose conditions on how prostitutes operate. They go a critical step further, by imposing dangerous conditions on prostitution; they prevent people engaged in a risky – but legal – activity from taking steps to protect themselves from the risk.”

The Supreme Court gave the then Conservative government one year to introduce new prostitution law that prioritized worker safety. The result was the 2014 Protection of Communities and Exploited Persons Act (PCEPA). The stated intent of the legislation, according to then Minister of Justice and Attorney General Peter MacKay, was to reduce the demand for prostitution, and to discourage entry into and participation in sex work.

The new legislation outlaws the buying, but not the selling, of sex. It criminalizes profiting from the sale of sex, and the third party advertising of sexual services. Many sex workers and their supporters fought against PCEPA, saying the new legislation

does not respect the right to choose sex work as a profession, and does nothing to protect the safety of sex workers – in fact forcing the sex industry further underground.

The overrepresentation of Aboriginal women and girls in sexual exploitation and trafficking in Canada has been explored on repeated occasions through a span of years. However, the identified root causes never seem to change. These are the impact of colonialism on Aboriginal societies, the legacies of the residential schools and their inter-generational effects, family violence, childhood abuse, poverty, homelessness, lack of basic survival necessities, race and gender-based discrimination, lack of education, migration, and substance addictions.

**Native Women's
Association of Canada
Sexual Exploitation and Trafficking of
Aboriginal Women and Girls (2014)**

For example, criminalizing buying sex continues to displace sex workers to isolated areas where clients are less likely to be detected by police. There is pressure on sex workers to negotiate as quickly as possible, limiting their ability to screen their clients and/or agree upon the terms of the transaction. Sex workers continue to be prevented from operating in most indoor spaces, as clients face the potential of being arrested if they are found in those spaces. Traditional screening techniques employed by workers in indoor locations, such as insisting that prospective clients call from an unblocked phone and provide a real

name, are more difficult to enforce as clients fear detection by police.

Under the 2014 Act, a sex worker or third party commits a crime by communicating an offer of sexual services in any “public place” that is, or is next to, a place where people under 18 can reasonably be expected to be, including school grounds, playgrounds and day care centres. It also prohibits stopping a vehicle or impeding the free flow of vehicular or pedestrian traffic to offer sexual services. These prohibitions continue to criminalize street-based sex workers, who are among the most marginalized and at risk in the industry.

The Canadian Bar Association warned the Senate Standing Committee on Legal and Constitutional Affairs that Bill C-36 will also likely be struck down by the Supreme Court of Canada because it endangers sex workers should it be the subject of a new constitutional challenge.

Sex workers come from all walks of life, and enter the sex trade for many different reasons. Like many women, they may have histories of sexual, physical, or emotional abuse and of witnessing dysfunction and/or violence in their homes that causes them to normalize violence in their lives and in their communities.

There are still some who believe that sex workers can't be sexually assaulted, or that sexual assault just "comes with the territory" of the work they do. The fact is that sex workers are often sexually assaulted by clients who refuse to pay for the negotiated services, or who demand services other than those agreed upon, or who refuse to wear a condom even when the worker insists.

Both research and anecdotal evidence tells us that sex workers routinely encounter clients who are verbally, sexually, and physically violent towards them. This is especially true for survival sex workers. Survival sex has been defined as the lack of opportunity to consistently exercise the right to refuse sex work in any circumstances⁸². This lack of opportunity is due to predatory violence, criminalization of negotiation, poverty, abusive relationships and other factors. Those who work on the streets are also more at risk than those who work indoors in private homes, "massage parlours" or as escorts⁸³.

One 2009 study of 251 sex workers in Vancouver, BC discovered an "alarming prevalence of gender-based violence"⁸⁴ – over half of the women had experienced physical and/or sexual violence over an 18-month period, with one-quarter reporting they had been raped.

Sex workers have long been victimized because of the isolated nature of their work. They often have to work in cars, and are often displaced to outlying and industrial areas. Other factors that make sex workers more vulnerable to sexual assault include:

- Sex workers are often devalued by society as a whole.
- They may be considered easy targets by sexual predators, who think that they will not go to the police.
- Indigenous women are highly overrepresented in street-level sex work, and statistics tell us more likely to be violently victimized due in part to systemic racism.
- Some sex workers are struggling with drug and/or alcohol addiction, with few treatment options.
- Some sex workers experience physical and/or mental health issues.
- Some sex workers experience poverty, and may be homeless or living in inadequate housing.

82 Bowen, R., Shannon, E. (Ed.), (2003) *Pathways: Real Options for Women out of Survival Sex* (pp. 2-17). Vancouver: Prostitution Alternatives Counselling and Education Society (PACE)

83 Church, S., Henderson, M., Barnard, M., and Hart, G. (2001) *Violence by clients towards female prostitutes in different work settings*. *BMJ*, 322: 524-25.

84 Shannon, K., Kerr, T., Strathdee, S.A., Shoveller, J., Montaner, J.S., Tyndall, M.W. et al (2009) *Prevalence and structural correlates of gender based violence among a prospective cohort of female sex workers* *BMJ* 339 :b2939

- Young people are particularly vulnerable to sexual exploitation Youth sexual exploitation is the sexual abuse of children and youth under the age of 18 through the exchange of sexual acts for drugs, food, shelter, protection, other basics of life, money, acceptance or love. Sexual exploitation includes involving children and youth in the creation of pornography and sexually explicit websites, online exploitation, sexual assault and sexual interference. Both young women and young men are vulnerable to this kind of sexual exploitation, but it is a crime most commonly perpetrated against young women.

Studies show that a significant number of sexually assaulted women coming to hospital emergency departments are sex workers⁸⁵, and that high percentages of sexually assaulted sex workers never seek help from authorities. Studies also show that sexual assault of sex workers is more likely to involve physical violence requiring hospitalization, and more likely to involve more than one assailant. Sex workers who work indoors, such as out of their homes or a massage parlour, are less at risk than those who work on the streets.

Service barriers for sex trade workers include:

- Mistrust of police, or feeling that reporting a sexual assault would be pointless or dangerous
- Feeling that sexual assault is part of the risk of the sex trade and therefore that they are to blame
- Feeling judged or that people will try to persuade them to leave the street (you should only encourage sex workers to exit the work if they specifically say that is what they want to do)
- Fearing they will be charged for a prostitution-related offence, drugs, or outstanding warrants
- They may have had negative experiences with the police and court systems
- They may be aware that sexual assaults are difficult to prove in court, and fear their credibility will be questioned
- Lack of confidence in support systems
- Fear of being labelled a “rat” by peers
- Pressure to divulge too much personal information
- Being constantly watched or tightly controlled by someone exploiting them, including a trafficker.

⁸⁵ Du Mont, J., McGregor, M.J. (2004) *Sexual assault in the lives of urban sex workers: a descriptive and comparative analysis*. Women Health 2004;39(3):79-96.

Support workers need to be aware that they may be considered part of “the system” and therefore mistrusted. Some work may need be done in your community to develop protocols to encourage sex workers to come forward for support. You may want to engage in sensitivity training conducted by experienced facilitators and work together with local police, Crown Counsel, hospitals, clinics, and community-based services to initiate this work.

Working With Men

As mentioned in Part 1 of this manual, 12 percent of the sexual assaults reported to the police in 2010 involved child and adult males⁸⁶. In nearly half of the police reported sexual assaults against men in 2008, the perpetrator was someone they knew. Rates of sexual assault increase for college age survivors and for gay/bisexual survivors. US Studies suggest that between 16% to 22% of college-aged males report some form of sexual victimization⁸⁷, and gay and bisexual men consistently report higher levels of sexual victimization, ranging from 12% to 27%⁸⁸. A review of the literature reveals that male sexual assault tends to be more violent, include more frequent use of a weapon, and result in more injury to the survivor than sexual assaults against females⁸⁹.

In order to disclose their experiences of sexual violence to a professional (who is usually a stranger to them), all survivors must overcome multiple internal and external barriers. For male survivors, these barriers are magnified in that we seldom talk about the victimization of adult men in our society. The stereotype that men always desire sex, and the concept of rape as an act of male violence against women may discourage the male survivor from naming his experience as sexual assault.

Due to the wealth of research that informs us that men are overwhelmingly the perpetrators of all forms of violence, men are cast as aggressors in our society. Although gender socialization is slowly shifting, our traditional socialization of males still prioritizes physical strength, stoicism, independence and assertion. A 2006 review of research on male gender norms revealed that eight characteristics defined the ideal of masculinity across many cultures. These included: toughness, intensity, strength, competition, discipline, courage, sacrifice and aggressiveness⁹⁰. It is additionally challenging for a man steeped in these norms to name his experiences of interpersonal violence, in particular sexual assault.

The reality that the vast majority of survivors of all forms of violence are girls and women and the subsequent need for women-specific services has resulted in few safe spaces for males to speak of their victimization. Male survivors may be less informed about support services than females, may feel that the services that exist are solely for women, and may have fewer services they can turn to depending on the environment in which they live. A male survivor who is initially seeking service may need ongoing reassurance that he is entitled to support and that the agency can and wants to serve him.

86 McDonald, S. and Tijerino, A. (2013) *Male Survivors of Sexual Abuse and Assault: Their Experiences* Department of Justice Canada. Retrieved from http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rr13_8/rr13_8.pdf

87 Paterson, L. (2008). *Surviving Sexual Assault: The Unique Experiences of Male Adult Survivors*. (Doctoral Dissertation). Retrieved from PsycINFO. (UMI Number 3313994).

88 Ibid

89 Ibid

90 Englar-Carlson, M. (2006). Masculine norms and the therapy process. In M. Englar-Carlson, M.A. Stevens, & M.A. Stevens (Eds.), *In the room with men: A casebook of therapeutic change* (pp. 13-47). Washington, DC: American Psychological Association.

Male survivors of colour may face additional barriers such as racism and unemployment or underemployment, which further impede their accessing services and their healing process.

Due to the impacts of traditional male socialization and the lack of discussion regarding adult male victimization, male survivors may have increased fears that they will not be believed or their experiences will be minimized. These fears may be enhanced for the male who has been victimized by a woman due to the social norm that heterosexual men should always be welcoming of sexual contact with a female. A male survivor may struggle with seeing his experience as victimization rather than a sexual opportunity, and may not understand his experiences of fear or shame.

A gay or bisexual man who has been sexually assaulted by a man may expect that his experiences will be minimized as less harmful since he is sexually orientated to men. Talking to a male survivor about sexual assault being about power and control, and not sex, may assist him in reframing his experience.

Explaining the neurobiology of trauma is helpful to all survivors, but it is particularly helpful to male survivors who struggle to understand both their victimization and their inability to protect themselves. Given the presumption that men should be able to fight back, they may particularly benefit from understanding the neurobiological underpinnings of the freeze response and tonic immobility (see the section on neurobiology in Part 3 of this manual). One research study involving both self reports and police reports indicated that adult male survivors of sexual assault experienced a freeze response in a high percentage of cases. These experiences were broken down according to sexual orientation – 63% of heterosexual male survivors, 59% of gay male survivors, and 58% of bisexual male survivors reported a freeze response⁹¹. Introducing this concrete information to a male survivor would be very helpful.

As support workers and counsellors, it is helpful to remember that one in six boys in Canada will have experienced some form of unwelcomed sexual contact before the age of sixteen⁹². When explaining the neurobiology of trauma, the support worker or counsellor should gently ask whether the client experienced unwelcomed sexual contact during his childhood. If the answer is yes, it can be useful to explain the role of the amygdala and hippocampus in bringing about a freeze response. It is helpful for a male survivor to know that the current sexual assault would have brought forward sensory memory of the historical sexual abuse, and may have resulted in an automatic freeze response.

91 Hodge, S., and Canter, D. (1998) *Victims and perpetrators of male sexual assault*. Journal of Interpersonal Violence, 13(2), 222–239.

92 Johnson, H., (1996) *Dangerous Domains: Violence Against Women in Canada*. Winnipeg: Nelson Canada.

The impacts of sexual assault on a male are similar to the impacts on females: anxiety, intrusive symptoms, anger, difficulty trusting others, generalized shame, etc. Many survivors of sexual assault experience confusion and shame if their bodies responded to the violation with sexual arousal, and possibly orgasm. The possibility of physical arousal during a sexual assault is a delicate discussion that is best managed within a counselling relationship. Given how embedded in shame this aspect of a survivor's (male or female) experience is, counsellors need to be willing to raise the issue and inquire whether that is part of the survivor's experience. Failing to do so is maintaining secrecy, shame and misunderstanding regarding their experience, and not addressing it may impede the survivor's recovery from the sexual assault.

Since men have more overt indications of arousal, erection and ejaculation, the confusion and shame they may be experiencing is compounded by having their arousal noticed and perhaps exploited by their perpetrator. Survivors who have had this experience benefit from explanations of the automatic nature of sexual arousal, how the phase of arousal that includes orgasm includes a number of involuntary physical responses, and how this arousal is independent from the psychological experience of the event.

In addition, male survivors will benefit from understanding that a high level of physiological arousal associated with fear can result in an erection and ejaculation⁹³. It is advisable for the support worker or counsellor to provide a handout or short article that discusses the fear arousal response in order to lend more credibility to your discussion. Aphrodite Matsakis writes in her book, *I Can't Get Over It: A Handbook for Trauma Survivors*, "Before you chastise yourself for one more minute, remember that your sexual organs do not have a brain. They cannot distinguish between a mauling rapist and the gentle touch of a lover. They simply react to stimulation the way they were physically designed to respond. If you climaxed or had some other sexual response to the rape, this does not mean that you enjoyed it⁹⁴."

Male survivors who identify as heterosexual and who are sexually assaulted by a male may experience confusion regarding their sexual orientation, particularly if their bodies responded with arousal. This confusion may be expressed as extreme homophobia, and they may assume that their perpetrator was gay. Responding to the male survivor's confusion, internalized shame, fear and homophobia requires great sensitivity and clarity on the part of the support worker or counsellor. We need to continue to support him in seeing the sexual assault as a violation that involved exerting power and control over his being, the intent of which was domination and humiliation – not sexual pleasure.

93 Coxell, A.W. and King, M.B. (2010) *Male victims of rape and sexual abuse*. *Sexual and Relationship Therapy*, 25(4), 380-391.

94 Matsakis, A. (1992) *I Can't Get Over It: A Handbook for Trauma Survivors*. California: New Harbinger Publications Inc., page 73.

It is helpful to share with the male survivor that most men who sexually assault other men identify as heterosexual and are involved in consensual sexual relationships with women⁹⁵. It is important that support workers or counsellors do not immediately reassure the male survivor that he is heterosexual (an identity which he may have previously held). If the male survivor expresses concern or confusion about previously held fantasies, desires, or casual sexual experience with other males, the support worker or counsellor should gently and sensitively listen to and support him as he struggles to separate these experiences from the sexual assault.

One of the unique impacts of having one's sexual orientation threatened by a same gender sexual assault is that some male survivors may pursue multiple short-term sexual engagements with women in an attempt to re-assert their heterosexuality. Additionally, male survivors may have difficulty getting an erection or being able to ejaculate following a sexual assault. If the survivor raises this issue, it may be helpful to reassure him that his sexual functioning will return once his body and psyche have had the opportunity to process and resolve the trauma.

⁹⁵ Ohio State University Rape Education and Prevention Program *When Men Are Raped* Retrieved from http://www.odh.ohio.gov/~media/ODH/ASSETS/Files/hpr/sexual_assault/appendix182011.ashx

PART 5: THE SUPPORT WORKER'S ROLE

As a support worker, you have an important role to play in making a survivor's experience with the justice, medical, and other systems they may come into contact with as positive as possible. The information, emotional and practical support you can provide to help her cope with both the victimization and the systems she may need to navigate will help reduce her feelings of injustice, indignity, and isolation.

It is important that you establish relationships of trust and respect with people working in the legal, medical, and social service systems and within agencies and groups in your community. Learn as much as possible about their roles and ensure that they are familiar with yours. Your ability to provide effective support to survivors depends on good relationships with these groups. It is also important to renew these trusting relationships, as turnover in these systems is often high and support workers may find themselves establishing relationship and clarifying roles over and over again.

A primary goal of support work is to facilitate a survivor's empowerment so that she can keep herself safe and move on with her life. Support workers must always keep in mind that their actions should not jeopardize the safety of the survivor or violate confidentiality requirements. A basic principle of all work with survivors is to do no harm.

At all stages of her recovery, it is important to ask her directly what it is that she needs, and what you can do that would be most helpful to her. It is important that a person supporting the survivor have training in the area of long-term response to sexual assault, because the issues that come up will be complex. Support workers with no training in this area should refer the survivor to experienced workers.

Where they exist, specialized community-based victim service programs are the primary service provider in sexual assault cases in BC. Police-based programs provide service where there are no community-based victim service programs, or where mandated by local protocol. In communities where both programs exist, a close cooperative working relationship between programs is important in order to provide the best possible service to survivors.

In sexual assault cases that have been reported to police, community-based service workers:

- Provide the initial crisis response
- Keep survivors informed about the criminal justice process
- Provide information, emotional support, and practical assistance throughout the process, including accompaniment to appointments

- Provide information and support with respect to related services, such as medical examinations
- Assist with the development of safety plans and prevention strategies
- Assist survivors with Crime Victim Assistance program applications and Victim Impact Statements
- Provide accompaniment to appointments and to court wherever possible and appropriate
- Address the particular needs of diverse survivors, such as language interpretation, other culturally specific services, and access and communication assistance for survivors living with disabilities
- Wherever possible, provide additional assistance to survivors who require it, such as transportation or childcare
- Communicate and liaise with other community-based and system-based service providers, as necessary and appropriate
- Refer survivors and family members to other services that may help them to deal with the emotional and physical aftermath of sexual assault, such as Stopping the Violence Counselling
- Wherever possible and appropriate, provide follow-up after the formal court process is complete.

Stopping the Violence (STV) counsellors also have a huge role to play in a survivor's stabilization and long-term recovery. It is helpful to connect a survivor with a STV counsellor as soon as possible so that counselling can begin before a survivor enters the Reconstitution or Outward Adjustment phase of the rape trauma syndrome. STV counsellors will provide ongoing information regarding trauma responses and assist the survivor in making sense of her symptoms and reactions.

STV counsellors also monitor the survivor's progress and check in on the emergence or increase of risky coping behaviours such as self harm, substance use or at risk sexual behavior, and support the survivor to move towards greater safety.

STV counsellors seek to highlight the survivor's choices and resiliencies at every opportunity while honouring the depth of the violation the survivor has experienced. They are equipped to support and ground a woman who is struggling with the reopening of previous traumas, and who at times may feel swamped with traumatic memories and intrusive symptomatology.

experienced. They are equipped to support and ground a woman who is struggling with the reopening of previous traumas, and who at times may feel swamped with traumatic memories and intrusive symptomatology.

Eventually a survivor will engage in deep questioning of her own identity as a woman, her place in the world, and whether she can ever expect safety in the world and in her relationships. This questioning, which may occur superficially in the Impact phase and then deeply in the Resolution phase, is challenging work that is best supported by a feminist analysis woven in a strong therapeutic alliance.

Recognizing a Survivor's Realities

It is important that you be realistic about your expectations for the women you work with and what you can accomplish as an anti-violence worker. You are there to assist and support the survivor, but it is her life and she must make the decisions and take her own steps. You will not be doing a sexual assault survivor any favours if you push her or raise her expectations too high. Furthermore, being unrealistic about what you or she can achieve can result in feelings of discouragement and disempowerment on your part.

It is important to recognize that once a survivor has made a decision to disclose the sexual assault and to seek the involvement of medical or legal systems, much falls outside of her control. The support worker or counsellor needs to work within an empowerment framework with the survivor. It is helpful for the support worker or counsellor to be attuned to moments of strength and self determination that the survivor is experiencing and to bring those moments to her attention. Emphasizing the choices and decisions she may have, even if small, is helpful in refocusing her on her internal sense of control.

When a survivor is feeling disempowered by the forces outside of her control (waiting for the perpetrator to be interviewed, charges to be laid, etc.), it may be empowering to reflect that these are important matters, but ones that lay outside of her control, and to focus the survivor on her management of her stress response as inside of her control. Assisting her in reclaiming a sense of personal agency, managing trauma responses and attending to external factors she has control over is working within the realm of empowerment.

Do not underestimate the danger the woman may be in. If she was sexually assaulted within a relationship or by someone else she knows, the steps she is taking may be met with increasing hostility by the offender, his family, or his friends. The woman is often the best judge of her situation. Validate rather than minimize her fears. In some cases, however, she may minimize the danger she is in. In such cases, try to help her understand the danger of her situation.

43 Neville, H. A., & Heppner, M. J. (1999). *Contextualizing rape: Reviewing sequelae and proposing a culturally inclusive ecological model of sexual assault recovery*. *Applied & Preventive Psychology*, 8: 41 – 62

44 Koss, M. R., & Harvey, M. R. (1991). *The rape victim: Clinical and community interventions* (2nd ed.). Thousand Oaks, CA: Sage.

5.1 Support and Communication Strategies

The support worker needs to have the ability to listen, understand and comfort another person on a basic human level, and the ability to convey appropriate medical and legal information in a way that can be understood by someone under immense stress. More specifically, you must:

- Be able to create a relationship of trust and respect with the sexual assault survivor.
- Be able to listen effectively, and to reflect and respond with empathy.
- Be sensitive to cultural differences that may affect how the survivor responds to you and to the assault.
- Be sensitive to needs that a sexual assault survivor living with a disability might have.
- Maintain a working knowledge of the medical and legal systems related to sexual assault.
- Maintain a personal commitment to speaking up for the rights of sexual assault survivors.

Provide the survivor with all the relevant information she needs, and allow her to assume responsibility for herself by making her own decisions – it is not your job to “rescue” her.

Listening, reflecting and responding with empathy are fundamental to the process of providing support and establishing a trusting atmosphere in which the survivor can be encouraged to explore her feelings and concerns.

A brief description of basic support skills for the support worker follows.

Attending

Attending includes the ability to pay attention and focus on what the woman is communicating and feeling. Attending to the survivor demonstrates respect, interest, involvement, caring and commitment, and also establishes a firm base for a continued relationship of support.

Attending skills are both physical and psychological. Physical attending skills include paying attention to the survivor’s face, body posture and positioning, and knowing how to use your face and body posture to convey to the woman that you are listening to her.

Psychologically, attending means that you are aware of blocks to communication and how to avoid them. Psychological skills of attending include the ability to pay attention and to focus on what the woman is saying and feeling.

Active listening

Active listening includes trying to understand what the woman is saying – her ideas, values and feelings – by listening to her, and then responding in a way that conveys your understanding. Specifically, active listening means listening for cues that indicate the woman’s feelings (voice tone, choice of words, speech, sighs), acknowledging the feelings you hear, and verifying what you think you understand. Active listening also helps you to keep focused on the woman’s concerns and feelings, rather than on your own.

Active listening can be a challenge if the woman has a speech disability; be patient and don’t be afraid to ask the woman to repeat herself so that you can be sure you have understood her. If the woman is deaf and has a sign language interpreter, make sure you look at the woman who is deaf and not the interpreter during all communications.

Permission giving

Permission giving involves “allowing” the woman to express her emotions freely. It also involves your understanding of the difficulty she may have in expressing emotions. Many people were punished or humiliated as children for crying, being afraid or expressing anger. Most adults will suppress feelings seen as “negative” because of such conditioning. It is important to acknowledge and validate her feeling that she should control her emotional responses, and at the same time give her information about the importance of expressing her pain so that she can heal. Let her know that it is all right to cry and express grief, anger, or any other emotion.

Empowering

Empowering involves conveying respect for the woman’s choices and actions, helping a woman feel heard, providing tools that she can use for her own healing, and facilitating, but not taking over, her own process for keeping herself safe and moving forward in her life. In some cases, this may also involve helping her family find positive ways to express their concern and support her without overprotecting her or projecting onto her their own fears. It involves genuineness, commitment, warmth and acceptance, and is demonstrated more by your attitude than by any specific verbal response. By empowering the survivor, you allow her to share her feelings more freely and foster the development of her self-respect.

Questioning

Questioning is a skill that enables you to help the woman explore her emotions, needs and decisions. Open-ended questions that can be answered with more than a “yes” or “no” encourage the woman to respond in any way she chooses. Closed questions restrict the woman to a limited number of responses and often focus on your curiosity to know the answer. While you may need to ask a certain number of closed questions, especially during the initial crisis stage of contact, open-ended questions will be most useful during your ongoing relationship with the woman.

“How” and “what” questions are usually open-ended, and allow the woman to express herself more fully. For example, “How are you feeling now?” “What kinds of fears have you been having about going to court?” “Why” questions, such as “Why did you do that?” or “Why don’t you want to lay charges?” should be avoided, as they may convey curiosity or judgement. The word “why” tends to imply wrongdoing or guilt on the part of the survivor.

Giving information

Information should be relevant and provided to the woman in as clear a manner as possible, using words that she understands. Don’t use legal or medical jargon that is unfamiliar to her. If you don’t understand something yourself, learn about it before trying to explain it to her.

Respect the woman’s timing and pace. Try to give her information as she needs it or asks for it. An empowering process is to ask permission to give specific information and to wait for her consent. It is difficult for anyone to absorb new information when under emotional stress and asking permission ensures she is receiving information as she desires it and when she is ready. Allow time for the woman to say how she feels and what she understands about the information she is hearing.

It can also be beneficial to ask the survivor what she already knows about the matter you want to provide information on. In this way you are more able to tailor the information you provide to her knowledge level, and to provide an opportunity to discuss misinformation she may have. You may find you have to explain something several times, or review information provided on a previous occasion, especially if she has a brain injury or intellectual disability. Be patient. Be alert to signs that the survivor is dissociating (glazed look, lack of eye movement, appearing frozen) when you are providing information and assist her in coming back to present awareness.

It is helpful to give information in plain language and in small amounts, allowing her time to absorb it and minimizing the potential for dissociation. Printed information for her to take away can be useful in these situations. Make sure that printed information is in large print for survivors with visual disabilities.

Being concrete and specific

Being concrete and specific helps the woman explore her feelings and concerns more precisely. Help her focus on important feelings and identify issues in as concrete a manner as possible. You can do this by asking for clarification (“I want to understand your experience as fully as I can, would you tell me more about what you mean by...?”), or by reflecting on what you hear the woman say and asking her to confirm that your understanding is correct. This not only verifies your understanding of what she is telling you, but it also encourages her to focus on her feelings more specifically.

It’s also important for you to be as concrete and specific as possible when you are providing her with information or feedback. Use examples she will understand.

Summarizing

Summarizing involves pulling together the feelings and information given to you by the woman who has been sexually assaulted. This allows you to make sure you have understood everything accurately and helps the woman focus on the important elements of her situation from her point of view. It also provides a way of moving on from exploration of feelings to problem solving and making required decisions. It is most helpful to summarize throughout your discussions with a survivor, which helps her know you are attuned to her and following her narrative, and assists in keeping her focused.

5.2 Confidentiality

The need to protect the privacy of survivors of sexual assault is a fundamental concern for community-based advocates and service providers. It is always important to get permission from the survivor if you are going to talk with anyone else about her situation (police, Crown Counsel, other support workers, or your supervisor). This will ensure that trust between the woman and you is not violated.

A best practice is to inform your client that you will not be discussing her situation with others without her knowledge and permission, and to ask her to sign a release form, initialing which agencies and individuals she is giving you permission to consult or liaise with, and when. Ensure that she is informed about the limits to confidentiality (a child in need of protection, risk to herself or others, a subpoena, clinical supervision without disclosing her name...). Ensure that she understands what is meant by a release form and permission if she has an intellectual disability.

It is also critical that other people within your agency or service maintain a high degree of confidentiality. A client's personal information should be protected, and shared only on a "need-to-know" basis. Workers should not talk about the survivor or her case where anyone else might overhear, or include details that may identify her unless necessary. This helps to uphold the credibility of the agency as well as ensuring that the trust between you and the woman is maintained.

Both legislation and policy provide direction. In BC, community-based anti-violence programs are regulated by the Personal Information Protection Act and RCMP-based programs are governed by the federal Privacy Act, while municipal police-based victim services are governed by the Freedom of Information Act. All these pieces of legislation contain specific requirements about the collection, use, disclosure and distribution of personal information. You should determine which applies to your agency or program. Which act applies to your agency will depend on a number of factors, including the nature of your funding contract and who has "custody or control" over agency records. (See Part 2.3 for an overview of relevant provincial laws.)

It is also important to familiarize yourself with your agency/program's policies or guidelines dealing with confidentiality and information management. In British Columbia, most community-based programs use the [*Records Management Guidelines*](#) produced jointly by The Ending Violence Association of BC and the British Columbia Society of Transition Houses, and EVA BC's [*The Personal Information Protection Act: An Overview for BC Association's Member Programs*](#) (*PIPA Overview*). Used together, these two policy documents help ensure compliance with provincial legislation as well as ethical considerations.

Basic Confidentiality Principles

- The safety and well-being of clients is the primary obligation of agency staff and board members.
- Agencies are primarily accountable to the people they serve.
- Clients have the right to be informed regarding the nature of the service they receive and the contents of any documentation of that service. They have the right to request the correction of errors or omissions contained in the personal information they have provided.
- Agency staff should inform clients of the general limits to confidentiality at the time the person requests service.
- Agencies will protect the confidentiality of all professionally acquired information. Such information will be disclosed only with the client's consent or where there is a clear legal obligation to release it.
- Agency staff may disclose client information to other staff who, by virtue of their responsibilities, have a need for it.
- Client information should only be disclosed to board members in exceptional circumstances, where there is a critical need for them to know.
- Information should be collected from the individual concerned (e.g., the client), unless she authorizes collections from another source.

(From *Records Management Guidelines*, Porteous and Ruebsaat, Ending Violence Association of BC, 2006)

Exceptions to the Basic Principles of Confidentiality

Every effort should be made to keep information provided by the survivor confidential. But there are important exceptions to the basic principle of confidentiality. The woman should be advised of these exceptions and of the approach your agency will take.

Child protection – The duty to report

As noted in Part 2.3 of this handbook, where a person has reason to believe that a child needs protection they must report the circumstances to a child protection worker at the Ministry of Children and Family Development. See “Child Protection – The Duty to Report” in Part 2.3 for details.

Suicide

In cases where a survivor is suicidal, a failure to report or take appropriate steps to intervene may leave the agency vulnerable to civil liability if the woman does commit suicide and aggrieved relatives launch a civil suit.

If you have reason to believe the survivor is a danger to others

If you believe the survivor will seriously harm someone else, you have a legal duty to inform the police and the intended target. Failure to do so may leave you or your agency vulnerable to a civil claim alleging a failure to exercise due care.

The accused's access to third-party records

The Criminal Code restricts access by defence to client records in sexual offence cases. This would include client records held by a victim support program (see "Restricting the Use of the Survivor's Personal Records in Court" in Part 2.2).

Despite the restriction, there may be situations where the records are subpoenaed; if the court orders it, the records must be released to the accused's lawyer. In certain cases, the support worker may also be subpoenaed to appear as a witness, and must then answer questions about the records or about information provided by the survivor.

For further information on the Criminal Code and access to third-party records, programs can refer to the Records Management Guidelines referenced in Part 5.2. Police-based programs should refer to any internal policies that address this issue.

Release of Personal Information

You should refer to the applicable information and privacy laws and agency/program policies to obtain specific direction about when it is appropriate to share client information with third parties and how the release should be handled. Counsellors are also advised to consult the ethical guidelines of their professional association to ensure that they are following their professional standards. As a general principle subject to limited exceptions, the survivor's consent should be obtained before information is shared with other agencies or professionals.

Discussion with Others about the Case

To maintain your credibility and the trust of the survivor, you and other workers must not discuss any case outside your work environment. That is, you should only discuss the case within the confines of your office, or in other private areas such as a witness room, a hospital, a police station or a Crown office.

Keeping it Confidential

Following strict rules of confidentiality and records management will protect the survivor and reduce the possibility of jeopardizing the prosecution of the accused.

In the office:

- Keep all files locked up when not in use.
- Do not allow client files out of the office.
- Do not leave client files on your desk when seeing clients.
- Ensure clients' privacy while they are in your office.

- Outside the office:
 - Do not wear your ID badge or other identifying insignia in public.
 - Do not discuss your cases with family or friends.
- When contacting a survivor:
 - Do not identify yourself to anyone other than the survivor.
 - Ask for the survivor by full name to avoid confusion with other family members.
 - Once you are speaking with the survivor, clearly identify yourself and your affiliation, and clarify your role. Ask if it is convenient to talk, and if it is not, find out the appropriate time to call again. Do not contact a survivor at work or school unless you have her permission to do so.
 - Do not leave a message on voicemail unless the survivor has given permission first.
- Be aware that texts and emails to a client can easily be accessed by others. Discuss these risks with your client, and adhere to your agency’s policies around electronic communications.

Discussion of Evidence

In your role as a support worker, you must be aware of what you can and cannot discuss with your clients. **A case can easily be jeopardized by discussing evidence with a witness.** (A “witness” is anyone who testifies in court. “Evidence” or “testimony” is the information in the witness’s statement to the police, or any information in the police report to Crown Counsel.)

In many cases, defence counsel may ask witnesses by during cross-examination if they have discussed their evidence with a community-based victim service or other support worker. There is the chance that the worker will then be called as a witness.

Guidelines for discussion of evidence

Practice the following rules of conduct to minimize or eliminate problems involving a witness’s evidence:

- Do not discuss the case with anyone except your supervisor, the police or Crown Counsel.
- Remain impartial in discussions of criminal justice issues with your clients.
- Never say or do anything that may influence a witness’s testimony.
- Never discuss the survivor’s evidence or suggest what she should say (or not say) as a witness.
- Never discuss the evidence of other witnesses with the survivor.
- Never discuss the identity of, or give information that could identify, a minor (e.g., someone under 19 years of age) charged with offences. Refer questions about a minor to the police or Crown Counsel.

The following information would not fall under the category of “evidence” and so can be provided to the survivor:

- Police file number
- Name of investigating officer
- Court file number
- Name of Crown Counsel
- How to claim property that has been recovered
- Name of accused if charges have been laid
- Information concerning the status of the case: court dates, whether the case is still under investigation, whether the case is concluded or not, the disposition of the case. (If no charges have been laid and the survivor wants to know why, refer her to the investigating officer or to Crown Counsel. Under the officer’s or Crown Counsel’s direction, advise the survivor of the reason.)

Persons other than victims or witnesses should be referred to the court registry or [Court Services Online](https://justice.gov.bc.ca/cso/index.do) (https://justice.gov.bc.ca/cso/index.do) for information about the status of the case once charges have been laid. For example, if a neighbour of a survivor wants information on the court case, and the neighbour is neither a witness nor a support person for the survivor, then you should refer this person to a court registry or court services online for information.

You may NOT release the following information to a survivor or to others:

- The name of the suspect, unless a charge has been laid against that person, making the information part of the public record.
- The name or any information whatsoever that might identify a young offender (a person between the ages of 12 and 17). You can, however, explain that the Young Offenders Act restricts the release of this information, and you can state that a young person has been charged.
- A case file, or any part of a case file, that is the property of the police (e.g., the report to Crown Counsel). The Crime Victim Assistance Program, insurance companies and civil lawyers can contact the police department or Crown Counsel directly for any information they require.

- Information as to the criminal background, or absence thereof, of any suspect or charged person (unless you have been given permission to do so by the police).
- Information on any case other than the case in which the survivor was the victim/witness.

If you are uncertain whether information is confidential, always check first with the coordinator of your program, or with the police or Crown Counsel.

5.3 Keeping Records

Community-based victim services will use their Records Management Guidelines and the PIPA Overview to inform their day-to-day record-keeping practices. In general, the following guidelines are recommended:

- Record any action taken on a case file, including telephone calls or meetings with clients, Crown Counsel, police, social workers, doctors, witnesses, family or teachers. Also make a record of medical accompaniment, police accompaniment, court accompaniment, court orientation, court observation, transportation assistance and assistance with Crime Victim Assistance applications.
- Include forms, applications and Victim Impact Statements in the file.
- Record dates and times of phone calls and/or emails or texts made or received. Indicate busy signals, no answer and messages left.
- Record dates and times of meetings with clients.
- Record names of persons you have called or met.
- Keep a case file updated with phone numbers and addresses of survivors. (It is not uncommon for survivors to move frequently.)
- Keep a case file updated on all court appearance dates, adjournments, etc.
- It is very important to keep your records as simple and as clear as possible – something that is more difficult than it sounds. It is also important to keep the information free of personal opinions.

Records should be written in such a way that other staff members within the office can provide continuity of service to the survivor based on the information recorded in the file.

Providing Advocacy

In providing support to a survivor of sexual assault, you may also be providing advocacy. Advocacy in this sense means helping the woman deal with a system or agency to get the results she needs. Other community members may also act as advocates. A friend or relative or staff from another agency may also provide advocacy.

As a support worker, you can use positive working relationships with other service providers to help a survivor obtain the kind of assistance she needs. Close working relationships, built on shared goals and mutual trust, can be of immeasurable benefit when advocating for clients, particularly in situations where a survivor may be encountering difficulties with a service or system.

At times our advocacy is required with the systems or services the survivor is dealing with, due to their lack of understanding of trauma and its various presentations. The service providers may misunderstand or misinterpret the survivor's actions, decisions and demeanor, and we must advocate to instill a trauma informed lens so that she is viewed appropriately.

During accompaniment to appointments, we may wish to advocate for simple choices or higher levels of privacy in order to empower the survivor and minimize any potential for retraumatization. Advocacy may be particularly needed for diverse survivors (women with disabilities, immigrant women, trans women, etc.) whose specific needs may not be readily apparent to the system or service provider she is interacting with.

In certain cases, a survivor may not wish to make a formal complaint but may simply want more information about a particular decision or action taken by a system or service provider. Most often, when the survivor or her advocate requests that information, it is forthcoming.

When a survivor is unable to get the kind of response she wants from a service or system despite her best efforts and assistance from an advocate, she may want to make a formal complaint. You can refer her to and help her with the complaints process specific to that service. System-based services such as medical practitioners, hospitals, police, and Crown have formal processes in place for addressing complaints. Community-based services such as victim services, counselling programs, and transition houses should also have a structure in place for handling complaints. Such a structure may be specific to the particular agency or may apply to the funded service as a whole.

Assisting a survivor in a complaints process in a manner that is both supportive of the survivor and constructive in terms of your working relationships will require skill, sensitivity, and diplomacy on your part.

Advocacy Access (<http://www.disabilityalliancebc.org/programs/advocacy.htm>), a program of Disability Alliance BC, has useful information about approaches to advocacy. **PovNet** (<http://www.povnet.org/>), an “online anti-poverty community”, also has useful information and resources for both clients and advocates.

5.4 Safety

Safety Planning for Survivors

Your role in assisting a survivor in her safety planning is to help her identify the risks and to present her with possible strategies or options for reducing or eliminating these risks. It is important to understand that safety is a relative term and that women's lives are complex and variable. A woman's safety needs may change from day to day and from situation to situation.

If she has been sexually assaulted within a relationship or by someone else she knows, her safety planning will have a different focus than if she was assaulted by a stranger. In either case, however, safety planning around sexual assault should take into consideration protection from both offenders who are known to the woman and those who are not. In addition, safety planning should take into consideration the safety of any children, other family members, and pets.

It is important to look at risk factors that arise from the offender, as well as risk factors that arise because of the individual woman's personal circumstances, which make accessing services and trusting the system more challenging.

Racism, poverty, language barriers, intellectual and physical disabilities, sexual orientation, gender identity and geography may raise unique issues to be addressed in safety planning. Many women from marginalized populations have experienced systemic discrimination as well as mistreatment at the hands of various government systems (for example, child apprehension), which may make them skeptical about offers of assistance.

For more information on risk identification and safety planning for clients, download EVA BC's *Safety Planning Across Culture & Community: A Guide for Front Line Violence Against Women Responders* from <http://endingviolence.org/publications/safety-planning-across-culture-community-a-guide-for-front-line-violence-against-women-responders/>

Safety for Workers

All responsible agencies that provide support services to survivors of violence will place a high priority on the safety and protection of their workers. Agencies should have safety guidelines for working both within and outside the office. Be familiar with and always follow your agency's policies and procedures on safety.

A comprehensive safety policy may include:

- Clear guidelines and protocols for staff working alone (e.g., alarms, limit on working alone, prior permission needed to work alone)
- Clear guidelines and protocols for staff leaving the building on their own
- The provision of cell phones for staff who work out of the office or in isolated environments
- Security cameras
- Limited access to offices, with codes or locked front doors that can be opened only by staff

- A reception area with a front counter and gate barrier to the waiting area
- One or more security panic buttons in the building
- Regular discussions of worker and workplace safety in staff meetings and/or as an agency
- Staff risk assessments and special precautions for those working with dangerous clients, or clients with dangerous partners
- A “no home visits” policy or alternatively, a policy that other office staff are aware of all home visits; and/or a protocol to conduct a risk assessment before a home visit
- A practice of requesting assistance from the local court sheriff for potentially unsafe court accompaniments
- An awareness of suspicious mail
- Formal training in non-violent communication, de-escalation strategies, risk identification and risk management.

Always trust your instincts: if something does not seem right, leave immediately. Your personal safety is the first concern. For more information on worker safety, download EVA BC’s *Workplace Violence in Anti-Violence Programs: Strategies to Increase Worker Safety* from http://endingviolence.org/files/uploads/WorkerSafetyManual_vF_January_2013_lowres.pdf.

This handbook was created for all the anti-violence workers who, in working to end violence against women, put themselves at risk of experiencing violence in the workplace.

Setting Limits

You may be reluctant to set limits on your services to survivors of sexual assault, but sometimes you must do so. By setting personal boundaries, you can show survivors how to do the same in their own lives.

To define your role, begin by familiarizing yourself with the formal job description provided by your organization.

If a survivor makes inappropriate demands on you, such as dropping by your office frequently without an appointment or phoning you at home, you can talk to her and set a boundary. The survivor’s behavior may be due to her misunderstanding of your role and the service you provide, or it may be due to her experiencing an ongoing high degree of distress. Clarifying your role and the limitations of your service is helpful, in addition to stating your expectations of the survivor. In this way you let clients know that they must be willing to take more responsibility for themselves.

If the inappropriate requests for service are due to her distress, exploring additional sources of support for the survivor is a priority. If a survivor is unable to respect the boundaries you have set, it may be necessary to discontinue service. If you handle such people in a firm but gentle manner, they may turn to you when they need help in other circumstances.

Emotional Self-Care

Dealing with sexual assault – an act of violence and aggression – provokes strong reactions. You may experience rage, shock, anger, fear, and powerlessness. It is important that you have a support system of colleagues so that you can express your feelings to others in a supportive atmosphere, without violating the confidentiality between you and the survivor. It is not appropriate for you to deal with these feelings while you are with the person who has been sexually assaulted.

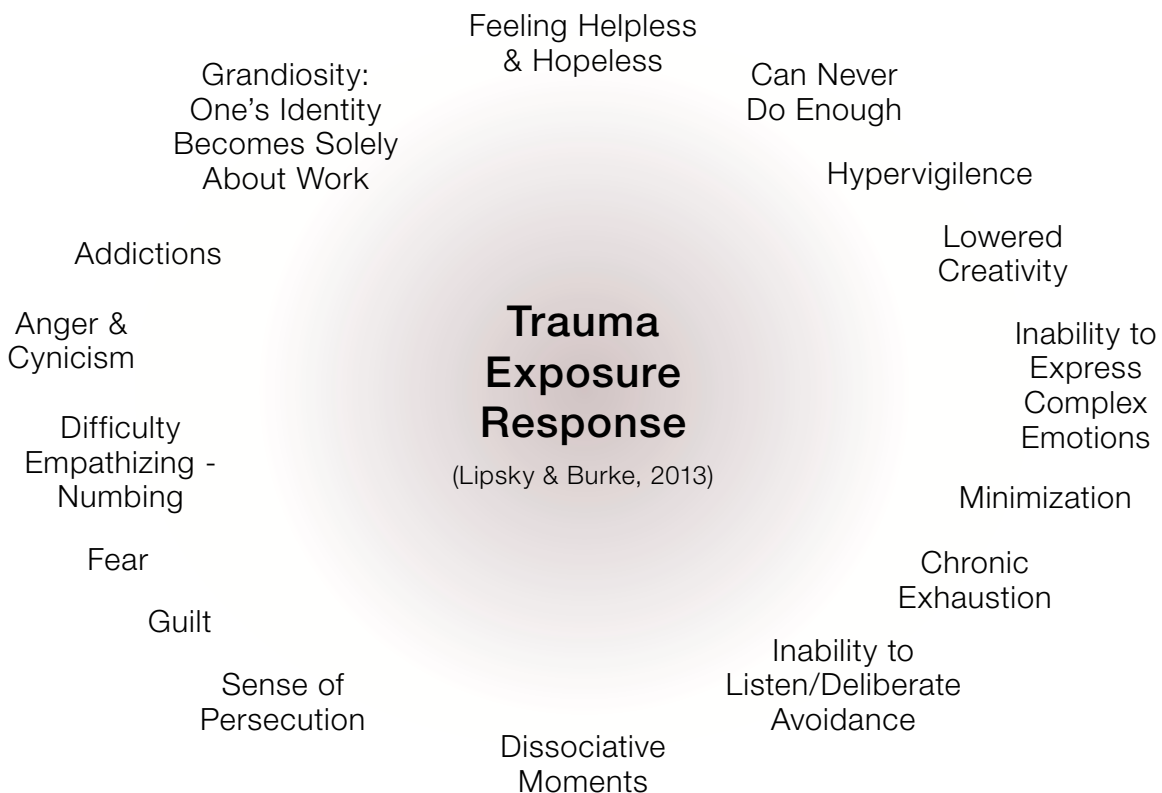
As well as maintaining your personal support system, you need to allow time for rest and recreation, which are both crucial to your well-being. If you are meeting your own needs, you will be better able to help others.

This is often easier said than done. Because of the nature of trauma, of how it is received and processed in the brain and nervous system, people who work with survivors and hear about traumatic events on a regular basis are particularly susceptible to being affected by it.

The cumulative effect of hearing and witnessing the details and effects of sexual assault can take on different forms. The following are some models to help understand and recognize these forms in order to intervene early and mitigate the effects of this work on your health.

Trauma Exposure Response

Laura van Dernoot Lipsky⁹⁶ details a trauma exposure response that offers a way of understanding individual responses to trauma over time.



⁹⁶ Lipsky, L., and Burk, C. (2009) *Trauma stewardship an everyday guide to caring for self while caring for others*. San Francisco, CA: Berrett-Koehler

As you can see, a trauma exposure response can affect all aspects of a person’s life, from emotional and physical health, to relationships and work life.

From the Trauma Exposure Response can arise a cumulative experience named Vicarious Traumatic Stress (VTS), defined as the transformation or change in a helper’s inner experience as a result of responsibility for and empathic engagement with traumatized clients and their stories⁹⁷. These changes may arise in various schemas: sense of power, self esteem, intimacy, control and the ability to trust oneself or others.

Support workers or counsellors may also experience Secondary Traumatic Stress Response (STSR), which is characterized by intrusive symptomatology related to traumatic material that is not one’s own and subsequent overwhelm and/or avoidance to manage the onset of the symptoms. The main difference between the two is that VTS is particular to the repeated exposure to traumatic material, often a cumulative effect, and STSR can be a sudden onset of intrusive symptoms following exposure to traumatic material. The following chart outlines the definitions and symptoms:

Secondary Traumatic Stress Response	Vicarious Traumatic Stress
The sudden effect on an individual of exposure to traumatic material	The cumulative effect on an individual of bearing witness to others’ traumatic experiences
Quick onset	Slow, gradual onset
Effects one’s sense of safety both internally through the presence of intrusive symptoms and externally in the world	Effects one’s sense of self and/or the world
Symptoms	
<ul style="list-style-type: none"> • Preoccupation with details of assaults • Overwhelm and/or avoidance • Affected sense of safety • Unresolved feelings about the trauma • Symptoms mimic those of survivor and can appear like Post Traumatic Stress Disorder (PTSD) • Somatic complaints 	<ul style="list-style-type: none"> • Hopelessness or cynicism • Difficulty managing boundaries with clients • Disconnection from self and others • Greater sensitivity to violence • Social withdrawal • Disinterested in the work/numbing affect

⁹⁷ McCann, I.L., and Pearlman, L.A. (1990) *Vicarious traumatization: A framework the psychological effects of working with victims*. *Journal of Traumatic Stress*, 3(1), 131-149.

Effects	
Long term mental and physical health challenges if unaddressed	<ul style="list-style-type: none"> • Over involvement or absorption in one's work to the exclusion of other interests, or a numbed presence in one's work

Workplace challenges that make one more prone to developing VTS are:

- Excessive workload
- High stress setting
- Inadequate training and ongoing supervision
- Isolation
- Ethical conflict

Personal challenges that make one vulnerable to VTS:

- Little experience of own trauma, so difficult to discover the world as an unsafe place
- Little life preparation to hear details of assaults
- Own painful memories activated by hearing about assaults
- Little personal resilience around witnessing intense emotions
- Unreal expectations of self in the job

Support workers and counsellors are encouraged to consult the resource *Guidebook on Vicarious Trauma: Recommended Solutions for Anti-Violence Workers*, accessed at http://publications.gc.ca/collections/collection_2008/phac-aspc/H72-21-178-2000E.pdf, one of the few resources that includes voices and experiences specific to anti-violence workers – an affirming and validating read for both new and seasoned workers.

The Positive Side of Trauma

While this may feel rather daunting and dispiriting, it is not the only possible outcome of working with trauma. The effect of ongoing exposure to trauma can be transformed into Compassion Satisfaction (the enjoyment and gratitude felt when able to perform one's work well), Vicarious Resilience (learning about resilience from the survivors), and Empathic Growth (making meaning of the traumatic events).

As you work with clients, particularly over time, it is helpful to pay attention to their Posttraumatic Growth⁹⁸, which is “positive psychological change experienced as a result of the struggle with highly challenging circumstances”. You might see the following in the survivor: enhanced relationships, enhanced view of self, and positive changes in life philosophy and spiritual growth.

98 Tedeschi, R., and Calhoun, L. (2004) “Posttraumatic Growth: Conceptual Foundations and Empirical Evidence” *Psychological Inquiry*, 15(1), 1-18

As a support worker, you can also experience Vicarious Posttraumatic Growth (VPTG) by paying attention to and cultivating appreciation of the client's growth in these areas. An experience of VPTG may involve increased empathy, tolerance, appreciation for resilience, spiritual reflection, and a call to participate in social justice issues. These effects are powerful antidotes to the hopelessness and helplessness of Vicarious Traumatic Stress and Burnout⁹⁹.

Trauma Stewardship

Another model that helps to understand moving through trauma is Trauma Stewardship. See traumastewardship.com for more details. The underlying philosophy of trauma stewardship is mindfulness; a willingness to remain present to the pain of witnessing trauma, rather than numbing to it. Laura van Dernoot Lipsky reminds us that numbing is not a selective experience. When we numb to pain, we also numb to joy. The capacity to be present to another's and one's own pain, opens the possibility of being present to her and your strength and resilience as well (see section on strength based approach and loving presence).

Van Dernoot Lipsky proposes a regular mindful practice of some kind (meditation, yoga, contemplative practice), as well as a Five Direction approach of inquiry to help increase resilience and capacity. Inquiry involves being present and noticing what is going on around you, and knowing both what motivates you and where you want to be going.

Questions to ask include:

- Why are you doing the work you are doing?
- What is your focus and priority for this work?
- Where do you find compassion and community?
- Where do you find balance in your life?

Some practical ways to increase presence and counteract the cumulative effects of trauma:

- Move your energy in whatever way works for you (see Peter Levine's work¹⁰⁰ on energetic effects of trauma on the body for more information).
- Make a clear distinction between work and not work (change your clothes, create a ritual for leaving work behind).
- Find regular quiet time for exercise, meditation, walking, listening to music...
- Create or join a mindfulness community.

99 Schutt, J. L. et. al (2014) *Psychological Effects of Trauma Work and Strategies for Enhancing Wellness*. ASSOCIATION FOR ADULT DEVELOPMENT & AGING CONFERENCE. Lecture conducted from Arlington, VA.

100 Levine, P. (1997) *Waking the tiger: Healing trauma: The innate capacity to transform overwhelming experiences*. Berkeley, Calif.: North Atlantic Books.

- Have plants to take care of in your office.
- Address workplace stresses in a timely manner if at all possible.
- Talk with someone (a counsellor, supervisor, support group) if traumatic events evoke memories of own trauma.
- Seek out and speak up if the workplace is not providing the level of support necessary for working with trauma.

Finally, an approach to working that can enhance a support worker's energy and resilience is through focus on being in a state of "loving presence" with the survivor.

Coined by Hakomi founder Ron Kurtz, (www.vancouverhakomi.ca; www.hakomi.com) loving presence is a practice that involves a deliberate act of looking for connection with the person you are helping, looking for what aspects of the other person feel nourishing, inspiring, and enhancing of your own energy. It involves being as present to your own reactions as you are to the other person. Looking for and naming these aspects, not only allows for an appreciative relationship, it feeds on itself. The more one is practiced in looking for nourishment, even in the most difficult of situations, the easier it becomes to see examples of strength, resilience, and common humanity.

In line with the work of trauma stewardship, loving presence requires first and foremost, that you be present to self and other, not distracted by busyness, worry, or your own agenda. This type of presence is the foundation of emotional healing.

"Loving presence is a combination of several habits of mind. It is an integrated combination of attitude, emotional state and focus of attention."

Ron Kurtz, 2010

It also allows you to enjoy being with the survivor in a deep and profound way.

Some examples of what you might be nourished by in the other person: their passion for life, their courage, their ability to stick with a difficult situation, their openness, their capacity for self protection,

their love of their family, their respect for others, their humour, their story telling ability, your common humanity.

Loving presence, a focus on strengths and resilience, and attention paid to the potential to access learning and growth through adversity, are powerful tools to stave off the cumulative negative effects of witnessing trauma and to enhance Traumatic Resilience and Empathic Growth. In this way, the work becomes a vehicle for personal growth and strength.

5.5 Crime Victim Assistance Applications

Those who have been victimized by violent crime in BC may be eligible for assistance under the Crime Victim Assistance Program (CVAP). In order to apply for assistance, a victim (primary or secondary) must meet the following criteria:

- The criminal offence must have occurred after July 1, 1972 (no exceptions).
- The offences of stalking and uttering threats were added to the schedule of offences on March 22, 1995. Victims of these offences are eligible for benefits only if the offence occurred after that date.
- The crime must have taken place in the province of British Columbia.
- A report must have been made to the police. In exceptional circumstances, CVAP may waive the requirement for a police report; however, other supporting documentation must be available to support the claim, such as a letter from an anti-violence worker. Note that survivors are still eligible to apply if the accused is never identified or found, if the police report does not result in charges being laid, or if the accused is acquitted.
- The criminal offence must be one of 56 offences set out in the schedule of the Act. Victims of violent crime involving personal physical or emotional injury or trauma (such as sexual assault or aggravated assault) are usually eligible to apply.

If a person is victimized as the result of a crime that takes place while the victim was working, the victim must apply directly to WorkSafeBC and not to CVAP. WorkSafeBC has implemented a system to deal with sexual assault claims.

The Crime Victim Assistance Program may pay for:

- Counselling
- Out-of-pocket expenses, such as ambulance costs
- Replacement or repair of damaged personal property that the victim was wearing during the incident, such as clothing, dentures, prescription glasses or hearing aids
- Safety measures such as changing locks or installing an alarm system, and in some cases, relocation expenses
- Maintenance of a child born as a result of sexual assault
- Wage loss incurred by a victim due to total or partial disability arising as a direct result of the offence and which affects the victim's ability to continue to work
- Loss of support or guidance incurred by dependents as a result of a victim's death
- Expenses relating to medical, surgical, hospital, nursing and other care or treatment; transportation; medicines, crutches, artificial members and other rehabilitative measures to victims of crime if these expenditures are not covered by other means.

If you physically assist a survivor in filling out a CVAP application, make sure that you indicate this on the back of the form with your signature.

Remember not to make any guarantees about assistance, or length of time to process the claim, to the survivor.

Once the survivor has sent her application to CVAP, she will receive a letter of acknowledgment assigning her a claim number. Before the claim can be adjudicated, CVAP staff gathers more information, based on the information in the application.

Reports to Crown Counsel are obtained from the police. Depending on the injuries and losses suffered by the claimant, reports may also be collected from doctors, counsellors and/or therapists. All of this takes time, but it is in the best interest of the claimant in order to ensure that the adjudicators have sufficient information to make an appropriate decision.

Although each claim is different, on average, claims are adjudicated within two to six months. It's important to know that a support worker or a client can request that a claim be expedited when clients are in urgent need of immediate counselling or safety measures such as relocation or alarms.

For survivors who were victimized in other provinces or territories, a support worker should inquire whether that location has an equivalent program to CVAP. Most provinces or territories have such a program, and applications can be requested and completed.

Crime Victim Assistance Program Requests for Reconsideration

If an application for Crime Victim Assistance has been denied, applicants can make a request that the decision be reconsidered. The reconsideration request must be made to CVAP in writing within 60 days of the notice of denial, and include information pertaining to the decision to be reconsidered and the error that the applicant believes was made.

In some cases, the director of the CVAP can extend the time limit of 60 days if she/he is satisfied that the request for reconsideration could not have been reasonably made within the 60-day time period. A situation that may call for a reconsideration is one where not all medical information was submitted to CVAP or where additional information became available after the decision was made.

For more information on the Crime Victim Assistance Program, and to download an application form, visit <http://www.pssg.gov.bc.ca/victimservices/financial/>.

5.6 Victim Impact Statements

Sections 15 and 19 of the Canadian Victims Bill of Rights provide that every victim has the right to present a Victim Impact Statement (VIS) to the appropriate authorities in the criminal justice system, and to have it considered through the mechanisms provided by law.

In BC, under Section 4 of the Victims of Crime Act, Crown Counsel has long ensured that every survivor is given reasonable opportunity to have admissible evidence concerning the impact of the offence, as perceived by the survivor, presented to the court before sentence is imposed.

A survivor will be given the opportunity to complete a written statement describing the effects of the crime in terms of its emotional, physical, psychological and financial impacts. They can describe the ways in which their life has changed, and inform the court of how they feel about future contact with the offender.

This Victim Impact Statement is used at sentencing if the offender pleads or is found guilty. It is intended to help the Judge better understand the full impact of the crime on the survivor, and take that into consideration when deciding on an appropriate sentence. If the accused is not convicted, it will not be used.

Survivors are not obligated to provide a VIS – it is a choice. They can also choose to fill out some sections, but not others. Some choose to attach a poem or drawing illustrating the impact, or write a letter.

A Judge can consider making a restitution order as part of a sentence. If a survivor suffered economic loss, she can ask for restitution and complete and include a separate Statement on Restitution (Form 34.1, available online at http://www.ag.gov.bc.ca/prosecution-service/info-sheets/victim_impact_statements.htm). Survivors should be made aware that such orders are not automatic, and they must have documentation in support of their claim.

A VIS is written in the survivor's own words. A VIS should not describe the circumstances of the offence, which is information that has already been recorded in the survivor's statement to the police. It should not refer to any offenses for which charges were not laid. Instead, a VIS focuses on what has happened to the survivor since and as a result of the offence. It should include any safety concerns or desire for no-contact conditions.

It should not include thoughts on the type or length of sentencing. It should not make any comments about the justice system or personnel, or how the case was handled. Crown Counsel is responsible for reviewing a VIS to ensure it does not contain anything inappropriate.

Who Sees the VIS

When helping complete a VIS, be sure to tell the survivor who will see the statement. Explain that a VIS is not confidential, and may be seen by:

- Crown Counsel
- The judge
- The accused
- A probation officer
- Defence counsel
- Parole board officials.

(Some survivors may choose not to submit a VIS when informed that the accused may see their statement, because they do not want the accused to know how the crime has affected their lives.)

Crown Counsel may make oral submissions to the court based on the Victim Impact Statement, quoting the statement in whole or in part. Crown Counsel may also call the survivor to the stand to testify concerning the effects of the crime. The survivor may request accommodations such as reading her VIS to the court from behind a screen or from a separate room.

Crown must show the Victim Impact Statement to defence counsel. If the defence disputes or wants clarification on the information in the VIS, the survivor may be asked to testify at the sentencing hearing about the VIS. (This is fairly uncommon.)

Both primary and secondary victims can submit a VIS. For example, the parents of a child sexual assault victim are entitled to submit a statement on the child's behalf as well as on their own.

How to Prepare a VIS

To help sexual assault survivors complete a Victim Impact Statement, begin by determining the impact of the crime on their lives. Ask the survivor to think about life before the sexual assault and life after the assault. Ask her to note any significant changes in physical, emotional or mental states, behaviour, and any changes in relationships, residences, occupations or pastimes. Any changes that came about as a result of the sexual assault may be included in the statement.

Consider the following guidelines when helping a survivor complete a Victim Impact Statement:

- Start early. This provides time to explain the purpose of a VIS, for them to prepare one if they decide to, and for them to arrange for support if they find the process difficult. It also means the VIS will be ready should the accused plead guilty early in the court process.
- Review the questions on the form to make sure the survivor understands them. Discuss if and how she wishes to respond.
- Ask if the survivor previously listed her injuries or losses in another document, such as an application for crime victim assistance benefits.
- Help her make a list of the points the survivor thinks are the most important.
- Remind the survivor to write in the first person (e.g., "Since the assault, I have...").
- Encourage the survivor to write clearly and concisely, and to speak directly to the issue.

- Help the survivor avoid highly emotional or prejudicial comments about an offender.
- Have the survivor write in the appropriate section of the form, or on a blank sheet of paper if the survivor is more comfortable with this. Many people are intimidated by forms.
- Never assume that your client is literate. Always ask her if she is comfortable writing it on her own, especially if English is her second language. This includes women who are deaf who use sign language.
- Avoid suggesting what feeling or reactions she may have had.
- Write the information for the survivor if she is unable or unwilling to do so. Make sure you put everything in the woman's own words and that you sign the back of the form to indicate that you have helped prepare the statement.
- Go over the completed form to check that it says what the survivor wants.
- Remind the survivor to sign the form.
- Do not underestimate the emotional effect this process may have on the survivor, and on you.

When to Prepare the VIS

The Victim Impact Statement should be prepared early on in the criminal justice process for the following reasons:

- An accused may plead guilty at any time during the legal process, and the Crown will then need the VIS for sentencing.
- A survivor can usually write a clearer VIS immediately after the crime.
- Preparing a VIS is a cathartic experience for many people, and often enhances the healing process.

Ensure that the VIS is prepared early in the court process, but consult with Crown about the best time to submit it. Bear in mind that everything in the Crown file must be disclosed to the defence. If the statement is submitted before the trial, then the survivor may be cross-examined on its contents by the accused's attorney.

Also, as survivors go through the stages of recovery, particularly as the trial date approaches, the impact of the crime may alter, and added impacts may become obvious. Survivors who have already submitted a VIS and want to add to it can submit an updated statement to provide additional information to the court.

The Victim Impact Statement process can be time-consuming and emotionally difficult. Yet it can be empowering and therapeutic. When a Victim Impact Statement is provided to the court, the survivor may feel that her voice was heard by the judge and others in the court, including the offender.

For more information on how to prepare a VIS and Statement on Restitution, and to download a guide and forms, go to http://www.ag.gov.bc.ca/prosecution-service/info-sheets/victim_impact_statements.htm.

5.7 Referrals

A large part of your job as a community-based victim service or other anti-violence worker involves helping survivors identify what information and services they need in the aftermath of a sexual assault, and to provide referrals to them. To be effective, you must:

- Be knowledgeable about the range of support services available in your community, such as victim services; government agencies (justice, health, social systems); community agencies (counselling services, self-help groups, multicultural agencies, advocacy groups); and commercial services (locksmiths, alarm companies...).
- Establish relationships of trust and mutual respect with people working in the justice, health and social systems, as well as in community service agencies and groups.
- Learn as much as possible about the roles and responsibilities of this diverse group of professionals, and make sure that they are familiar with yours.
- Provide the information to the woman in a variety of ways, offer to proactively make the contact for her or to accompany her to the service, and
- Follow up with the woman or the service to make sure that the referral was effective.
- Know how to make appropriate referrals when you are unable to work with a survivor, or when a survivor has needs your agency cannot meet.

Remember that the victim service organizations may vary in their procedures for making or receiving a referral. Check your program's policy and procedures in this area. Also know that in BC, Victim Service Program contracts mandate that where they exist, community-based victim service programs should be the primary service providers in sexual assault cases.

When to Make a Referral

You should make a referral whenever someone else could be of more help. You will likely make a referral in the following five circumstances:

1. The survivor has problems that fall within the mandate of another victim service program. Do not begin service with a survivor if it would be more appropriate to refer her to another victim service program specifically mandated to provide the service.

2. The survivor requires expert professional help. Some of the professionals whose services might be needed include lawyers, psychologists, social workers and marriage counsellors. Some indicators that a survivor may need professional help include the following:
 - She talks about committing suicide.
 - She is regularly confused about time, place and events.
 - She experiences debilitating depression or anxiety for a prolonged time.
 - She appears to be dangerous and not just angry.
3. You lack the necessary skills to deal with that “type” of survivor. You might find the woman too shy, too hostile or too different from you, or you may be unable to work with her for some other reason.
4. The survivor has needs beyond your training or your agency’s mandate. You might find that a survivor has special needs unrelated to victimization – for example, she may require an interpreter, or need assistance because of hearing or speech disabilities, or she may need information on financial assistance.
5. There is a conflict of interest. For example, your agency may be working with the offender.

How to Make a Referral

If you are sure a survivor will accept a direct referral, give her the name of the agency or individual. Tell her how to make contact and what to expect (e.g., cost, kind of service, waiting periods for service, hours of operation, intake procedure, etc.).

If a survivor seems slightly hesitant, talk about any concerns, or suggest that you arrange the contact and have her follow up. If a survivor is very hesitant, suggest that you make the appointment and go with her. Check this procedure first with the staff or agency you are referring the survivor to.

Unfortunately, many people believe that needing counselling or therapy is a sign of failure, or that their problems or symptoms fall into an unmanageable category. In some cases, it may help to remind survivors that the traumatic experiences they have suffered are beyond the coping capability of most people. Help the woman reframe negative perceptions by explaining that professional counselling or therapy is a positive approach to regaining good health and attitudes, and that everyone deserves extra care and support in recovery.

Encourage a survivor’s involvement as much as possible. Your goal is to empower her rather than to facilitate feelings of powerlessness or dependency.

If a survivor refuses to be referred, do not attempt to force the referral. Respect her ability to make choices affecting her life. Explain your limitations and remain available to provide whatever assistance you can.

You can, if necessary, insist on the limitations of your agency’s mandate and refuse to work with a survivor. Discuss this situation with your coordinator or manager before taking such action. This happens very seldom, but the situation can arise.

5.8 Reporting Suspected Child Abuse

Under section 14 of the Child, Family and Community Service Act, where a person has reason to believe that a child needs protection, they must report the circumstances to a child protection worker at the Ministry of Children and Family Development (MCFD). Part 2.3 of this handbook, under “Child Protection – The Duty to Report”, lists specific situations where protection is needed.

A case example:

A young woman tells her anti-violence worker that she has been sexually assaulted by a well-known member of the community whose name the worker recognizes – the man works actively with teenagers in the area. The woman is adamant that she does not want police intervention. She is terrified of reprisals since the man has “powerful” connections and has threatened her about speaking up.

The anti-violence worker is torn between the possibility of losing her relationship with the woman and her concern that other young people and children might be at risk. The worker is in conflict and doesn’t know what she should do.

There is no question about the action required in this case – the anti-violence worker has a legal responsibility, in all circumstances, to report children at risk to MCFD. This may be done by calling the local MCFD office.

The following guidelines may assist workers faced with this kind of situation:

- Advise the woman as soon as possible of your legal responsibility to report any knowledge of children at risk.
- Inform the woman about the reporting process in order to lessen her fears about family disclosures or retaliations.
- Encourage the woman to make the report herself or engage her in the process of reporting in order to increase her sense of control. It is possible to report anonymously, although anonymous reporting makes collecting evidence more difficult.
- Provide support to the woman throughout the investigation and, if necessary, be her advocate with respect to the justice and other systems she will encounter.
- Consult with a women’s centre, your agency or other specialists for support and information for the woman and, if necessary, for yourself.

PART 6: CRISIS INTERVENTION

Introduction

In responding to a survivor in a crisis, your first priority is to ensure that she is safe and obtains the medical assistance that she needs. Because of the urgent need for safety and possibly medical care for the woman, you must assess the risk of immediate danger and need for medical assistance quickly and deal with these in a practical way. At the same time, you must begin to create a relationship of trust and respect with the assaulted woman so that she is able to accept your help.

You may be the first, or one of the first, people that the survivor discloses the assault to. You are a key person in the survivor's experience. How you react to her disclosure can have a significant influence on how she makes sense of what happened, and could affect what she does or does not do next. An empowering response reassures her that:

- You believe her
- You are sorry that happened to her
- The assault was not her fault
- You are glad she reached out to you
- She has choices and options
- You will assist her to get the help she needs.

Following a sexual assault, a survivor may be tearful, highly distraught, angry, depressed, or fearful; or she may appear calm, working at repressing stressful feelings. She may also believe she was completely or partially at fault for what happened and feel guilty or ashamed. While every individual woman's reaction is her own, many women react in one or more of these ways, particularly in the period immediately after the assault. In most instances, the woman has no experience or model to guide her in responding to this trauma. She is therefore likely to doubt the validity or the acceptability of her emotions. Self-doubt will add to her anxiety and undermine her self-esteem.

Due to this reality, it is imperative that your responses to the survivor be provided within a trauma informed lens and that you make that lens transparent to her. Framing her responses, even her self doubt, as an expectable and normal response to a significant violation is helpful. Making simple statements that frame her responses as a typical neurobiological response to trauma is reassuring (see Part 3.1).

Grounding her understanding of herself in an understanding of how trauma lives within us provides reassurance and enhances her sense of control. Observing the survivor's emotional and physical responses and simply framing them within this lens helps the survivor stay focused on the decisions that lay before her rather than expending energy in controlling or redirecting her responses. For example, when a survivor is trembling it may be helpful to state, "Your trembling is your body's attempt to now discharge the cortisol and other hormones that it produced when it was most needed, just allowing that to happen is helpful". Receiving this information provides the survivor with a template to understand herself, and releases her from having to actively manage that symptom.

Remember that the person you are speaking with may be terrified and in shock. Go slowly. Focus on her tone of voice, the words she is using, and other indications of what she is feeling.

In the immediate aftermath of an assault, the ordinary challenges of dealing with officials and institutions are made more problematic by the sexual assault survivor's emotional condition and by the attitudes sometimes demonstrated towards sexual assault survivors by medical staff, police, and other officials. For survivors who belong to a diversity group, these challenges may be more extreme (see Part 4).

As her advocate, your goal is to help the woman who has been assaulted deal with the immediate trauma and then with the ongoing realities of the medical, police and legal systems. You can do this by providing her with the support and information she needs to deal with her trauma, and the accompanying feelings such as fear and powerlessness. Your main job is to lend support, and to help her express her own needs and wishes.

In all phases of the support process, the most important thing you can do is to give the woman an opportunity to express her own feelings, and to respect those feelings. For many women, the lack of an opportunity to talk about the assault has severely damaged their lives. Responding to a woman with empathy and respect may be the first step in enabling her to rebuild her faith in others and, most importantly, in herself.

In order to function effectively as a sexual assault support worker, particularly during crisis intervention, you must be familiar with medical, police and court requirements. You must also be aware of community resources and be able to gain access to those resources quickly.

It is important that you establish a relationship of trust and respect with people working within the legal, medical and social service systems, and within agencies and groups in your community. Learn as much as possible about their roles and ensure that they are familiar with yours. Your ability to provide effective support to survivors of sexual assault depends on good relationships with these groups.

6.1 Responding to the Crisis

Because of the urgent need for safety for the survivor, you must assess the risk of immediate danger quickly and deal with it in a practical way. At the same time, you must begin to create a relationship of trust and respect with the assaulted woman so that she is able to accept your help. Included in this section are some questions you can use to assess the situation and help the woman after first contact.

Making First Contact

Your initial contact with a survivor of sexual assault may happen in a number of different ways, but most initial contacts are made by telephone. The survivor may have been given your name and phone number by a police officer who was at the scene of the assault; the police may have asked you to telephone her; she may have been referred to you by a community agency or group; or she may have called you herself.

Begin by listening carefully to the survivor's description of the event. Be patient and let her tell you as little or as much as she wants at her own pace, without interrupting. Don't ask unnecessary questions or press for details. It is also important for legal reasons not to ask leading questions or to "put words in her mouth" about what happened. Ask, "Can you tell me what happened?" Don't say, "Were you raped?" Also bear in mind that the assault she experienced may not fit her definition of rape, and she may not feel she is eligible for your support if your focus is on rape.

Provide emotional support immediately. Reassure her that you believe her. Do not attempt to define the situation for her unless you believe her to be unaware of the danger she is in.

Ensuring Physical Safety

No matter how the survivor contacts you, your first priority is to ensure her physical safety. Find out where she is in order to determine the urgency of the situation. Ask if she is in a safe place. If you believe she is in danger – even if she is not sure – call the police right away. Do not hesitate – get her name, her location and her consent to phone the police immediately. Ask the police to contact you after they have answered the call so that you know what happened. and can make follow-up arrangements.

If the woman is alone, ask her if she would like to call a friend or family member to be with her. If she wants someone else with her, and it is within your agency's mandate, let her know that you will be there as soon as possible. Ensure that it is safe for you to meet her, and ensure you are in compliance with your agency's safety procedures before leaving.

Find out if she needs a translator or interpreter. Do not assume that the interpreter will be there as support for the woman. For example, at the police station a police officer may be able to speak the woman's language and translate for her, but that officer will not be able to offer support and information in an ongoing way. In some situations, interpreters may be too close to the woman's family to be able to truly support her. Therefore, before contracting with any interpreter, be sure to check with the woman to make sure she is agreeable to the proposed interpreter. This includes sign language interpreters, because the deaf community is usually very small and close-knit.

Obtaining Medical Attention

Encourage the survivor to attend at the local hospital emergency department if there is any chance at all that she may have been injured. If there is a hospital in your community with staff specially prepared to handle sexual assault cases, that is where the survivor should be referred or taken.

Explain to her that it is also essential for collecting legal evidence (also known as forensic evidence) that a survivor of sexual assault receive medical attention at a hospital, even if there are no apparent injuries. (See "Medical Procedures" in Part 7 for a description of medical and medical forensic procedures.)

A survivor may want to know why she cannot just go to her family physician. Explain to her that her family physician may not know the procedures for responding to a sexual assault, or have a sexual assault evidence kit that is specifically designed for the gathering of medical forensic evidence – something that will be needed if she is considering reporting to the police.

Many survivors are in shock at this point and are reluctant to consider talking to the police. Let the woman know that this feeling is quite normal, but that she might change her mind in three or four days. Let her know that it is her right to have this evidence collected, so that if she does change her mind about talking to the police, the evidence will be available.

Also explain to the survivor that part of medical treatment following a sexual assault is to provide emergency contraception if needed, to check for any sexually transmitted infections, and to proactively treat for this possibility. Explain that a hospital trained in responding to sexual assault is the best place for this treatment. If, after you have explained this to her, she is still reluctant to go to the hospital, respect her decision.

Keeping Track of Evidence

At an appropriate time after first contact, ask the woman whether or not she wants to report the sexual assault to the police. Explain the different reporting options: no report; third-party report; or report to police. Tell her about police procedures in general. Explain why a report to the police may be helpful: it may lead to arrest and trial; it may help keep other women safer; it may support the evidence of other sexually assaulted women. See Part 8 of this handbook for detailed information about police procedures following sexual assault.

Normally, if a woman reports to police but does not want to proceed with charges, the police will not recommend charges. However, if the police decide that the assailant is a serious danger to the public, they may recommend charges without her agreement.

Whether or not the woman decides to report to police at this time, as soon as possible after the assault, suggest that the woman write down as much detail of what happened as she can remember, including whether she knows or could identify the assailant. Inform her that she may find that details of the assault return to her over a passage of a few days as the shock of the event recedes, and the immediate trauma responses lessen.

It is important to keep track of evidence as carefully and accurately as possible in case the woman decides to report the assault to the police at any time. Any evidence of the assault that might be used in court must be preserved.

You must tell her that anything she writes down for police will not necessarily remain confidential. Also, let her know that the police investigate the assault and Crown counsel decides whether or not to lay charges based on the available evidence and the likelihood of a conviction.

If she has not yet seen a physician/nurse examiner and intends to do so, tell her that until she does, she should not take a bath, shower, or douche, even though she may desperately want to. It is important to preserve any physical evidence of recent sexual activity and trauma to her body. Ask her to keep the clothing she was wearing at the time of the assault, as it may be used as evidence. Suggest that she bring other clothes with her to the hospital.

A kit called the rape or sexual assault kit is available for use by a physician or nurse examiner at the hospital during the medical and forensic examinations to ensure that tests are accurate and that evidence is documented. A forensic examination is an examination where evidence is specifically collected for any police investigation and potential court proceedings (see Section 7.2).

Taking Care of Children

If the woman has children, you must make certain that they are safe and cared for. She may have had to flee without them. If she was not able to take her children with her, she should return for them as soon as possible. However, she must think of her own safety when doing so. If there is any question about a woman's safety when she is returning for the children, consult with the police as to the best way of handling the situation. If she is staying in a transition house, workers at the house may be able to help.

Finding Emergency Housing

It may not be physically safe or feel emotionally secure for the woman to remain in her own home. The following questions will help you assess the situation:

- Are you in danger if you stay in your own home?
- Could you stay with friends or family?
- Would that be safe for you and for them?
- Would that be a good situation for you?
- Do you know about shelters or transition houses?
- Would you consider staying in such a place temporarily?

It is important for you to be aware of services and admission procedures for transition houses and shelters in your area, and to maintain a relationship of mutual trust with the staff. Check regularly with VictimLINK for current information for your community.

Some communities have specialized transition houses. For example, there might be a house especially for Indigenous women. However, do not automatically assume that an Indigenous woman will want to go to an Indigenous transition house without asking her first.

In communities where there are no transition houses, there may be emergency shelters and safe houses available through the police, YWCA, women's centre, or some other group. In some situations, emergency financial aid can be arranged through the Ministry of Social Development and Social Innovation.

Ensuring Support Worker Safety

Your agency must establish safety procedures if staff are to accompany women in crisis. There must be clear guidelines about when and when not to go out (and where to go and not go) in response to a request, and what to do as an alternative.

Procedures will differ from agency to agency, depending upon the services provided. Some suggested safety rules:

- Go in pairs if possible.
- Call for a police officer to go with you if you are concerned about your safety.
- Use a taxi instead of your own car if going to a survivor's home. Have the taxi wait while the two of you go into the home.

6.2 Dealing With the Survivor's Response

The following sections include questions you will need to ask the survivor in order to help her effectively. Do not limit yourself to these questions; there may be others that come up. Remember that the person you are speaking with is probably terrified and in shock. Go slowly. Focus on her tone of voice, the words she is using and other indications of what she is feeling.

On First Contact

When you make first contact with the woman, which will often be by telephone, ask her:

- Are you still in danger? (If you have the sense that the woman is still in danger, no matter what she says, you should call the police.)
- Where are you? Are you in a safe place?
- Would you like to tell me what happened?
- What do you need right now?
- Would you like me or someone else to pick you up or meet you or accompany you to the hospital or police station?
- Can I give you some information about what you can expect at the hospital or police station?
- Would you like to talk about how you are feeling?

Listen to the woman's responses and ask yourself:

- Why is she calling?
- What does she need? (physical, emotional, information needs)
- How is she feeling?
- Is she in shock?

If you will have to pick the woman up, ask her:

- What is your name?
- Could you tell me what you look like so I'll know you?
- What is your address?
- What is your phone number?

Tell the woman your name and give her your description. Arrange a safe place for her to wait for you.

Whether or not you will be picking the woman up, ask her:

- Do you need medical attention?
- Do you want to go to the hospital?
- Do you want or need other medical attention?
- Would you like some information about what you can expect at the hospital?

Tell the woman:

- Do not take a bath, shower or douche, and, if possible, do not urinate.
- Save clothing and other evidence of the sexual assault.
- Bring a change of clothing to the hospital.

If there is a hospital in your community with staff especially prepared to handle sexual assault cases, the woman should be referred to that hospital.

At the Hospital and After

If you accompany the woman to the hospital, ask her if she would like you to stay with her for the medical examination. Whether she wants you to stay or not, explain about:

- The medical examination and the collection of forensic evidence
- STI and HIV tests
- Pregnancy tests
- The “morning after” pill

See Part 7 of this handbook for detailed information about medical procedures following sexual assault.

At an appropriate time after first contact, ask the woman if she wants to report the sexual assault to the police. Explain why a report to the police is helpful (it may lead to arrest and trial; it may support the evidence of other sexually assaulted women). Tell her about police procedures in general and explain the different reporting options:

- No report
- Third-party report
- Report to police

See Part 8 of this handbook for detailed information about police procedures following sexual assault.

If the woman decides to report the assault to the police and they decide that the assailant is an “unknown dangerous offender,” they may lay charges without her agreement.

Suggest that the woman record as accurately as possible the details of the assault in case she decides to give a statement to the police and they lay charges later. You must tell her that anything she writes down will not necessarily remain confidential.

Let her know that the police investigate the assault and Crown Counsel decides whether or not to lay charges based on the available evidence and the likelihood of a conviction.

Later: Support and Follow-Up

If there is a sexual assault centre or other specialized service for sexual assault survivors in your community, refer the woman to that centre for counselling and support. If you provide support to the woman in the days following the assault, allow her to talk about her feelings – anger, fear, hate, shame. Ask her:

- How are you feeling?
- What are you going to do today? Tomorrow?
- What kinds of things have you done before when faced with a crisis?
- Do you have some support systems you could turn to about this event? What are they?
- What can I do to help?

Help the woman understand the importance of taking care of herself, and assist her to identify her strengths. Helping her regain her self-esteem and control over her life can be done by working with her on specific tasks – for example, arranging with her landlord to change the locks or investigating the possibility of an unlisted phone number. Encourage her to plan for her immediate future and for her support and safety needs.

Encourage her to talk about the reactions that her family, friends, and cultural community may have to the sexual assault, and explore ways in which she might be able to find support from this network of people around her.

Discuss her possible reactions to the assault (anxiety, anger, nightmares, insomnia, muscle tension, confusion), in both the short and long term, referring to rape trauma syndrome (see Part 3.1). Explain that counselling is available, and discuss how she would like a referral to be made (see “How To Make a Referral” in Part 5.7).

Let her know what help your agency can provide when she deals with the police and the court system. Make sure she knows how you can be reached, and make arrangements for the next contact if appropriate.

Tell her about other resources she can contact for additional support.

PART 7: MEDICAL PROCEDURES

Introduction

Your first responsibility as a support worker is to determine whether the survivor is in need of urgent emergency medical care. Sexual assault support workers should be aware that not all signs and symptoms of a medical emergency are immediately visible. It is not uncommon for a recent survivor of a sexual assault to sustain a serious (and potentially fatal) injury during an assault and not know it. Many women, because of shock, may not be aware of injuries they might have. Also, some women may not have considered the possibilities of sexually transmitted infections or pregnancy.

Injuries could be internal and not immediately obvious. One example is strangulation injuries. Support workers should screen all women for strangulation during the assault, and stress with survivors the critical need to receive medical attention, even if several days have passed.

A survivor may also not have considered the possibility of the need for medical forensic evidence if she is contemplating criminal charges now or at a later date.

If there is no need for urgent emergency medical care, and the survivor has not yet decided whether to seek medical care or have medical forensic (legal) evidence collected, your role is to inform the survivor about her medical options in order to help her make important and informed decisions.

Once she has decided to seek medical attention, your role is to support her decision, provide her with the information she needs, prepare her for the medical examination, support her during the exam, and be available for any necessary follow-up.

In order to receive specialized medical attention and have medical forensic evidence collected, a woman must go to a hospital emergency department as soon as possible after the assault. Some hospital emergency departments provide examinations up to 96 hours after a sexual assault, while others provide examinations up to 7 days post-assault. At the hospital, she can be checked and treated for injuries (both internal and external) and be given prophylactic medication to prevent pregnancy and sexually transmitted infections (STIs).

It may be difficult for the survivor to decide to go to the hospital or to make any decisions at this time. When discussing these issues with the survivor, keep in mind that she may be in a state of shock and may be feeling overwhelmed by fear, lack of control, helplessness, and shame.

If she doesn't want to go to the hospital but you are concerned about her welfare and think that she should go, don't say, "You should go to the hospital." Instead, you might say something like, "I'm really concerned about you and feel that it is important that you get some medical attention." Let her know that she has a number of options about what interventions she wants at the hospital.

Let the survivor know that she can have someone at the hospital with her – a friend and/or you or someone else from your agency. If she resists seeking medical attention, she may be basing her decision on fear or misconceptions. Explore this and give her information about what she can expect at the hospital.

Be patient with her, and be prepared to advocate on her behalf if necessary. Remember that the final decision is hers.

Before Going to The Hospital

Changing clothes, bathing, showering, douching, gargling, urinating, or defecating may destroy evidence, and it is important that you tell the survivor this before you go to the hospital. However, it is important that she still go to the hospital for medical attention even if she has done any of these things. According to forensic nurse examiners, who are experts in the collection of forensic evidence, research has shown that forensic evidence has been present internally for up to 7 days after an assault; validating its robustness even when a survivor has bathed, showered, urinated, defecated or even douched multiple times.

If the survivor has changed their clothes prior to calling you, ask that she retrieve her clothing, store them in a paper bag, and bring them with her to hospital.

Prepare the survivor that her clothing, and even her shoes, may be kept as evidence. For her comfort, encourage her to bring along replacement clothing and shoes.

7.1 The Decision to Obtain Medical Attention and Provide Medical Forensic Evidence

The Options

As a support worker, your role is to provide a woman who has been sexually assaulted with clear, accurate, unbiased, non-prescriptive information regarding her options and then, regardless of her choices, support the decisions she makes. This approach will facilitate her ability to make informed decisions and enable her to regain some control over her situation.

A survivor may choose one or more of the following options:

- Medical consultation
- Limited medical treatment, such as preventative treatment for sexually transmitted infections and pregnancy, without an internal examination
- Comprehensive medical treatment including an external and internal examination
- Forensic evidence collected and submitted to police
- Forensic evidence collected and stored, if storage facilities exist, and submitted to police at a later date, if she chooses.

Tell her that at the hospital she can be checked and treated for injuries (both internal and external), be given prophylactic medication to prevent pregnancy and sexually transmitted infections (and in some cases HIV), and have evidence collected. It is important for her to understand that the entire process of a forensic examination is directed by the survivor. Options, alternatives and choices are offered continually throughout the process. This process is intended to empower women to take back control of their bodies.

If she is contemplating criminal charges, it is recommended that she receive medical attention, even if there are no apparent injuries. She will be asked whether she wishes to report the assault to police.

Let her know that if she wants to report to police, a forensic examination will be conducted, generally using a sexual assault evidence kit, and the medical forensic evidence will be turned over to police.

Many survivors are reluctant to consider talking to police at this point. Let the woman know that this feeling is quite normal, but that she might change her mind in the days, weeks, or months ahead. If you know that the hospital has storage facilities for forensic evidence, tell her that she can have this evidence collected and stored, so that if she changes her mind about talking to police, the evidence will be available.

The decision to report a sexual assault to police is an important one and, for many women, a very difficult one. For more information about storage of evidence, contact your local hospital-based sexual assault program or emergency room, or call Vancouver's [BC Women's Sexual Assault Service](#) at (604) 875-2881 (see Part 8).

A Survivor's Vulnerabilities May Make Decisions Difficult

The hospital environment is intimidating to many people. They may feel vulnerable and afraid in the presence of a physician and/or a nurse examiner. The pain, humiliation, and emotional distress experienced by a sexual assault survivor increase her feelings of vulnerability. These feelings may be heightened by the examination, when she may be requested to lie on her back with her buttocks and genitalia in full view of the physician/nurse examiner and nurse.

If she understands the process and feels listened to, taken seriously, and respected, she may begin to regain some feelings of personal dignity and a sense of control.

Be sensitive to the fact that many factors, including cultural background, religion, sexual orientation, and disability may influence the degree of comfort a woman feels in talking about the sexual assault, both to the physician or nurse examiner and to you. If she has an interpreter with her, this may add to her feeling of humiliation during the medical examination.

The woman may be extremely uncomfortable describing what has happened to her physically and, if English is not her first language, may not know the names of the parts of her body in English. Talking to her before the exam and telling her what these words are may be of help to her.

If the woman is LGBTQ2S, she may find it difficult to respond to the physician/nurse examiner's questions about her sexual history. It may be equally difficult for her, but in different ways, if she was sexually assaulted by another woman or a man. Knowing what questions will be asked in advance will help her to feel prepared.

If the survivor is trans, be sensitive to the fact that the survivor will likely be experiencing extreme emotional discomfort about disclosing the assault and about undergoing a physical examination. Ask trans survivors what you can do to make this experience less stressful for them.

If the woman has a disability, she may need accommodations during the medical examination, such as consideration on how she needs to be moved so as not to incur injury, or the need for an examination table that can be lowered and raised for ease of transfer. As an advocate, you can determine this beforehand and try to make sure that what she needs is available.

(See Part 4 for more information to help you support survivors who are members of a range of diversity groups.)

7.2 Emergency Department Procedures

You should be familiar with emergency department facilities and procedures. If you are not familiar with the services available to survivors at your local hospital, request a meeting with the sexual assault program or emergency department staff to exchange information about services that each of you offers. The emergency department should be kept supplied with brochures describing victim services programs and the 1-800-563-0808 VictimLINK line.

Small and rural departments usually have a nurse or another health care person who will greet the patient at the department entrance. Depending on hospital policy, if this nurse knows that you are coming and why, she will need less information from the woman when she arrives. The nurse can also contact a friend or relative of the survivor, an interpreter, a community-based victim service worker, or a police officer if requested.

Large emergency departments usually have experienced and specially trained emergency physicians/nurse examiners on call 24 hours a day. Many urban BC communities even have specially trained sexual assault response teams available including anti-violence workers on call. To learn about sexual assault response teams in your area, call VictimLINK.

Large emergency departments are likely to have special procedures in place for how the hospital should prioritize survivors of a recent sexual assault, reducing the time a survivor may have to spend waiting in a busy emergency department.

Depending on hospital policy and the time of day, some emergency departments will automatically put a call out for the woman's family doctor (or the doctor on call) after the woman has been admitted. If the hospital is staffed with emergency physicians or nurse examiners, the woman may request that her own doctor not be called to the emergency department and not notified about the assault. It is not uncommon for women who feel embarrassed and ashamed to ask that their family doctors not be called.

The woman may also ask whether she can see a female physician. While this may not always be possible, encourage the woman to make the request if this is her preference.

As soon as possible after she has been admitted, the woman will be taken to a private examination room. If hospital policy permits, she may have a friend, relative, or support worker stay with her during the exam; if she prefers, they can wait for her outside until the examination is completed.

The sexual assault examination is time-consuming by emergency department standards, and the physician will try to schedule an uninterrupted examination. Because of this and because there are a lot of patients coming through emergency departments, there may be a long wait before the examination takes place. If the hospital has a specialized sexual assault program, however, she may have to wait only a short time for on-call staff to arrive.

The emergency department nurse, nurse examiner, or physician will usually inquire whether the woman wants the police involved, whether or not they have already been contacted.

Consent to Procedures

Hospital procedures vary regarding obtaining the woman's consent for the gathering of evidence, release of information, and documentation of the sexual assault examination, but consent is always required. Typically, a consent form allows the woman to make choices regarding medical examination, treatment, collection of forensic evidence, and disclosure to police. Keep in mind that a woman with an intellectual disability may need to have the meaning of consent explained to her.

Regardless of the type of consent form used, a woman is free to consent to or decline any of the procedures. She may decide not to consent to any of the procedures and/or treatment options or to revoke her consent at any point during the examination. Whatever a survivor decides regarding consent to procedures, she should be offered support throughout the medical process. Copies of the consent form used in your local hospital are available from the hospital.

If you can provide an electronic version of the consent form ahead of time, a woman who is blind can have the opportunity to "read" the document herself using special screen readers she may have on her computer or phone.

7.3 The Medical and Medical Forensic Examination

If the woman chooses to have a medical exam, she will be asked to undress and put on a hospital gown in the examining room. If forensic evidence is also being taken, and if the woman is wearing the same clothing she was wearing at the time of the sexual assault, the police will likely want her clothing. Her clothing will probably not be returned as it may be damaged from testing. Any loss of or damage to clothing may be compensated by the Crime Victim Assistance Program, to a limit.

The hospital will provide a dressing gown and slippers. It is a good idea for the woman to bring extra clothing to the hospital or to have someone bring these for her. Some hospitals and community agencies have clothing available for women who need something to wear home.

The forensic exam is conducted in the hospital emergency department, by the same medical practitioner who conducts the medical examination and usually at the same time. Some hospitals have specially trained physicians, nurse examiners, and nurses on call 24 hours a day. If police are involved, all hospitals in BC will either provide medical forensic examinations or refer survivors to nearby hospitals that are better equipped to conduct these highly specialized exams.

In those communities with access to a Sexual Assault Nurse Examiner (SANE) or similar program, the forensic examination is intended to be a therapeutic process. By attending to the body in a careful, thorough and caring way, SANE nurses foster a sense of compassion for oneself and the “hurt” body.

The medical and medical forensic examination includes the physical exam and the collection of specimens. It has four parts:

- 1.** Medical history/assault data
- 2.** Physical examination
- 3.** Collection of specimens
- 4.** Prevention of pregnancy and sexually transmitted infections.

It is not the role of the medical examiner to prove that a sexual assault occurred, but to document and preserve their findings. The examiner must collect and preserve evidence according to strict legal requirements, whether or not the survivor has decided to report the assault to the police.

1. Medical History/Assault Data

During the information-gathering part of the exam, the physician/nurse examiner will ask the woman questions, some of which may make her feel uncomfortable. Tell the woman that the questions are asked in order to help guide the examination. Let her know that she is free to ask the examiner why specific questions are being asked. If the woman has an intellectual disability, inform the examiner that they will need to use simple language/questions to ensure the woman understands.

The examiner will ask the woman for the following information:

Medical background – any current medical problems; medications being taken; allergies (especially to penicillin)

Menstrual history – last menstrual period; any menstrual abnormality

Recent sexual history – type of contraceptive normally used (if applicable); last consensual intercourse (0 to 72 hours)

Gynecological history – previous and current pregnancies; any previous vaginal or pelvic surgery; any signs or symptoms of gynecological abnormalities prior to attack; any previous gynecological conditions, such as a sexually transmitted infection.

While it is not necessary for the medical examiner to record a detailed account of the assault (the police will do this), the examiner will need any information that may help diagnose and treat injuries. The examiner may ask:

- When did the assault occur?
- Do you know the assailant?
- Were any weapons used and if so, what types?

The medical examiner will need detailed information about the nature of the sexual assault. The examiner may ask:

- Did the assault include: vaginal penetration, oral/genital contact, anal penetration?
- Was a condom used?
- Were you drugged?

The medical examiner will also ask the woman whether or not she has changed clothes, bathed, showered, douched, gargled, urinated, or defecated since the attack, as any of these acts may destroy evidence.

Since most drugs used to perpetrate a sexual assault eliminate from the body rapidly through sweating and urination, drug testing will rarely produce a conclusive result and is not always part of the evidence collection process.

2. Physical Examination

The medical examiner will perform a general physical examination, paying special attention to any possible trauma and noting such things as bruises, cuts, areas of tenderness, broken fingernails, and foreign material under the fingernails. The examiner will note the emotional state of the woman and, in cases where she wants to report to police, any evidence of intoxication or drug use.

Medical examiners are aware that a survivor of a sexual assault has experienced a significant trauma and recognizes a wide range of emotional states as being characteristic of a post-trauma response including flat affect, outbursts of anger, crying and even laughter. With the survivor's consent, internal examinations will be done of any body orifices involved in the assault. The examiner should emphasize to the woman that she can take a break or stop the examination at any time if she does not wish to continue.

3. Collection of Specimens

A medical forensic examination will be done if the woman requests or consents to it. This involves the collection of forensic evidence. The hospital will usually have a special rape or sexual assault evidence kit that contains forms for documenting suspected sexual assault cases, plus all the specimen containers required to collect legal evidence. Some or all of the following specimens will be taken:

A culture from the vagina. This is used to test for the presence of sperm and for an enzyme called prostatic acid phosphatase. Acid phosphatase is present in large amounts in semen and is more reliable than sperm testing. Survivors should be informed that these tests are often negative because a condom was used, there was no ejaculation, or too much time has elapsed since the attack to detect sperm or acid phosphatase. It is not necessary to prove ejaculation to prosecute someone on sexual assault charges.

Pubic hair combing and loose hairs. The woman's pubic hair may be combed and saved along with any loose hairs that may have come from the assailant. The laboratory can tell whether the hair is animal or human, what part of the body it originated from, whether or not the hair was forcibly removed, and the race of the person from whom the hair came. The lab can say only that the hair is "similar" to that of the person assaulted or the person arrested.

A blood sample. This is done by pricking the finger and is used for blood grouping. (Note: This is not done in all locations. Some SANE programs use a buccal swab (from the inside of the cheek) for reference DNA.)

A saliva sample. About 80% of individuals secrete blood group antigens in body fluids (including saliva, sweat, semen, and vaginal secretions), which may assist in the identification of the assailant.

Fingernail scrapings. Skin or blood samples from the assailant may be found in these scrapings.

Specimens of clothing or fibre. The source of these materials can be checked, and the materials can be checked for the presence of blood or semen.

A drug screen. This should be offered if the woman thinks she has been drugged. Note that a SANE program may not proactively offer a drug screen, as many of the so-called "date rape" drugs leave the system so quickly that a negative result does not necessarily mean that she was not drugged. A negative result can be very upsetting to a woman who believes drugs were used. A nurse examiner will discuss what bodily sensations the woman experienced, and encourage her to trust her intuition about whether or not she was drugged.

A pregnancy test. If the woman suspects that she might already be pregnant, a urine test may be used to confirm pregnancy and to determine the safety of administering medications. It is too soon to determine if she became pregnant as a result of the assault.

Photographs

Photographs may be taken at the request of the police, at the police station or in the emergency department. The police may take photographs after receiving written consent from the survivor. Great care must be taken to be sensitive to the woman's trauma and emotional needs at this time.

4. Prevention of Pregnancy or Infection

The medical examiner may recommend treatment to prevent pregnancy or treat possible sexually transmitted infections (STIs).

Pregnancy. In order to prevent pregnancy, the woman may be treated with the emergency contraceptive pill (ECP), also known as the morning after pill (MAP) or Plan B. There are different possible treatments for pregnancy prevention.

It is a good idea to keep up-to-date about the medical options to prevent pregnancy so that you can discuss these with the woman, but the best person to explain the medical options and possible side effects to a survivor is a medical practitioner. These pills should not be taken if there is any question about whether the woman is pregnant already. She should have a follow-up pregnancy test in six weeks if she misses her menstrual period.

Treatment for gonorrhea, chlamydia, and syphilis. A small percentage of women who have been sexually assaulted get some form of sexually transmitted infection as a result of the sexual assault. For this reason the woman should be treated as though she has contracted an STI. Unless she is allergic to penicillin, she will be given two antibiotics as a single one-time dose.

She should check with the examiner about necessary follow-up tests and about symptoms to watch for. It is very common to develop STIs without experiencing any symptoms. Even though she may have been given antibiotics at the hospital, it is still important for the woman to go for follow-up tests to ensure that she did not contract an STI. Untreated STIs can develop into something more serious.

Treatment for tetanus. A tetanus shot update may be given if the woman has an open wound or any cuts, or if it is over 10 years since her last tetanus shot.

Treatment for hepatitis B. In some hospitals, medical examiners may recommend a hepatitis B vaccination. This vaccination requires follow-up shots approximately one month and six months after the first shot is given. Follow-up shots should be free of charge. The woman may also require hepatitis B immune globulin (HBIG) if she is considered high-risk and has never been vaccinated.

Testing for HIV/AIDS. Testing for HIV/AIDS can be done at the hospital, and survivors can be tested three to six months after the sexual assault. The risk of contracting HIV through sexual assault is generally very low. However, in high-risk situations involving non-consensual vaginal or anal intercourse with multiple assailants or with an assailant who is known to be HIV-positive, is an intravenous drug user, or has sex with men, the woman may be offered medication that could prevent her from contracting HIV. This medication has significant side effects and is available only in high-risk situations. The sooner she receives the medication, which is often only available in hospital Emergency rooms, the better.

Testing for genital herpes. The chance of getting genital herpes is slight. It has an incubation period of 2 to 20 days, but most symptoms develop about one week after contact. The lesions are like cold sores that appear in the genital area. A swab of these lesions is used to diagnose herpes. There is no cure for herpes but there are medications to control the symptoms.

If the survivor suspects that she has an STI, she should contact her family physician or the nearest STI centre for diagnosis and treatment.

Sexual Assault Assessment Service Record

The Sexual Assault Assessment Service Record, some times known as the “Medical Legal Report” form, is filled out by the examining physician/nurse examiner. You can ask staff in your local hospital for a copy of the form they use for this purpose.

7.4 Role of the Support Worker in Obtaining Medical Attention

Preparing the Survivor for Medical Procedures

The sexual assault survivor may be experiencing fear, anxiety, a loss of control, and physical trauma when she arrives at the hospital emergency department. Providing her with information about what will happen at the hospital may help alleviate some of her anxiety and help her feel more in control. You can also assure her that she has the right to consent or decline any of the procedures or treatment options or revoke her consent at any point.

Clearly describe to the woman what will happen at the hospital from the time she walks through the door to when she leaves. It is easier to do this if you have met with the hospital staff in advance to find out whether they have a sexual assault team, use the RCMP evidence kit or another specialized collection kit, have a private room, and store evidence. Even if you do not have all the details, you can still give her information. For example, you can tell her, “We can call ahead and see if they can arrange a room for us to wait in. When we get there we will talk to the admitting clerk or the nurse. You will need to give your name, address, and medical number.”

If the woman has a medical card, make sure that she brings it with her to the hospital. Some hospitals have systems in place that allow women without medical cards to access free medical attention. Call to find out whether this is the case at your hospital.

If the assault has just occurred and the woman is considering having forensic evidence collected, suggest that she go to the hospital just as she is, without changing clothes, washing, or, if possible, urinating. If her mouth and rectum were involved in the assault, it is best for the preservation of evidence that she not brush her teeth, use mouthwash, take anything orally, or, if possible, have a bowel movement before the examination.

Make sure she knows what your role will be if she wants you to come to the hospital. Tell her that you will be there to support her and to clarify information that is given to her by medical staff and the police so that she can make her own decisions.

Assess her ability to absorb information and respond to her needs. You can give her a synopsis of what will take place depending on the options she chooses, but do not overwhelm her with details unless she specifically requests in-depth information, some of which might be better addressed by the physician or nurse examiner. If you take your cues from her, you may find that what she needs most is an empathetic worker who will simply be with her, validate her feelings, and discuss whatever issues she raises, which may or may not be medically related.

If it seems appropriate, you might discuss with the woman the possibility of sexually transmitted infections and pregnancy, and the possible treatments that she may be given at the hospital. Before discussing pregnancy, find out whether she is using the birth control pill or, if she is older, whether she still menstruates. If the woman is under age, do not ask about the pill in front of a parent.

If it seems appropriate, you might also help her determine the first day of her last period. The physician/nurse examiner will ask her for this information and she may feel more competent if she has already identified this.

Do not assume that if the woman becomes pregnant from the assault she will necessarily want to terminate the pregnancy. Many women will, but some will not. If you are having this discussion, you can also explain the use of the emergency contraceptive, or morning after pill.

If she has never had a pelvic exam or if she is anxious about it, outline the procedure and the tests that may be done. Check hospital policy before reassuring her that you or another support person can be there if she wishes.

The more aware you can be of the woman's values and concerns, the more effective you will be in giving support. It is important that you avoid trying to change the woman's attitudes – you need to understand and respect her values, not change them to match your own.

Let her know that she will need to make important decisions at the hospital about the collection of forensic evidence. Tell her that even if she has not yet decided whether she will report to police, she has the right to have forensic evidence collected and stored, if the hospital has storage facilities.

Providing Assistance at the Hospital

The sexual assault survivor may come to the hospital with the police, on her own, with a friend or family member, or with a support worker.

In BC, if you are bringing a woman to the hospital outside the Vancouver area, it is a good idea to call ahead. It is also a good idea to find out in advance whether an interpreter will be available at the hospital if the woman needs one. There may be a long wait at the hospital. You can ask the nurse for an estimated wait time to help lessen the woman's anxiety. If the woman has to wait a long time, try to arrange a private place to wait. You can use this time to provide information about the examination and procedures and their purpose, and to help her to express her feelings and needs.

Throughout her time in hospital, encourage her to identify her needs and help make sure that these needs are met whenever possible. Establishing and maintaining a cooperative relationship with hospital staff is an important way to help ensure that her needs are met.

Make sure to get the woman's consent if you are going to discuss her situation with anyone else, including police or medical personnel. Simply say, "The police may ask me questions about how you are doing. Is it okay with you if I talk to them? Is there anything you would like me to say or not to say?" This will convey respect and help her regain some control over her situation.

If she has indicated that she would like you to be present during the medical examination, you should check to make sure that hospital policy allows this.

If you are present during the examination, you may feel superfluous as the medical staff conduct their work. Find yourself a place out of the way during the examination. Always preserve her privacy and dignity by remaining out of visual range of the actual physical examination. Provide comfort and support by maintaining eye contact with the woman or by touching her hand if you are absolutely sure she would be comfortable with this. Not all cultures accept touching as a sign of comfort and support, and not all survivors are comfortable being touched after an assault. Focus on helping her to relax.

During the examination, ask the woman whether she would like to know what is going on. If so, you can ask questions of the medical staff when appropriate if you do not understand a procedure. Be aware that the examiner is probing the same bodily areas that were recently violated by the assailant. This may be so emotionally and/or physically painful that even a normally assertive woman may not ask what the examiner is doing. Ask how she is feeling and whether she needs anything to make her feel more comfortable, including, for example, information, a different pace, or a break. Debrief with her after the exam, address any safety risks such as finding her a safe ride or place to stay, and provide support and comfort as required.

Most hospitals document treatment and follow-up appointments for the patient. If this is not the case, before you leave the hospital, encourage the woman to write down any information about treatment that she may want to remember, or write it down for her. Record the dates of any follow-up appointments. If it is within your agency mandate, ask her whether she would like you or someone else to accompany her to these follow-up appointments. Some women, including those with an acquired brain injury that affects memory, may need reminders of follow-up appointments.

Make appropriate referrals for any services that she may need that you are not able to provide for her.

PART 8: POLICE PROCEDURES

Introduction

While many survivors of sexual assault are certain that they want to call the police, others are unsure or confused about what to do. The decision must be the survivor's.

The survivor can also decide when to report. The law allows a report to be made at any time following a sexual assault, regardless of how much time has passed. However, it is advisable to report to the police as soon as possible. Early reporting increases the chances of finding and preserving fresh evidence and of apprehending the accused.

A survivor has three reporting options:

1. No report – the woman chooses not to let the police know about the assault.
2. Third-party report – the woman requests that a “third-party report” be made to the police by a community-based victim service worker.
3. Report to police – the woman reports the assault to the police herself, knowing she will likely have to be a witness if the case is prosecuted. The report should be made as soon as possible.

As discussed in earlier sections of this manual, there are many reasons why a survivor may be reluctant to report the assault to police. She may be feeling guilt about being sexually assaulted, or fear that she will bring shame on her family by “going public” with the assault. She may feel that she will not be believed. She may fear that her privacy will be violated if she reports to police and the case is prosecuted.

She may fear police or courts because of prior experiences either in this country or in her country of origin. If she does not have landed immigrant status, she may be concerned about the effect of reporting on her legal status. If English is not her first language or if she has a communication disability, she may worry that she will not be able to tell the police what happened to her.

Many of these fears may be intensified if the survivor lives with disabilities or is an immigrant, a person of colour, Aboriginal, LGBTQ2S, a sex worker, or a member of any other diversity group.

If a survivor is not aware of her legal rights and what the law says about sexual assault, this may also affect how she reacts, especially if she is acquainted with the assailant. Providing her with information about her legal options and legal privacy protections enables her to make informed decisions.

Emotional support from an anti-violence worker may also be a key factor affecting the survivor's decision to report to police. Reporting the assault and going through the legal process can be an important part of a survivor's taking control over what happened to her and rebuilding her self-esteem. The decision must be hers, however, and your role is to support her, whatever she decides.

8.1 Police Procedures Following a Report of Sexual Assault

Police responses to sexual assault will be guided by legislation and by umbrella and operational policies where they exist. For example, if the assault took place in the context of an intimate relationship, police responses will be guided by the applicable Violence Against Women in Relationships Policy.

The role of the police following a sexual assault is to collect evidence. The police gather this evidence in order to:

- Determine whether or not an offence did occur
- Attempt to identify an offender, or
- Determine whether or not it was the accused who committed the offence
- Assist in the fact-finding process for a possible prosecution.

Police procedures may vary from case to case. A description of general procedures follows.

Third-Party Reporting

Third Party Reports are reports sent to a police department by an intermediary community agency on behalf of a survivor of sexual assault. The report itself is a questionnaire that gathers information about the crime and suspect and does not include the name or contact information of the survivor. A Third Party Report is not meant to lead into an investigation in and of itself; it is solely a means of engaging sexual assault survivors who are reluctant to report to police, but who may want to a) access support and b) let the police to know of a potential sexual predator for police intelligence purposes.

From the police perspective, this anonymous source information enables them to enter the information on their provincial data base, look for and evaluate trends, create profiles of assailants, and/or take other actions such as instituting patrols in the area. From a survivor's perspective, coming forward to submit a Third Party Report can provide critical access to emotional and other forms of support and as well, provide relief that police have the information even if they do not wish to come forward to police themselves.

How Third Party Reporting Works

In BC, victims of sexual assaults may report their assault to police through a community-based victim service program. First, the survivor tells a community-based victim service worker the details of the crime. The program acts as the third party. The victim service worker works with police without giving them the survivor's personal information. Once the victim support worker files the report on the survivor's behalf, police evaluate the facts, start an investigation and take other actions that are appropriate, such as patrolling the area where the crime occurred.

This way of reporting protects her identity and also allows police to get information they need. The third party reporting protocol is set up in such a way that police can contact the agency if they would like to follow up with the survivor. For example, if other survivors have come forward with similar reports that suggest a serial offender is operating in the area, the police may ask the agency to find out whether the client who made the Third Party Report might be willing to talk to an investigator. The decision to talk to police and/or to give a full report always remains with the survivor.

Only victim service workers in community-based victim service programs can file Third Party Reports. If a survivor is considering using third party reporting, make sure she selects a community-based victim service program and not a police-based victim service program (which do not allow third party reporting). VictimLink BC (<http://www.victimlinkbc.ca/>) maintains a list of all community-based victim service programs in the province. The toll-free number is 1-800-563-0808.

The third party reporting process is described in detail in the EVA BC/CCWS publication *Third Party Reporting Guidebook: Increasing Reporting Options for Sexual Assault Victims November 2015*, available on the EVA BC website at <http://endingviolence.org/publications/third-party-reporting-guidebook-increasing-reporting-options-for-sexual-assault-victims-november-2015/>.

More comprehensive information and support regarding third party reporting is also available from The Ending Violence Association of BC's Community Coordination for Women's Safety at 604-633-2506.

Report to Police

If the woman decides to report the assault, she may call the police, who will come to her home or to some other place where the assault took place, or she may go to the police station. In either case, police officers will meet with her in order to take a statement. Her statement to police should include everything she can remember about the sexual assault. The statement may be made at the police station, at her home, or at some other place that the police agree to attend, such as a women's centre. The police will need to know:

- What happened
- Where it happened
- When it happened
- If the accused is known to the woman
- A description of the assailant (height, weight, skin colour, hair colour, eye colour, smell, accent, speech pattern and any unusual features)
- Whether a weapon was used
- What the survivor said and did
- What the assailant said and did
- Any other relevant details about the assault.

Some questions may be embarrassing for the woman. The police will need to know all the details of what happened. If the woman doesn't know the assailant, seemingly unimportant details may help the police identify the person.

After hearing what happened, the police will either ask the woman to write out what she told them or they will write out the statement themselves. In either case, the woman will be asked to read through the written statement and then sign it. In some cases, the interview will be recorded, either audio or audio and video.

Depending on when the assault took place, the police may advise the woman to go to the hospital if she has not yet sought medical attention, or the officer(s) will take her there right away. They may ask questions about the assault on the way to the hospital. Although the woman may desperately want to do so, she should not change or throw out her clothes before going to the hospital, nor should she clean herself, particularly in the area(s) of attack: vagina, anus or mouth. She should not comb her hair. She should not wash her hands. And she should not take any medicine, drugs, or alcohol to calm herself. Doing any of these things may destroy evidence about the nature of the assault or the identity of the offender.

Following the medical examination, the police may ask the woman to come to the police station to make a statement or to be interviewed and have it recorded. If the woman is not physically able to go to the police station, the police will make other arrangements.

Before leaving the police station, the woman should obtain the name(s) and phone numbers of the officer(s) who took the statement, and the police file number. She may contact them if she later remembers additional details of the assault or wants to ask them any questions.

Police Investigation

The police will want to talk to any witnesses, including anyone else who knows anything about the assault. They will also want to collect all possible evidence of the assault. They will gather physical evidence for forensic examination at the scene of the assault, and they will ask the woman to provide any other evidence that she can (see “The Medical and Medical Forensic Examination” in Part 7.3 for a discussion of the collection of medical forensic evidence).

After taking a statement, the police may want to go with the survivor to the scene of the assault. They may want to see the exact spot where the sexual assault took place and hear from her again what happened and where, in order to collect more evidence. This may be traumatic for her.

If the offender is unknown to the survivor, the police may ask her to:

- Look at photos of people (referred to as “mug shots”)
- View a line-up of people whose features may be similar to those of the offender as described
- Describe the offender’s features to an artist, who will make a drawing from the description (police artists usually work only in major cities).

The police may also want to take pictures of the woman's injuries right away. Either a police photographer will come to the hospital or the photographs will be taken at the police station. This process may further upset the woman. Pictures are important, however, because long after the injuries have healed, the photographs will provide evidence of the sexual assault.

If the police have what is known as "probable cause" to believe that a crime was committed and a suspect has been identified, they may consult with Crown Counsel. If the investigation continues, the police may:

- Contact the survivor again to determine whether any pertinent information was overlooked and to review the initial report
- Interview people who may have information or be able to provide further corroborative (supporting) evidence
- Arrest the suspect or obtain a warrant for his arrest.

KGB statements, named after a case in which such an approach was used, are generally videotaped statements to police that are later used in court instead of a survivor herself providing evidence through Crown examination. Such statements make it more difficult for a woman to recant her original statement, although she would still be subject to cross-examination by defence Counsel.

KGB statements may be used when the police consider that it is in the public interest to proceed and evidence may not be available for trial. To date, these statements have rarely been used in BC.

If necessary, you may act as a liaison between the police investigating the case and the survivor. Once the initial report is made and the statement taken, there may be a long period when nothing seems to happen. During this time, the woman may begin to feel frustrated with the criminal justice system. She may feel that things are not moving fast enough (they have not picked up the suspect; they haven't contacted all the witnesses). It is your role to explain the process and ask questions of the police where appropriate.

A sexual assault investigation is not like any other investigation. There are many reasons for this:

- Sexual assault victims are often first seen by a police officer who responds to a call for assistance. As there are seldom witnesses to the sexual assault, the police officer's initial interaction with the victim is the most critical part of the police investigation. The treatment that a victim receives will influence his or her entire recovery process.
- Police officers must remember that the victim is discussing his/her most personal and traumatic experience of his/her life with a stranger.
- There are often no physical injuries and little, if any, forensic evidence.
- Some of the shame the victim feels may impede the investigation. Shame arises due to the intimate nature of the assault, victim's self blame that perhaps if they had done something different it wouldn't have happened, and the views of those around them that purposely or inadvertently lead to blame being directed toward the victim.
- Emotional reactions may also not be as expected and cannot be relied upon as "proof" (e.g., a teen calmly discussing the events may be experiencing numbing from repetitive abuse vs. the hysterical teen facing a first time assault).
- Stress, alcohol, and drugs can also have significant effects on memory affecting the amount of detail, clarity, and consistency of the recounting of events.
- As a result, when victims are disclosing they may initially fail to disclose everything, only to have it come out later, potentially impacting their credibility.

***Best Practices for Investigating and Prosecuting Sexual Assault
The Alberta Justice and Solicitor General
Criminal Justice Division (2013)***

Report to Crown Counsel

When the police investigation is complete, the police will write a Report to Crown Counsel (RTCC) recommending a charge or charges. The Crown will decide if there is enough evidence to lay a charge and if so, what charge(s) to lay. The police will assist Crown Counsel by obtaining further evidence upon request, and will be called to testify if there is a trial.

If the Accused Was Arrested

If the accused was arrested, you can help the survivor find out whether he has been released and whether there are protective conditions. He may have been released from police custody on a Promise to Appear and an Undertaking Given to a Peace Officer or an Officer in Charge (often referred to as an Undertaking to Appear, or UTA).

If the survivor is named in a non-communication condition, the survivor has a right to a copy of the accused's undertaking and can obtain this from the police. The RCMP Violence in Relationships/Violence Against Women in Relationships Policy directs members to provide victims with a copy of the UTA. She can also ask the police when his first court appearance will be.

If the accused was arrested and held for a bail hearing in court, he is usually released and placed on a bail order or court undertaking with restrictive conditions. In more serious cases, there may be a requirement for the accused to have someone sign that he will abide by the release conditions or put up cash or surety as part of his bail.

Bail conditions usually include a ban on direct or indirect contact with the survivor and on going to her residence or other locations such as her work or school. The accused may also be ordered to report to a bail supervisor and to abstain from using drugs or alcohol. The survivor may receive a copy of the order through registering with the Victim Safety Unit, through the mail from the bail supervisor, through a community-based victim services worker, or she can obtain a copy personally from the court registry or Crown Counsel.

If the accused is at high risk to re-offend or has a lengthy criminal record, or if the assault was very serious, he may be held or remanded in custody.

The woman should be informed that if the offender does not abide by the conditions, then it is considered a breach. The woman should report the breach to the police, or she may contact the bail supervisor. If the situation is an emergency, she should call 9-1-1 or her local police emergency number.

It may take several incidents before the police are able to arrest the offender on a breach, so the woman should be encouraged to continue to log and report all forms of attempted contact. It is best if she writes out a brief statement to the police so as to have a written record of her complaint, rather than just calling the officer. It is very important that she understand the importance of keeping clear records of contact, including the date, time, location, witnesses, and details of what happened.

What a Support Worker Can and Cannot Discuss With the Survivor

In order to avoid endangering a possible prosecution or breaking the law, anti-violence workers must be aware of what they can and cannot discuss with survivors. The following rules of conduct will assist you:

- Do not discuss the case with anyone except your supervisor, the police, Crown Counsel, or others as required by law (see “Exceptions to the Basic Principle of Confidentiality” in Part 5.2).
- Remain impartial in discussions of criminal justice issues with your client.
- Never say or do anything that may influence a witness’s testimony.
- Never discuss the survivor’s evidence or suggest what she should say as a witness.
- Never discuss the evidence of other witnesses with the survivor.
- Report any additional evidence to police or Crown Counsel in accordance with your agency’s protocols. If you are unsure how to handle new information provided to you by a survivor, consult with senior staff in your program/agency.

Do NOT release the following information to a survivor or to others:

- The name of the suspect, unless a charge has been laid against that person, making the information part of the public record.
- The name or any information that might identify a young offender (a person between the ages of 12 and 17). You can, however, explain that the Youth Criminal Justice Act restricts the release of this information, and you can state that a young person has been charged. (The name of the offender may be released to the survivor under certain circumstances. Check with police, Crown Counsel or the Victim Safety Unit.)
- A case file or any part of a case file that is the property of the police (e.g., the Report to Crown Counsel). The Crime Victim Assistance Program, insurance companies, and civil lawyers can contact the police department or Crown Counsel directly for any information they require.
- Information about the criminal background, or absence thereof, of any suspect or charged person.
- Information about any case other than the case in which the survivor is the victim/witness.

If you are uncertain whether information is confidential, always check first with police or Crown Counsel.

Witnesses may be asked in court by defence Counsel whether they have discussed their evidence with a victim service worker or other support worker. There is the chance that the worker will then be called as a witness.

The following information would not fall under the category of evidence and so can be provided to the survivor:

- Police file number
- Name of investigating officer
- Court file number
- Name of Crown Counsel
- How to claim property that has been recovered
- Name of an adult accused if charges have been laid
- Information concerning the status of the case: court dates, whether the case is still under investigation, whether the case has been concluded, and the disposition of the case.

Persons other than victims or witnesses should be referred to the court registry or Court Services Online (<https://justice.gov.bc.ca/cso/index.do>) for information about the status of the case once charges have been laid. For example, if a neighbour of a survivor wants information on the court case, and the neighbour is neither a witness nor a support person for the survivor, you should refer this person to the court registry.

8.2 Preparing the Survivor for the Police Investigation

You can prepare the survivor for the investigation by telling her what to expect. Before meeting with the police, tell her who will be involved. Explain the procedures the police will use and the kind of questions they may ask. This may help alleviate some of her fears about giving a statement.

You can let the survivor know that she can tell the police officer that she wants to stop and take a break during the interview. Also let her know that it will be permissible during the interview to say that she is not ready to talk about something that makes her extremely uncomfortable.

Remember that making the police report is often very difficult emotionally for the survivor because she has to discuss specific details of the assault. It will help to ask the woman about her fears before the interview. This will give you a chance to validate her feelings and explain that it is reasonable to be afraid or distraught. Talking about the interview can also give you a chance to dispel any misconceptions the woman may have about the process.

Let the survivor know that if the police agree, you or someone else can be with her throughout the police interview. Explain that you will not be playing an active role in the interview, that you are there as support for her, and that you will be able to follow up with her after the interview.

Supporting Her While She is Providing a Statement to Police

When a survivor gives a statement to police at her home, at another location, or at the police station, your role is similar to your role at the hospital. You are there to support the survivor. Before and after the police interview, your role will be more active. While she is giving her statement, your role will be a somewhat passive one.

As soon as you arrive at the police station or the location where she is giving her statement, give the police officer your name and indicate that you are a community-based victim service or other anti-violence worker. You may need to explain your role by saying that you give aid and information to sexual assault survivors as they go through the medical and justice systems.

It is important for you to encourage the survivor to interact directly with her interviewer, and to ask her to avoid physical, verbal, or visual contact with you while she is giving her statement or being interviewed. Your role is to listen, observe, and provide emotional support when she needs it, for example, by passing her a box of tissues.

It is essential that you support the survivor while not interfering with police procedures. This means that you must not tell her what to say or interfere with the interview process in any other way. The more rapport established between her and the police officer, the less she will feel powerless and alone.

Sometimes a police officer may ask a question that is obviously difficult for her to answer or causes her a great deal of discomfort. When this happens, you can ask, "Would it help you to answer the question if you knew why it was being asked?" If she says "yes" and the police officer fails to respond, you can say to the officer, "It would make it easier for her to answer if you explained the reason for the question."

Sometimes it can be difficult for a woman to talk about the details of the sexual assault because she does not know the anatomical names for the parts of her body in English. It is important that you inform the police of this.

If at any time the survivor does not understand what is happening, encourage her to ask or try to find out for her. If her anxiety or distress is interfering with the interview process, the police may ask you to provide support or help her find ways to address her discomfort with the interview. In some cases, it might be necessary to set up another interview.

Once the statement is taken, the survivor will be required to read through the statement and sign it. By this time, she may be very tired and upset and may not be paying attention when she is reviewing the statement. The accuracy of the recorded information is very important. If the police agree, you can offer to help her review the information if necessary. Assistance in reading the statement will be a necessity if the woman has a visual disability, and should definitely be considered if she has an intellectual disability, or is a woman who is deaf whose first language is sign language.

After she has completed her statement, you can talk with her about how she felt during the interview and what is likely to happen next. Remind her to ask for the name(s) and phone number(s) of the officer(s) in charge of the investigation before both of you leave the police station. She may want to contact them if she remembers further details of the assault or wants to ask a question. She may also want to contact them to find out what is happening with the investigation.

Remember that your ability to help the survivor in her dealings with police will depend directly on the quality of your working relationship with the police. A cooperative, constructive, and respectful working relationship with your local police will do much to help you help survivors get their needs met.

Providing Liaison and Follow-Up Support

If necessary, you may act as a liaison between the police investigating the case and the survivor. Once the initial report is made and the statement taken, there may be a long period when nothing seems to happen. During this time, the survivor may begin to feel frustrated with the criminal justice system. It is your role to explain the process and ask questions of the police where appropriate. You can get information about the status of the investigation by calling the officer in charge of the case.

If the police decide not to pursue the investigation or not to recommend charges, you can make sure the survivor understands that the reality of her sexual assault does not depend on its strength as a legal case. Sometimes the police are not able to find sufficient evidence for the Crown Counsel to lay charges. It is important to stress to her that this is no reflection on the truth of her statements or the validity of her experiences.

If no charges have been laid and the survivor wants to know why, refer her to the investigating officer or to Crown Counsel. Or, under the direction of the officer or Crown Counsel, advise the survivor of the reason.

8.3 Role of Crown Counsel

When a crime has been committed, it is considered to have been committed against society, and the victim of that crime is considered a witness. Crown Counsel is the lawyer who represents society, who decides whether or not a charge is to be laid and what the charge will be, and who prosecutes the accused. Crown Counsel is not the lawyer for the woman who has been sexually assaulted.

Crown Counsel's response to sexual assault will be guided by legislation and by Crown Counsel policy, including specific policy on sexual assault and, where applicable, on spousal assault (see Part 2 for a discussion of relevant legislation and policies).

Laying a Charge

If Crown Counsel is satisfied that there is a substantial likelihood of conviction and that it is in the public interest to prosecute, Crown Counsel will decide what charge or charges will be laid. Crown Counsel will lay the charges and police will make an arrest. If Crown Counsel decides to prosecute, he or she, the police, or the anti-violence worker will notify the survivor. If the survivor is apprehensive about this decision, she can meet with the Crown Counsel assigned to her file.

If there is insufficient evidence or there is not a substantial likelihood of conviction for some other reason, or if Crown Counsel decides that it is not in the public interest to prosecute, Crown Counsel will not lay charges and the case will not be prosecuted. If Crown decides not to prosecute, the survivor will be notified. She has the right to meet with Crown Counsel to hear the reasons.

The survivor has the right to lay charges herself. She will have to go to a justice of the peace (an officer of the court with some of the powers of a judge) to present her information in writing and under oath. This is not a recommended option, however, because it is unlikely that she will succeed on her own if Crown Counsel has decided not to prosecute. A lawyer can give legal advice about what to do.

Options for Proceeding With Charges

In Canada, there are two categories of criminal offences: serious crimes, called indictable offences, and less serious crimes, called summary conviction offences. A sexual assault may be either an indictable offence or a summary conviction offence, depending on the circumstances of the assault. If the survivor was injured during the assault, or if weapons were involved, then the crime would be an indictable offence.

Summary conviction offences tend to be of a less serious nature, where only kissing and fondling are involved. It is the role of Crown Counsel to decide whether to proceed with a charge of sexual assault as a summary conviction or an indictable offence.

Indictable offences and summary conviction offences are tried in different courts. A summary conviction trial is usually held soon after the crime is committed. An indictable offence will involve a longer process, as it is a more serious crime with harsher penalties. The accused charged with an indictable offence has the choice of being tried by a judge or by a judge and jury, as well as the right to hear the basis of the Crown's case before the trial at a preliminary inquiry.

Pre-Hearing Interview

- For most survivors, contact with Crown Counsel begins with a pre-hearing interview. It may take four to six months for the preliminary hearing or inquiry to be held. The purpose of the pre-hearing interview is to assist Crown Counsel in preparing the case and to help prepare the survivor to be a witness at the trial. During the interview, Crown Counsel may:
- Review the survivor's statement with her, discussing any points that are unclear
- Ask the survivor to repeat the details of the assault in order to assess her ability as a witness in court and prepare her for having to describe these details in a courtroom
- Explain courtroom procedures and acquaint her with the types of questions and questioning styles of both Crown Counsel and the defence Counsel (the lawyer for the accused)
- Answer questions the survivor may have, and generally attempt to prepare her for her role as a witness in a criminal hearing

- Ask the survivor questions regarding her life before and after the sexual assault so that the Crown can describe to the court the full impact of the assault (this information is useful to Crown Counsel during sentencing)
- Assist her in filling out a Victim Impact Statement (VIS), which is a form for the victim to describe the full impact of the crime on her and her life. Crown Counsel will give the statement to the judge as information to consider in sentencing.

If there is an application for release of the survivor’s personal records, such as counselling or medical files, independent legal representation may be required should the survivor want to defend against the production of those records in court. Crown Counsel will recommend that she obtain independent legal advice, because the Crown’s interest is to represent the public, not to represent the privacy or equality interests of the survivor or record keeper.

In BC, the survivor will be eligible for a lawyer through Legal Aid.

Plea Discussions

Plea discussion is a process of negotiation between the defence counsel and the Crown Counsel. In return for a guilty plea, the Crown may stay (meaning “to not proceed with”) some of the charges against the accused, reduce the charge to a lesser offence, or ask the court for a lighter sentence.

Plea discussion, sometimes called plea bargaining, is not used in every case, but may be used where the administration of justice and the public interest require that it be considered. If it is used, plea discussion may begin at the earliest stages of the process and go on until the trial.

In plea discussions, particular care is taken to balance:

- | | |
|------------------------------------|--|
| • The rights of the accused | • The benefit derived from proceeding |
| • The protection of the public | • The interests of the victim |
| • The cost of the prosecution | • Concerns related to protection of the victim |
| • The length of the prosecution | • The administration of justice |
| • The number of witnesses involved | |

8.4 Use of Alternative Measures

In 1996, the Criminal Code was amended to include alternative measures to sentencing. In the past, this was sometimes called “diversion.” Alternative measures refers to measures other than judicial proceedings used to deal with someone who is alleged to have committed an offence. In these cases, the accused will accept responsibility for his offence and there will be enough evidence to proceed, but the matter will not be taken to court. Instead, Crown Counsel will refer the accused to an alternative measures program. He may be required to complete a program of community service or undergo treatment.

If an accused is referred for alternative measures, charges are not generally laid, and he will have no criminal record. If he does not complete the requirements of the program, he can still be prosecuted in court for the original offence. The court must dismiss these charges if the accused has complied with the terms and conditions of the alternative measures imposed. The court may also decide to dismiss charges where there is only partial compliance.

The Criminal Code provides that alternative measures may only be used if it is not inconsistent with the protection of society, where certain conditions are met.

Crown Counsel makes the final decision about whether alternative measures will be approved, based on the following Criminal Justice Branch policy:

“Branch policy on Alternative Measures for Adult Offenders (ALT 1) provides that offences of aggravated sexual assault and offences involving the use of a firearm in the commission of an indictable offence for which there is a minimum sentence, including sexual assault with a weapon, must not be considered for alternative measures.

Other sexual assault offences may be referred for alternative measures and specific alternative measures recommended in an Alternative Measures Report, used only in exceptional circumstances and with the approval of Regional or Deputy Regional Crown Counsel.

In all cases, the above approvals should be given if the following conditions are met:

1. The victim has been consulted and the victim’s views considered.
2. The victim has been made aware of available victim assistance programs.
3. There is no apparent history of violence or sexual offences.
4. The offence must not have been of such a serious nature as to threaten the safety or tolerance of the community.

While an alternative measures referral may be considered at any stage of the proceeding, in some cases it may be advisable to approve a charge and have conditions of release in place including no contact with the complainant before making the referral.”

Different considerations may come into play in cases involving an accused who is Indigenous. According to Criminal Justice Branch policy, this approach reflects concerns about the over-representation of Indigenous people in the criminal justice system.

The BC Corrections Branch has the responsibility for delivering alternative measures programming. Community Corrections policy sets out the requirements that must be met for alternative measures to be recommended to Crown Counsel. They include the following:

- The entire Report to Crown Counsel (RTCC), including the police narrative and all victim statements, are provided to Community Corrections and reviewed.
- The accused indicates unequivocal agreement with the circumstances outlined in the report and has taken full responsibility for his actions.
- The report does not make reference to any physical injury as a direct result of the assault or use of a weapon or to any threats to harm the victim or others.
- There is no reported history of physical violence, bodily harm, aggravated assault, involvement of a weapon or threats to third parties.
- The victim confirms there is no pattern of historic or ongoing violence or ongoing violence and threats.
- The victim does not indicate that there has been intimidation or coercion, nor are there indications of either.
- The victim's views are relayed to Crown Counsel and are part of the decision making.
- The victim does not directly or indirectly express concerns for personal safety.
- The victim does not wish to have protective conditions imposed on the accused.
- The victim is referred to victim services, where available.
- The offence was not sufficiently serious to threaten the safety or tolerance of the community.
- The results of the risk/needs assessments indicate a low risk to reoffend.
- The accused does not require treatment programming that would be provided to persons subject to court orders.

As a support worker, you may need to explain to the survivor of sexual assault what alternative measures mean and what support services are available. Keep the following points in mind:

- Any survivor of a power-based crime such as sexual assault is not an equal participant in a consultative process, whether with the offender or with a representative of the justice system. The same dynamic that makes it difficult for women to report sexual assault makes them feel vulnerable to “pressure” from anyone who may be seen as an authority figure. An understanding of this dynamic is all the more important when workers are providing support in sexual assault cases where alternative measures are used.

- Survivors of sexual assault might never tell criminal justice system personnel about the full extent or impact of the violence. An increasingly comprehensive picture of the assault is usually revealed over a period of time, as a relationship of trust is developed and as the survivor is able to fully assess for herself the impact of the assault. Effective identification of risk factors will depend upon collaboration among justice system personnel, including Crown Counsel, police, probation officers and community-based victim service and other anti-violence workers.

8.5 Supporting Survivors Through Crown Counsel Procedures

During the time that decisions are being made about charging, your role is to provide information and support to the survivor. It may be difficult for her to understand why Crown Counsel is making the decisions that are being made, or the implications of these decisions in terms of the reality of her sexual assault. There may be times when she feels confused, frustrated, or angry; she may be fearful of meeting with Crown Counsel or being a witness in court.

Your task is to acknowledge her feelings, inform her about her role, reassure her that she will have support, and answer her questions or encourage her to obtain answers directly from Crown Counsel. As with police, the more she can deal with Crown Counsel directly and establish a relationship of trust and mutual respect, the more empowered she will feel.

If she wishes, and Crown Counsel agrees, you can accompany her to her meetings with Crown Counsel. Accompaniment may be critical to supporting many women, especially those with intellectual disabilities, brain injury that affects memory, or deaf women with low-literacy. As with her meetings with police, you should not interfere in any way with her meetings with Crown Counsel and the review of evidence. It is very important that you do not discuss her evidence with her, as this may jeopardize the court proceedings.

Remember also that your ability to assist and support the survivor will depend on the quality of your working relationship with Crown Counsel. As with police, a cooperative, constructive, and respectful working relationship with Crown Counsel will do much to help you help survivors get their needs met.

8.6 Using Protection Orders

Although no legal order can fully prevent violence, survivors of sexual assault can take advantage of all the protection the law offers. Vigorous enforcement of criminal protection orders has been shown to enhance safety for survivors of violence. For more details on protection orders, refer to the Legal Services Society publication *For Your Protection: Peace Bonds and Family Law Protection Orders*, available in multiple languages online at <http://www.lss.bc.ca/publications/pub.php?pub=20>.

Protection orders are made by a judge in court to help protect one person from another. Two kinds of protection orders are peace bonds and family law protection orders.

Peace Bonds

This is an order made under the Criminal Code. It can protect the survivor of sexual assault from anyone – including someone with whom she may have had only a dating relationship.

Protection Orders

This is a civil order made by a judge under the Family Law Act. A protection order can protect a woman against unwanted contact and harassment by her partner or ex-partner. If the woman was sexually assaulted by a partner or ex-partner, this will be important for her to know.

There are other kinds of orders that may be relevant to a woman who has been sexually assaulted. They include bail conditions of release, probation orders and conditional sentence orders.

Conditions contained in a protection order may include the following:

- Keeping the peace and being of good behaviour
- Reporting regularly to a bail supervisor or probation officer
- Having no direct or indirect communication with the victim, the victim's children, extended family, etc.
- Not attending the family home or victim's place of work
- Surrendering weapons permits or certificates, not possessing weapons
- Not using alcohol and/or drugs
- Remaining within the jurisdiction and surrendering passport.

An order whose only condition is to be of good behaviour and keep the peace or to protect non-personal property is not a protection order.

Enforcement of Protection Orders

Effective enforcement of protection orders is critical. There is a high degree of risk associated with any breach of a protection order. The survivor's awareness and knowledge are the key to effective enforcement. Support workers play a central role in providing information and support to the woman about her protection order. As her worker, you may be able to work with other justice system personnel to support the woman in the following ways:

- Provide the woman with a copy of the order or release document.
- Explain its terms to her more than once. Specifically review the meaning of such terms as "no contact", and explain indirect contact.
- Outline the differences between civil and criminal orders.
- Explain the purpose of the Protection Order Registry (see below) and how she can access it.
- Ask her if the terms of the order address her safety needs. Help her develop a safety plan.

- Reinforce that the order is meant to control the offender’s behaviour, not hers.
- Explain how to report a breach. Stress the importance of documenting circumstances of the breach in writing if possible. Outline the procedure that will be followed if she wishes to vary the terms of the order.
- Explain what will happen if the offender makes an application to vary the terms of the order. This is only likely if the offender was her partner or ex-partner or where custody of children is involved.

In some communities, police provide information about protection orders. In other communities, community-based victim service workers or Corrections personnel provide it. The Victim Safety Unit can assist with information all across BC. Be aware of the procedures in your community and be ready to answer the survivor’s questions about these procedures.

Reporting a Breach

A survivor of sexual assault may find it very difficult to report a breach of a protective order:

- She may be harassed or threatened by the offender or his family or friends.
- She may lack confidence in the ability of the criminal justice system to protect her.
- She may not understand that it was an actual breach – e.g., does a text message amount to “contact”? Is sending flowers “indirect contact”?

The Protection Order Registry

The Protection Order Registry is a computer database of protection orders issued by BC courts. The survivor can call the police to say that the offender has not obeyed a protection order. Then police phone a central number to get up-to-date information about the content and status of her order and can act to enforce the order right away.

The survivor can make sure her protection order is registered on the database by calling VictimLINK at 1-800-563-0808 any time.

The Victim Safety Unit

Victims of crime and persons protected by a civil protection order who have significant safety concerns who want ongoing notification about the status of an adult accused/offender can register to receive ongoing notification about an adult accused or offender who is going through the court process or who is being supervised by BC Correction – either in jail, on bail or on probation.

A person named as a protected party on an order (bail, probation or civil protection order) can also register. A survivor can name a family member, friend or victim service worker to receive information on her behalf if she wishes. Victim Services Workers can also register on behalf of a client to receive notifications about BC Corrections updates, or when a ban on publication prevents accessing court updates through Court Services Online (the victim's signature or authorization is required).

The Victims of Crime Act sets out what information may be provided to survivors, such as:

- Whether the accused or offender is in jail
- When the accused or offender may get out of jail
- The name and location of the offender's probation officer
- Whether the accused or offender is in the community and what conditions the accused or offender has to follow.

Persons named in civil protection orders may receive information about when the offender will be released from jail. Notification may be provided by phone, mail or email depending on the survivor's circumstances and preferences.

If the offender is sentenced to a term of custody of more than two years, the survivor can call the Parole Board of Canada toll free for more information at 1-866-789-4636. The website for the Parole Board is (<http://pbc-clcc.gc.ca/index-eng.shtml>)

Survivors can call (604) 660-0316 in the Metro Vancouver, or toll free 1-877-315-8822 to register for notifications, or fax or email a completed application. More information on the Victim Safety Unit and the application form are available at <http://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/victim-notification>

The Anti-Violence Worker's Role in Obtaining and Enforcement of Protection Orders

Anti-violence workers play a central role in providing information and moral and practical support to the survivor concerning her options, the nature of protection orders, how to obtain them, and the enforcement process. You may be able to work with other justice system personnel to support her in the following ways:

- Ensure that the survivor has information about protection orders and how to obtain them.
- Help her obtain a copy of the order or release document, with protective conditions.
- Explain its terms to her more than once. Specifically, review the meaning of such terms as no contact.
- Outline the differences between civil and criminal orders.
- Explain the purpose of the Victim Safety Unit and how she can access it.
- Explain the purpose of the Protection Order Registry.
- Ask her whether the terms of the order address her safety needs.
- Help her develop a safety plan.

8.7 Complaints About Police

If you or your client wish to file a complaint against police, independent police forces and RCMP detachments have their own separate complaint processes. If you live in a jurisdiction policed by the RCMP, the Civilian Review and Complaints Commission for the RCMP will handle your complaint. For information on the RCMP complaint process, or to file a complaint against a member, visit the Civilian Review and Complaints Commission for the RCMP website at <https://www.cccc-ccetp.gc.ca/>.

The British Columbia Office of the Police Complaint Commissioner is an independent agency established under the Police Act as an oversight body to public complaints against municipal police. The office is independent from any police department or government ministry and reports directly to the legislature. For more information or to file a complaint against a municipal police office, visit the Office of the Police Public Complaints Commissioner website at <https://www.opcc.bc.ca/>.

When making a complaint, it will be helpful for a survivor of sexual assault to have a clear account of what happened, including dates, times, people and places involved.

PART 9: LEGAL FRAMEWORKS AND COURT PROCEDURES

9.1 The Criminal Justice System

Canada's criminal justice system consists of four inter-related components that work together to protect society:

- Policing (municipal police and RCMP)
- Courts (including judges and court services personnel)
- Corrections (including probation officers personnel working in correctional facilities)
- Parole.

Victims, witnesses, and the accused also play important roles in the criminal justice process.

The institutions responsible for administering the criminal justice system share the following common objectives:

- The protection of individuals and society
- The administration of justice
- The just treatment of the accused through the presumption of innocence
- The recognition and protection of the accused's and the victim's Charter rights.

The Charter of Rights and Freedoms

The Charter establishes fundamental legal rights and freedoms. It is part of the Canadian Constitution and applies equally to everyone, including the victim and the accused. In executing their duties, justice system personnel must not violate Charter guarantees.

Although all Charter rights are important, the ones that follow have a direct impact on criminal cases.

Section 7: The right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice (security of the person has been interpreted to include protection of complainants' privacy interests).

Section 8: The right to be secure against unreasonable search or seizure.

Section 9: The right not to be arbitrarily detained or imprisoned.

Section 10: The right on arrest or detention to be informed promptly of the reasons, to retain and instruct counsel without delay, and to be informed of that right.

Section 11:

- (a) The right of a person charged to be informed of the specific offence without unreasonable delay
- (b) The right of an accused to receive a trial within a reasonable time
- (c) The right not to be compelled to be a witness against themselves
- (d) The right to be presumed innocent
- (e) The right not to be denied reasonable bail without just cause.

Section 15: The right to equality before and under the law and equal protection and benefit of law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Levels of Court

In discussing the criminal court system in Canada, it is important to be aware that the courts serve two distinct functions: the trial function, and the appellate, or appeal, function. The trial function, as the name implies, is concerned with the actual trial of criminal cases, while the appellate function is concerned with the appeal of decisions from lower courts. Some courts serve both functions, while others only serve a trial function.

In British Columbia, we have three levels of court.

1. Provincial Court

Provincial Court is at the bottom of the court structure. Provincial Court has the criminal, family, youth, traffic and small claims divisions. The criminal division is where all criminal cases begin and where most are tried and completed. Almost all summary and indictable offences, including most sexual offences, are heard at this level.

Even with the most serious charges that must ultimately be tried in Supreme Court, a preliminary hearing will be heard at the Provincial Court level to determine if there is sufficient evidence to warrant sending the accused for trial in higher court.

A direct indictment procedure can be used to avoid a preliminary hearing, but this occurs rarely and only for serious cases.

Provincial Court judges are appointed by the Attorney General and are addressed as “Your Honour.”

2. BC Supreme Court

The Supreme Court of British Columbia handles trials, and appeals from Provincial Court. Supreme Court is the second highest level of court in BC. It hears both civil and criminal cases. The most serious indictable offences are heard in Supreme Court. Judges in Supreme Court are federally appointed and are addressed as “My Lord” or “My Lady.” The Supreme Court is a circuit court. Judges travel around the province so that Supreme Court trials can be heard in smaller communities.

3. BC Court of Appeal

The BC Court of Appeal handles appeals from lower courts. The appeal process is set out in the Criminal Code of Canada.

BC Court of Appeal is the highest court in the province. It hears civil and criminal appeals from both Provincial and Supreme Court. Judges are federally appointed and are addressed in the same manner as Supreme Court judges.

The Chief Justice of the Appeal Court, by virtue of heading up the highest court in the province, is also the Chief Justice of BC.

Supreme Court of Canada

This is the highest court in Canada. It does not hear trials. It hears appeals from the Appeal Court. In order for an appeal to be heard in this court, it must have already proceeded through the BC Court of Appeal. The Supreme Court of Canada's decisions are binding on all lower courts throughout Canada.

9.2 Criminal and Civil Law

Some of the people you will be assisting may be participating in both the criminal and civil justice systems. For example, the mother of a child who has been sexually abused by her husband may be going through a divorce in family court – a civil court process – at the same time that the sexual abuse case is being heard in criminal court.

- Civil law refers to statutes and case law governing disputes that arise between individuals or groups. Examples are lawsuits involving insurance companies, wrongful dismissal suits, custody battles, and divorces.
- Criminal law refers to actions considered offences to society at large. Society is represented by the Queen, whose representative is Crown Counsel. In criminal law cases, all persons are considered innocent until proven guilty. It is not up to the accused to prove his or her innocence; it is up to Crown Counsel to prove guilt beyond a reasonable doubt.

Two important principles found within criminal law are as follows:

1. The accused must have done something that is prohibited by the Criminal Code – for example, physical assault on another person.
2. The accused, for most offences, must have intended to commit the criminal act.

These principles mean that, before an individual can be convicted of a crime, Crown Counsel must prove that the accused committed a criminal act as defined by the Criminal Code, and that he or she intended to commit the act.

Criminal law in Canada is primarily described within the Criminal Code of Canada, which was enacted by the Parliament of Canada in 1892. The code has been continually revised since that time. The Canada Evidence Act and the Youth Criminal Justice Act are two other pieces of federal legislation concerned with criminal law.

In BC, offences under the Criminal Code and the Youth Criminal Justice Act are investigated either by the RCMP or by municipal police forces, and are prosecuted by provincial Crown Counsel. Offences under the Controlled Drugs and Substances Act and other federal legislation are usually prosecuted by federal Crown Counsel.

Differences between civil and criminal law are summarized in the chart below.

CIVIL	CRIMINAL
One party vs another, e.g., plaintiff vs defendant (Smith vs Jones)	State vs individual or group, e.g., Regina (meaning the state) vs Jones
Goals are regulation and compensation	Goals are punishment, deterrence, denunciation rehabilitation and reparation
Police and Crown usually not involved	Police and Crown are involved
A “plaintiff” (a wronged party) initiates a lawsuit against a defendant	Crown Counsel starts the court action
Process starts with a writ, petition or application	Starts with an “information”
Outcome is based on a balance of probabilities (e.g., the act more probably than not occurred as plaintiff claims)	Outcome is based on proof beyond a reasonable doubt
Outcome involves financial judgment (money is paid to one party by another), child custody orders, divorces, injunctions, etc.	Outcome involves fines (money goes to the court, not the victim), probation, electronic monitoring, compensation, restitution, discharge or prison

Suing in Civil Court

The assaulted woman can also get financial compensation from her assailant by suing him in civil court. It is very important that she consult a lawyer as soon as possible if she wants information about suing the accused in civil court. It is not necessary to wait until the criminal trial is over for her to see a lawyer. To find a lawyer, she can contact her local Legal Services Society or Lawyer Referral Service.

A claim in civil court may succeed even though the accused was found not guilty in criminal court. If the survivor wins a civil court case for damages, the judge will order the offender to pay her a sum of money to compensate for the pain, suffering and loss of work he caused.

If a woman has already received monetary assistance under the Crime Victim Assistance Program and then gets a settlement in civil court, she may have to pay back some of the funds she has received from Crime Victim Assistance.

If the accused was employed in a position of trust and sexually assaulted the woman while he was in that job, the organization that hired the accused may also be held accountable.

9.3 The Survivor's Role in the Criminal Justice System

One of the difficult things for a survivor of sexual assault to understand is that she is “only” a witness in the criminal justice system. It may seem to her that she should be the one laying the charges, as she is the one who was assaulted, yet it is the criminal justice system that takes responsibility for charging the accused on behalf of the state.

As a support worker, you must reinforce how important the survivor's role is. She is the key witness; without her, there is very little chance that the accused will be convicted. It is also important that you do your best to make sure the survivor does not feel re-victimized by the legal system.

As a general rule, the survivor will not need her own lawyer. She is a witness, not a party in the criminal case. If during the course of the trial she is being inappropriately harassed or intimidated by defence counsel, the prosecutor, as an officer of the court, may intervene to ensure questions are relevant to the issues in the case. The Judge may disallow such conduct.

An exception is where the defence counsel applies for release of the survivor's personal records. The release of documents such as diaries or counselling records can be very traumatic. The risk of having sensitive information disclosed to the accused may affect the survivor's willingness to participate in the prosecution. Her constitutional rights are also potentially affected. For these reasons, the survivor should get independent legal advice in this situation. In other words, she should consult with a private lawyer independent of Crown Counsel.

The Legal Services Society provides legal aid for a complainant or witness in circumstances where her privacy rights are affected, for example, when defence counsel applies for an order to have her personal records released during the case. Contact your local Legal Services Society office for more information about this service: <http://www.lss.bc.ca>.

The survivor may also wish to consult a lawyer if she wants legal advice about the police investigation, the trial or how to get financial compensation by suing the assailant in civil court. There are time deadlines for proceeding with a civil suit, so she should consult a lawyer as soon as possible. If necessary, she can apply to legal aid for a lawyer to act on her behalf. She does not need a lawyer in order to apply for assistance under the Crime Victim Assistance Program (see Part 5.5).

9.4 Crown Counsel's Role

When a crime has been committed, the state prosecutes the person accused of committing the crime. The Crown Counsel is the lawyer who decides whether or not a charge is to be laid and what the charge will be. It is the Crown Counsel's job to prosecute the accused and represent society at the trial. The Crown Counsel is not the lawyer for the person who has been sexually assaulted.

For the survivor, contact with Crown Counsel begins with a pre-hearing interview. It may take four to six months for the preliminary hearing or inquiry to be held. The purpose of the pre-hearing interview is to assist Crown Counsel in preparing the case and to help prepare the survivor to be a witness at the trial. During the interview, Crown Counsel may:

- Review the survivor's statement with her, discussing any points that are unclear.
- Ask the survivor to repeat the details of the assault in order to assess her ability as a witness in court and prepare her for having to describe these details in a courtroom.
- Explain courtroom procedures and acquaint her with the types of questions and questioning styles of both Crown Counsel and the defence counsel (the lawyer for the accused).
- Answer questions the survivor may have and generally attempt to prepare her for her role as a witness in a criminal hearing.
- Ask the survivor questions regarding her life before and after the sexual assault so that the Crown can describe to the court what the full impact of the assault has been (this information is useful to Crown Counsel during sentencing).

If there is an application for release of the survivor's personal records, Crown Counsel will recommend that she obtain independent legal advice.

Complaints About Crown Counsel

If the survivor feels she has been treated unfairly by Crown Counsel, she may make an oral or written complaint to the local Administrative Crown Counsel. If she is not satisfied with the response she receives, she has the right to have the matter reviewed by Regional Crown Counsel.

In certain cases the survivor may not wish to make a formal complaint, but may simply want more information about a particular decision made by Crown Counsel. For example, she may want to know why charges were not laid or why the prosecution was stayed. In these situations, Crown will provide information on the charging process or decision if the survivor requests it.

9.5 Options for Proceeding With Charges

In Canada, there are two categories of criminal offences: 1) serious crimes, called "indictable offences", and 2) less serious crimes, called "summary conviction offences". A sexual assault may be either an indictable offence or a summary conviction offence, depending on the circumstances of the assault. If the survivor was injured during the assault or if weapons were involved, then the crime would be an indictable offence. Summary offences tend to be of a less serious nature, where only kissing and fondling are involved.

Sentences are much more severe for indictable offences, the maximum being life in prison. The maximum punishment for most summary conviction offences is six months in jail and a \$5,000 fine. Some summary offenses, including sexual assault, have a maximum sentence of 18 months in jail.

A summary conviction trial is usually held soon after the crime is committed. An indictable offence will involve a longer process, as it is a more serious crime with harsher penalties.

The accused charged with an indictable offence has the choice of being tried by a provincial court judge or a Supreme Court judge, or a Supreme Court judge and jury. The accused has the right to hear the basis of the Crown's case before the trial at a preliminary inquiry.

Differences between summary and indictable offences are summarized in the chart below.

SUMMARY OFFENCES

Police officer cannot arrest a person without a warrant unless the person is caught in the act of committing the offence

(a) Police must stop suspect from committing the offence

(b) Police must identify suspect

(c) Police must preserve evidence

No fingerprinting or photos taken

Charges must be laid within six months of the offence

Counsel or agent may appear in court on behalf of the accused; the accused is not required to be in court for interim appearances

No election – all trials are held in Provincial Court

No preliminary hearing – accused goes straight to trial

Maximum sentence is \$5000 fine and/or 6 months in jail. Some offenses, including sexual assault, allow for up to 18 months

Appeals to Supreme Court of BC must be filed and served within 30 days

A pardon may be applied for two years after expiration of the sentence

INDICTABLE OFFENCES

Police officer can arrest a person if the officer has reasonable and probable grounds to believe that an offence has been or is about to be committed

Compulsory fingerprinting and photos

No limitation period for laying of charges

Accused must appear in person for interim appearances if no counsel designation is filed with the court

Accused elects mode of trial: trial by provincial court judge, by Supreme Court judge alone, or by Supreme court judge and jury

A preliminary hearing is usual

Maximum sentences can be higher than six months, including life imprisonment

Appeals to BC Court of Appeal must be filed and served within 30 days

A pardon may be applied for five years after expiration of the sentence

Plea Negotiations

Plea negotiation is a process of negotiation between the defence counsel and the Crown Counsel. In return for a guilty plea, the Crown may stay (not proceed with) some of the charges against the accused, reduce the charge to a lesser offence, or ask the court for a lighter sentence.

Plea discussion, sometimes referred to by lay people as “plea bargaining”, is not used in every case, but may be used where the administration of justice and the public interest require that it be considered. If it is used, plea discussion may begin at the earliest stages of the process and go on until the trial.

Plea discussion is discussed in more detail in Part 8.

9.6 Steps Leading to Trial

A good way to become familiar with the court process is to observe cases in progress. Ask questions afterward if you don’t understand a procedure. You will want to be able to explain the process accurately to the woman you are helping.

First Appearance

The accused is ordered to appear in court before a judge. The charge is read and the accused is asked if he pleads guilty or not guilty. The woman does not have to be present at this hearing unless she wishes to.

Two things can happen at the first appearance:

1. If the accused pleads “not guilty,” the case will go to trial at a future date.
2. If the accused pleads “guilty,” there will be no trial. The judge will move on to sentencing (see Part 9.9).

Preliminary Inquiry

If the accused pleads not guilty at first appearance, or if the accused is charged with an offence punishable on summary conviction, the judge will set a date for a trial. There is no preliminary inquiry or hearing. If the accused is charged with an indictable offence, there will be a longer process. There may be a preliminary inquiry first, and the actual trial may not take place for several months.

As a support worker, you (or her community-based victim service worker) may be responsible for keeping the survivor informed of court dates and the progress of the case. She has a right to know what is happening. If the police or Crown Counsel’s office has not been in touch for a while and the woman is concerned about the trial date, you should help her obtain the information.

In some cases, there will be a preliminary inquiry before the trial, which will occur some months after the charges have been laid. The purpose of this hearing is for the judge to decide whether the Crown has enough evidence to bring the case to trial. The hearing does not decide whether the accused is guilty or not guilty.

In some cases, there will be a preliminary inquiry before the trial, which will occur some months after the charges have been laid. The purpose of this hearing is for the judge to decide whether the Crown has enough evidence to bring the case to trial. The hearing does not decide whether the accused is guilty or not guilty.

The preliminary inquiry gives the accused and the defence lawyer a chance to hear the details of the case against the accused. If there is enough evidence presented at the preliminary hearing, the judge will commit the accused to trial. If not, the charges will be dropped.

The survivor usually must appear in court as a witness at this hearing in order to tell the judge what happened. The defence may also ask questions to determine whether there are personal records about her that may be relevant to the case. She will receive a subpoena, a legal document that tells her to be at court at a certain time on a certain day. Crown Counsel will also notify the survivor when to appear and will explain what she will be required to do.

The preliminary inquiry may not go ahead as planned, either because the accused is going to plead guilty or because the defence lawyer has decided not to hear evidence at a preliminary hearing and the Crown Counsel has agreed to go directly to trial.

9.7 Closed Hearing on Release of Personal Records

In some cases, defence counsel will apply for release of personal records about the survivor. If so, the survivor and the record holder will be served with a Notice of Motion and a subpoena. This usually happens before the trial.

A hearing which is closed to the public will be held. The purpose of the hearing is to decide whether the court should order release of the records. The survivor is not required to testify at this hearing. Her lawyer should make submissions on her behalf. If the records are in the possession of a third party, such as a doctor or counsellor, they may also be separately represented.

In recognition of the survivor's right to privacy and equal treatment, and given the intimacy of the information involved, the Criminal Code restricts the release of personal records in sexual assault cases. No records will be released unless the judge orders it, or the survivor consents to their release.

9.8 The Trial

The same principles of law apply to a sexual assault trial as apply to any other criminal trial. Under Canadian criminal law, a person is innocent until proven guilty. So, although the woman will see the accused as a guilty person, the court will presume the accused is an innocent person suspected of having committed a crime. The onus is on the Crown to prove the guilt of an accused beyond a reasonable doubt. The accused has a right to make a full defence to the charge. After hearing the evidence, the judge or the jury will decide if a crime did occur, and if the accused is guilty of that crime.

The survivor of the sexual assault is the Crown's key witness, so her testimony is a very important part of the Crown's case against the accused. The woman will receive a subpoena before the court date, telling her when and where to go to court. She cannot refuse to go to court once she has received the subpoena. If she disobeys or refuses to testify, she can be charged with contempt of court and put in jail (although this rarely happens). If there is a serious reason why she cannot be in court on that date, she should contact Crown Counsel immediately.

It is possible that the trial will be adjourned. This means that the trial will not go ahead as planned. There are many reasons for delays: an earlier case could be taking longer than expected, an important witness may be absent or the defence may have requested an adjournment for a variety of reasons. The trial will be put off until another day and possibly rescheduled to another courtroom.

Who Will Be in the Courtroom

- A judge will always be present at a trial. A jury will be present if the accused has chosen trial by judge and jury.
- A court clerk will make sure everything necessary for the trial is in place and will call the judge from chambers when the trial is to begin. The court clerk will also administer the oath to the witnesses before they testify.
- A digital recorder will record everything that is said during the trial.
- A sheriff will be present to maintain security in the courtroom. If there are safety concerns, let the sheriff know.
- The Crown Counsel will prosecute the case.
- The defence lawyer or counsel will represent the accused.
- The defendant or the accused will be present.
- Members of the public may also be present, unless an order has been made to exclude the public.

The Crown's Case

The Crown will present its case first and will:

- Present evidence to show that the assault took place.
- Call the survivor as a witness and ask her questions about the assault.
- Call other witnesses, such as the police officers who investigated the assault, friends or neighbours, physician/nurse examiners and nurses who attended at the hospital.
- Present any evidence that supports the Crown's case, such as photographs of injuries or torn clothing, medical records, laboratory test results, a weapon, or confessions of one accused, if any.

The Crown Counsel's witnesses, including the survivor, will be questioned or cross-examined by the lawyer for the accused.

After the survivor has testified at the trial, she may remain in the courtroom to hear the rest of the witnesses if she chooses to. It would be best to consult with Crown Counsel beforehand if she wishes to do this.

The Defence's Case

After the Crown presents its case, the defence lawyer has an opportunity to present the case for the accused. The same process of giving evidence and calling witnesses followed in the Crown's case may be followed in the defence case, or the defence lawyer may simply not call any witnesses and say there is not enough evidence to support conviction.

The accused does not have to testify at the trial. That is because the law says that no one can be forced to give evidence proving his or her own guilt at his or her own trial. Also, information about the accused's previous criminal record can be brought up at the trial only if the accused is a witness.

The Crown may cross-examine any of the witnesses called by the defence. The judge may ask questions if he or she wishes more information from the defence lawyer or Crown Counsel.

After all the witnesses have been heard, the Crown Counsel and defence lawyer will make final statements. These statements summarize the evidence that has been presented. If there is a jury, the judge then instructs the jury to make a decision regarding the guilt or innocence of the accused. The jury will deliberate until they make the decision.

If there is no jury, the judge must review all the evidence and make a decision regarding the verdict. The judge may either make a decision right away or take several days or weeks to reach a decision. This is called reserving judgement. The trial is then over. If the accused is found guilty, sentencing may take place immediately or at a later time.

Being a Witness

Appearing as a witness in a sexual assault trial will be a difficult experience for the survivor. The more information she has about court procedures and what will be asked of her, the better prepared and more confident she will be. For detailed information on the role of the anti-violence worker in court, see Part 9.11 of this handbook.

The adversarial nature of the legal system can cause considerable anxiety and stress. Those involved do not automatically consider your version of events as being either accurate or true. From the outset, the court will refer to the crime as the “alleged” sexual assault. This designation is not meant to be either challenging or insulting to you; it merely represents a basic tenet of our legal system: the court considers all accused persons innocent until proven guilty.

It can be difficult to have your version of events and your perceptions closely scrutinized. Questioning by an opposing lawyer can be intimidating. The wording of questions, as well as repeated questions, can be confusing. Given the dynamics of the adversarial process, you may feel verbally attacked and disbelieved during the court process. Sometimes you may feel as though you, the victim, are the one on trial. What may feel like a direct personal attack on you, can also be seen as the opposing counsel doing what is needed to best defend a client; in other words, one is doing the job one was hired to do. To the extent that you can keep this in mind and avoid personalizing the questioning, you can reduce the distress you are likely to feel.

Judith Daylen, Wendy van Tongeren Harvey, and Dennis O’Toole

***Trauma, Trials, and Transformation;
Guiding Sexual Assault Victims Through
the Legal System and Beyond (2006)***

At the Courthouse

When the woman arrives at the courthouse, she will probably be met by Crown Counsel. If not, she should go to the Crown Counsel’s office so that she can be advised where to wait and in which courtroom the case will be heard.

In most cases, witnesses must leave the courtroom at the beginning of the trial or preliminary hearing and wait to be called to testify. This is to ensure that their evidence will not be influenced by what is said by other witnesses. There is, in some communities, a waiting room directly outside the courtroom. Witnesses will be shown where to wait and will be paged when it is their turn to testify.

Be aware that the woman may need your company because the accused and his supporters may be waiting in the same area prior to court, or when a recess is taken during the trial. If there are any security concerns, or threatening behaviour from the accused or his supporters, notify a sheriff immediately

In the Courtroom

When the woman is called into the courtroom to testify, she will be directed to the witness box and asked to swear an oath or to affirm to tell the truth. If she wants to affirm (not swear on any religious book), she should tell the Crown Counsel before the trial starts. If she wants to swear on any religious book other than the Bible, she should bring it with her. She will be asked to state her full name, and to spell it for the record.

If she wants an interpreter, including a sign language interpreter, this must be arranged in advance. The interpreter will be sworn in first and will undertake to provide accurate interpretation of what is being said. He or she will then interpret for the woman once she is sworn in.

The 2015 Canadian Victims Bill of Rights made testimonial accommodations more accessible for victims and vulnerable witnesses. These accommodations include having them testify outside of the courtroom using closed circuit TV; using a privacy screen to shield the victim from seeing the accused; and testifying with a support person nearby. If you are aware that a victim or witness you are working with may benefit from a testimonial accommodation, talk to Crown Counsel about her needs as early in the process as possible.

Important note: If the woman does not want her identity revealed in court, make sure the Crown Counsel is notified before the trial begins. An order to “restrict or prohibit publication or broadcast of her identity” can be requested by the Crown Counsel to protect her or any other witness involved.

After the woman has been sworn in, the Crown Counsel will ask her non-leading questions, some of which may have been discussed before the trial. Some examples:

- Tell the court what happened.
- When?
- Where?
- What did you say?
- What did you do?
- What did the person look like?
- What happened then?
- What did you do next?

The woman should take her time answering questions and try to remain calm. If she doesn't understand a question, she should ask the Crown to repeat it or reword it. Most court room microphones record but don't amplify the witness' voice, and she may have to be encouraged to speak loudly enough for everyone to hear. If she has a speech disability that affects her voice strength and projection, Crown should ensure the trial is held in a courtroom with an amplifying microphone.

As a general rule, questions about the woman's past sexual life are not allowed in court. However, if the accused is someone she knows and has had sexual relations with before, she may be asked questions about their sexual relationship. She cannot be asked questions about her sexual relationship with anyone else unless the judge decides to allow such questions.

Cross-examination may take a long time and involve difficult-to-answer questions about things that the woman does not remember. The defence lawyer may appear disbelieving or angry, or ask a lot of questions one after the other without giving the woman enough time to answer. The Crown Counsel may object to some of these questions or the speed at which they are being asked, and it will be up to the judge to decide if the woman must answer a question.

Following the cross-examination, the Crown Counsel may want to ask the woman a few more questions in order to clear up any confusion that came up during the cross-examination (called re-examination).

When the woman's testimony is completed, the judge will excuse her. If it is a preliminary hearing, she must leave the courtroom. If it is a trial, she may take a seat in the courtroom after she has given her evidence.

Note: Because anyone who has information bearing on the case may be called as a witness, it is possible that you, in your role as a support worker, may be excluded from the courtroom and/or asked to testify. The same rules and procedures will apply.

9.9 Verdict and Sentencing

After all the evidence has been presented, the judge or the jury will decide whether or not the accused is guilty. If the verdict is later appealed, the transcripts of the trial and arguments from the lawyers go to the Court of Appeal, which decides whether or not the trial court made a mistake. Witnesses are rarely called to testify in the Court of Appeal. This court can agree with the trial court decision, enter an acquittal, change the sentence or order a new trial. If there is a new trial, the survivor will likely have to testify again.

Not Guilty

If the defendant is found not guilty, it does not mean that the judge (or jury) thought that the survivor was lying or that it was wrong to lay the sexual assault charge. It means that there was not enough evidence to convict the accused. Criminal trials follow strict rules of evidence, and the law requires a finding of guilt to be "beyond a reasonable doubt." A "not guilty" verdict does not mean that the attack did not occur or that the whole process was useless. Being brought to trial tells the accused that sexual assault is a serious crime; it can have a deterrent effect for the accused and for others.

Guilty

If the defendant is found guilty, the judge will decide on the type and length of the sentence. The sentencing may happen immediately, or a date might be set for some time in the future.

Pre-sentence Reports

Before sentencing the accused, the judge may ask a probation officer to prepare a pre-sentence report that contains information about the accused's background. A pre-sentence report is frequently requested in sexual offenses. The Judge may also request a psychological, psychiatric or risk assessment be prepared for sentencing.

Victim Impact Statements: Presenting Evidence on the Impact of the Crime

The Victim Impact Statement form is mailed or given to the survivor by Crown Counsel. Helping the woman complete a Victim Impact Statement is an important part of your job as an anti-violence worker. See Part 5.6 for more information on helping to prepare a Victim Impact Statement.

The Victim Impact Statement (VIS) describes how the crime has affected the survivor physically, psychologically and financially. The VIS must not contain recommendations as to sentence, criticisms against the accused, or statements addressed to the offender. The victim has the option of reading her VIS in court. She also has the option of reading it from behind a screen.

The Victim Impact Statement can play an important role in sentencing. The judge will consider the information when sentencing the accused. It should be clear, concise and speak directly to the effect of the crime on the woman. In some cases the full impact may not be known right away. The extent of psychological trauma, for example, may not be known for some time. On the other hand, an unexpected guilty plea may put Crown in the position of having to present the Victim Impact Statement early in the process. These factors should be considered when deciding when the woman should complete the statement and forward it to Crown.

Under certain circumstances, Victim Impact Statements submitted before trial can be updated later. For the Victim Impact Statement to be used to best advantage, it is important that you, as an anti-violence worker, consult with a Crown official regarding the status of the Victim Impact Statement and its use in sentencing.

Sentencing Hearings

Very occasionally, the survivor may be asked to testify at a sentencing hearing to answer the following types of questions.

- What happened during the sexual assault?
- Were you hurt? How badly?
- Were you hurt so badly that you had to miss work?
- What damage was done to your property and how much did it cost to fix?
- How long was it before you could return to your usual activities?
- What was the emotional impact? Did you require counselling? Have you recovered? If not, what further treatment has been suggested as necessary?

It is more likely that her Victim Impact Statement will be sufficient for the Judge to take into consideration in sentencing.

Possible Sentences

CRIMES AND MAXIMUM SENTENCES	
CRIME	MAXIMUM SENTENCE
Aggravated sexual assault (the assailant maims, wounds, disfigures brutally or endangers the life of a person during a sexual assault)	Life in prison
Sexual assault with a weapon, threats third party, or causing bodily harm (assailant has a weapon – real or imitation – threatens to use a weapon, threatens a third party, or causes bodily harm to a third party)	14 years in prison
Sexual assault tried as an indictable offence	10 years in prison
Sexual assault tried as a summary conviction offence (less serious nature, such as kissing or fondling)	18 months in prison and a \$2,000 fine

There are several possible sentences if the accused is found guilty of sexual assault:

Conditional discharge: If the offender follows certain conditions for a certain period of time, there will be no criminal record.

Suspended sentence: The offender gets a criminal record but will not have to go to jail, provided that he stays out of trouble and follows certain conditions.

Probation: The offender must follow all the conditions set by the judge in the probation order for as long as required. Usually one of the conditions is that the offender report to a probation officer. The probation officer should inform the survivor of the conditions that are set in the probation order. Conditions might include: (1) the offender must not contact the woman; (2) the offender must get counselling.

Conditional sentence: This is a custodial sentence that the offender can serve in the community, subject to certain punitive conditions such as house arrest. Before imposing this sentence, the court must decide that a sentence of imprisonment is justified. It must also consider a firearms prohibition.

Jail: If the assault was severe or if the offender has been convicted of other criminal offences, he may be sent to jail. The maximum possible sentence depends on the crime. It is rare for the offender to get the maximum sentence; this sentence is reserved for the most serious offences, committed by the most serious offender.

Indigenous offenders

In the Gladue case, the Supreme Court of Canada ruled that sentencing judges must pay particular attention to the circumstances of Indigenous offenders because of their uniqueness and difference from non-Indigenous offenders. The court also said that imprisonment may be a less appropriate sanction.

Restitution

In imposing a sentence, the criminal court may, in addition to any other measure it imposes, order the offender to pay compensation to the woman he has victimized for the cost of property damage and pecuniary damages. This could include loss of income and reasonable living expenses. The making of a restitution order does not prevent her from also seeking a civil remedy for damages.

9.10 After Sentencing

Upon conviction, the offender may be in provincial custody if his sentence is for less than two years, or in federal custody if his sentence is for two years or more.

Both the federal and provincial governments are involved in corrections, and both place an emphasis on the concerns and needs of victims. Corrections personnel will provide the survivor with information about when the offender will be back in the community. They will notify her of when the sentence began, the length of the sentence and the dates when the offender becomes eligible for unescorted temporary absences and parole.

Information About Federal Corrections/Parole

If the offender was sentenced to two years or more in jail, he will serve his time in a federal penitentiary. In BC, all offenders first go to Matsqui Institution, where they are assessed to determine the best place for them to be. If the offender is sent to a penitentiary outside the province, he can ask for a federal/provincial exchange. This means he will serve his sentence in a provincial institution.

With the exception of dangerous offenders and offenders who receive a life term, an offender is eligible for full parole after serving one-third of his sentence. He is eligible for day parole six months before he can apply for full parole.

The Corrections and Conditional Release Act (CCRA) recognizes that victims of crime have an important role to play in the criminal justice system, gives victims an opportunity to participate in the federal corrections and conditional release process, and entitles victims who register to receive certain information about the offender. The Act defines a victim as “an individual who has suffered physical or emotional harm, property damage or economic loss as the result of the commission of the offence”).

The CCRA governs the Correctional Services of Canada (CSC), which oversees the administration of sentences for federal offenders (two years or more), and the Parole Board of Canada (PBC). The PBC has jurisdiction for conditional release decisions relating to offenders serving sentences of two years to life in federal penitentiaries and provincial parole cases serving sentences six months to two years less a day.

The PBC does not have jurisdiction over offenders sentenced under the Youth Criminal Justice Act (YCJA) unless they have been tried as adults and sentenced in adult court, or are serving a sentence under the YCJA at an adult facility.

In order to respect the privacy and rights of victims who do not wish to receive information about the offender, victims must register to receive information by completing the Information Request for Victims form. The form can be obtained by calling the PBC's toll-free victims info line at 1-866-789-4636, or from the PBC's website at pbc-clcc.gc.ca. The completed form can be sent to any PBC regional office. Survivors must ensure that CSC and PBC have their current contact information, if they wish to receive ongoing information regarding an offender.

Victims can name a representative or agent to act on their behalf. In order to do so, the victim must send a written notice to the PBC authorizing the representative or agent.

Under the CCRA, all victims are entitled are entitled to the following information about the offender:

- The offender's name
- The offense of which he was convicted, and the court that convicted him
- The date of commencement and the length of the sentence he is serving
- Eligibility and review dates for temporary absences from jail and parole.

The CCRA also states that Correctional staff "shall disclose to the victim any of the following information about the offender, if, in the Commissioner's opinion, the disclosure would not have a negative impact on the safety of the public":

- Any date(s) on which the offender is to be released on temporary absence, work release, parole or statutory release
- The conditions attached to the offender's temporary absence, work release, parole or statutory release
- The destination of the offender on any temporary absence, work release, parole or statutory release, whether the offender will be in the vicinity of the victim while travelling to that destination and the reasons for any temporary absence.

Under the Canadian Victims Bill of Rights, victims can request a recent photograph of a federal offender, and obtain an update on the offender's correctional plan progress.

Corrections staff *may* disclose additional information where "in the Commissioner's opinion the interest of the victim in such disclosure clearly outweighs any invasion of the offender's privacy", including:

- The offender's age
- The name and location of the penitentiary in which the sentence is being served

- If the offender is transferred, a summary of the reasons for the transfer and name and location of the penitentiary in which the sentence is now being served
- If the offender is to be transferred to a minimum security institution and it is possible to notify the victim before the transfer, a summary of the reasons for the transfer and the name and location of the institution in which the sentence is to be served
- The programs that were designed to address the needs of the offender and contribute to their successful reintegration into the community in which the offender is participating or has participated
- Any serious disciplinary offenses that the offender has committed
- Any date(s) on which the offender is to be released on temporary absence, work release, parole or statutory release
- That the offender has been removed from Canada under the Immigration and Refugee Protection Act before the expiration of the sentence
- Whether the offender is in custody, and if not, the reason why he is not in custody.

The survivor also has the right to attend parole board hearings. Survivors are encouraged to provide a Victim Statement to the Parole Board of Canada for consideration at hearings. The statement should include information regarding the physical, emotional or financial impact the offence has had on them and their family. The statement can be written, audio or video. They can also present that statement in person at the hearing.

The statement should also include any safety concerns, and can include a request for any special conditions on the offender's release that the survivor would like the Board members to consider. Be aware that any submitted information will be shared with the offender, not including contact information.

Normally, a victim must be 18 or older to attend a hearing. A Victims Statement Checklist can be found online on the Parole Board of Canada website at <http://pbc-clcc.gc.ca/infocntr/factsh/sc-lvd-eng.shtml>.

If the survivor wishes to attend a parole board hearing, she should write or phone the Parole Board of Canada. The number for the Pacific Regional office is 604-870-2468. You can also assist her by contacting the appropriate federal institution directly and speaking to the Victim Liaison Coordinator.

Information About Provincial Corrections/Parole

BC Ministry of Justice Corrections Branch is responsible for the incarceration and supervision of all adult offenders serving sentences of less than two years, those remanded in custody pending trial or sentencing, and the supervision of community based orders (bail, section 810 recognizances, probation, conditional sentences orders). The Ministry of Children and Family Development is responsible for young offenders.

If the offender was sentenced to two years less a day in prison, he will be sent to a provincial institution. Once he is there, he may be assessed by institutional staff who will review any psychiatric or pre-sentence reports that have been prepared, as well as the police reports and the judge's comments.

After he has served one-sixth of his sentence, he can apply for possible day parole. This means he must return to the institution every evening. After he has served one-third of his sentence, he can apply for possible full parole. If the offender is released on full parole, he will be supervised by a probation officer until the end of his sentence.

Offenders who demonstrate "good behaviour" in jail are eligible for early release after they have served two-thirds of their sentence. Some offenders prefer early release to full parole release, because if they are released early on good behaviour they will not be supervised in the community (as they are on parole).

If the offender receives a condition of probation or is released on parole from one of the provincial institutions, the probation officer will inform the survivor of the terms of the order or certificate and will provide her with a copy of the order or certificate as well as advise her of how to report any breaches of the protective conditions.

For more information on provincial and federal corrections, including probation and parole, visit <http://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/understanding-criminal-justice/key-parts/corrections/provincial-and-federal-corrections-agencies>.

For more information on the Canadian criminal justice system, including information on police procedures, court procedures, dealing with the media, sentencing, appeals, the parole system, the youth criminal justice system, mentally ill accused, restorative justice, and suing in civil court, see the Canadian Resource Centre for Victims of Crime's *Navigating the Canadian Criminal Justice System: A Guide for Victims*. The guide is available online at <http://crcvc.ca/docs/Navigating-the-Canadian-CJS.pdf>.

9.11 Role of the Anti-Violence Worker in Court

As her support worker, you must reinforce the importance of the survivor's role. She is the key witness; without her, there is very little chance that the accused will be convicted. It is also important for you to take whatever steps you can to try to avoid the survivor feeling re-victimized by the legal system.

Because the court process takes place many months after the assault, survivors often feel that they don't want to go through the process. The intense feelings that the woman experienced after the assault subside, and she begins to "get on with her life." She may fear that if she goes through with the court process, memories will come back and begin to disrupt her life again. She may fear that she will "fall apart" and that it will take many months to recover. The woman may also fear dealing with such a personal experience in a public forum. Because of these feelings and reactions, it is imperative that you support her throughout this process. On top of these fears, if she has a disability, she may be fearful that her disability will not be accommodated in the court process.

The court process itself can be alienating. The woman may have gone through a deeply traumatic experience, yet the court process seems cold and impersonal. You can provide a human element and assist her through another stage in the recovery process.

One way you can help is by scheduling regular appointments with the woman in the time leading up to her court date. Focus on her feelings and fears about being in court. You (or her community-based victim services worker) can give her information about the court process and make sure she receives an orientation to the trial and her role as a witness. She has a right to be kept informed and to be properly prepared for giving her testimony in court.

The woman may be fearful about testifying, and may also be afraid of being in the same room as the accused. Reassure her about the security precautions taken in courtrooms. Emphasize that she has the option of having an advocate accompany her, if that would help.

Sometimes intense feelings of anger will surface at this time. This anger may have several different targets. Two obvious targets are the accused and the accused's defence counsel. Support the woman by validating these feelings and by offering a sympathetic ear. At the same time, clarify the roles of the court personnel involved and reiterate that everyone in the system is working for justice and fairness for all parties.

If the woman knows what to expect in the court process and is supported prior to the trial, she will feel stronger and less afraid, and will make a better witness.

Court Orientation

Court orientation is an important process for the survivor, as familiarity about the court can do much to lessen her anxiety. It will greatly assist her if you provide her with information about what to expect in court and about her role, arrange a tour of the courthouse for her, and/or arrange for her to observe a court in session.

If court orientation in your community is provided by another program. Such as community-based victim services, make sure that the referral you make is an effective one, including following up with her to ensure that she received these services.

In preparation your client for court, it is also important that you:

- Make sure that interpretation services will be available if the woman needs them when she is being interviewed by Crown Counsel and when she is in court.
- Give the woman information about the meaning of legal terms she may not understand.
- Check with the woman often to see if she has any questions or concerns.
- Let her know she can look at you when she is in the stand if she doesn't want to look at the judge or jury, particularly during cross-examination. Tell her that you must keep your expression neutral so that you do not appear like you are encouraging her to say, or not say, certain things. Remember, this may not be of help if eye contact is not a normal form of communication in her culture.
- Take her to the courthouse before going to the preliminary hearing or trial so that she can become familiar with the courtroom.
- Let her know that she can request a screen so that she does not have to see the accused in the courtroom, or give her testimony from a location outside the courtroom, by video link. Some smaller courtrooms have fewer options, so you should check with Crown Counsel what might be available for her.
- Prepare her for the possibility that the trial may be adjourned to a later date. Very often trials do not go ahead as planned because a previous trial takes longer than expected, or a witness is unavailable. If this occurs, the woman is likely to feel disappointed and frustrated and may need extra support.
- Talk to Crown Counsel about what information you are allowed to discuss with her. There could be legal issues at stake, so make sure that your plan of support is approved by Crown Counsel.
- Do NOT discuss the details of her case. You do not want to become a witness at the trial.

Court Accompaniment

Your role in court will most likely be limited to supporting the woman while she testifies, listening to her comments and feelings after her testimony and staying with her in the courtroom afterwards if she decides to listen to the remainder of the trial.

During the trial you must stay with the woman at all times. You may be interested in what is happening in the courtroom, but your role is to support the woman wherever she has to be. This means keeping her company in the court waiting area if necessary. Should there be other witnesses present, ensure there is no discussion of testimony.

After she has completed her testimony (if this is not a preliminary hearing) she may want to stay and hear the rest of the trial. Support her decision, even if staying seems to be upsetting her.

At all times, you must be available to listen to her feelings and give her information that will help her understand the process. The more she can express her feelings about the assault, the better.

9.12 After the Trial

Being in court is a stressful and disruptive experience for the survivor. You must be sensitive to the increased emotional pressures she may be feeling. The survivor's life has already been disrupted by the crime itself, by the resulting inconvenience of lost work or school hours or income, and by having to deal with feelings of fear and anger. Now she must deal with all the pressures that testifying in court involves.

Debriefing the Survivor

Dealing with the crisis and preparing for the court case is such an intense and emotionally charged experience that when the woman leaves the courthouse for the last time, she may feel lost and bewildered.

Even though the trial is over, her support relationship with you may not end. The woman may have difficulty dealing with the outcome of the trial, especially if the accused was found not guilty. She may need to talk about her experience of the trial, whether the accused was acquitted or sentenced.

Being a witness is exhausting. At the end of the day, ask the woman what she wants to do. She may want to spend some time with you to talk about the trial, or she may just want to go home. Whatever her decision, be aware that the process is not over for her. Having to testify about the assault may have brought up feelings of anger, fear and grief. Sometimes at this point, especially if the accused has been sentenced, she will allow herself to express fully the emotions that she has not yet faced.

If the accused is found not guilty, the woman should be assured that the acquittal does not mean the assault did not occur or that the court did not believe her. Explain that it means there was not enough evidence to prove the guilt of the accused beyond a reasonable doubt – a very high standard of proof. Encourage her to express her feelings about the outcome of the trial. The decision about the sentence may also activate feelings of anger (if the sentence seems light) or guilt (if she knows the accused).

Ending the Relationship

After you have provided whatever immediate post-trial support is needed, you should try to ensure that the woman continues to pursue activities and services that will give her ongoing support as she integrates the assault experience into her life in a constructive and healthy manner. She must learn once again to trust others and, most importantly, to trust and have confidence in herself.

As already mentioned, the woman may have difficulty dealing with the outcome of the trial, especially if the accused was found not guilty. She may need to talk about her experience of the trial, whether the accused was acquitted or sentenced.

The woman's adjustment may be slow and may take many months. Once you feel that your part in her recovery has ended, you can help her to end the relationship with you by recommending resources and groups in the community that can be of ongoing benefit to her – women's centres, support groups, peer counselling networks, personal and family counsellors, mental health centres, disability resource centres and Native Friendship Centres.

It may be a difficult task for both of you to break the bonds that have formed during the weeks or months that you have worked together. It may be difficult for the woman to give up a relationship in which she has shared so much of her intimate life. She may feel a sense of abandonment at the prospect of the relationship ending. You can assist her by acknowledging these feelings, putting them in context, and reinforcing her sense of competence and ability to change. It may also help the survivor if you assess the value of the helping relationship and support process with her, and acknowledge its positive aspects and limitations. It is important that she leave the helping relationship with a sense of accomplishment. She may also need encouragement to express any disappointments and fears for the future.

Ending the relationship may also be personally difficult for you. You may have trouble letting go because of strong bonds that have formed between you. It is important to recognize this and for both of you to talk about it. On the other hand, you may be ready for the relationship to end, and, if she is not, you may be struggling with the feeling that you are abandoning her. Be aware of your own feelings and assess carefully whether continued work is really needed or whether you are both delaying saying goodbye.

PART 10

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