

Best Practices

For Investigating and Prosecuting Sexual Assault



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INTRODUCTION

PREFACE

Sexual assault remains a significant crime in Alberta and throughout the rest of Canada. In 2011, there were 21,800 sexual assaults reported in Canada, of which 2,739 occurred in Alberta.¹ It is important to note that the number of sexual assaults reported to police is likely a considerable undercount of the number of such offences that actually occurred. According to self-reported victimization data from the General Social Survey, less than one in ten sexual assaults were reported to police.² The reporting of sexual assault is complicated by its severe emotional effect on victims, as well as the fact it is considered a private matter that is sometimes dealt with in other ways.³ The investigation and prosecution of this crime is also complicated by sophisticated investigative techniques and intricate legal issues.

In 2006, the Criminal Justice Executive Leadership formed a Committee of Chief Crown Prosecutors to examine how the Prosecution Service could improve its response to sexual offence prosecutions. The Committee made a number of recommendations, including increased training, education, and awareness for prosecutors, police, the public, and victims. This Handbook is designed to satisfy a number of those recommendations. For example, the first recommendation recognizes that criminal justice practitioners need information and training about sexual assault in order to sensitize themselves to victims' realities. The second recommendation speaks to the fact that victims need more information about what it means to report a sexual assault and how the investigative and court processes work. The third recommendation deals with sexual assault myths. Public awareness initiatives are needed to dispel common sexual assault myths that flourish in our society, as it is these myths which perpetuate the incidence of sexual assault, contribute to low reporting rates, and hinder the investigative and prosecutorial processes.

Through discussions with senior Crown prosecutors, police officers, sexual assault and Victim Service advocates, sexual assault examiners, health care professionals, and others working with sexual assault victims and offenders, knowledge has been gleaned regarding best practices for investigating and prosecuting sexual assault cases. Using this valuable information, as well as academic literature, this Handbook aims to better inform police officers, Crown prosecutors, and all those involved in the investigation and prosecution of sexual offences about the impact and effect of this crime on victims, as well as the resources available to combat it.

¹ Brennan, Shannon. Statistics Canada. "Police-reported crime statistics in Canada, 2011." Statistics Canada catalogue no. 85-002-X. *Juristat* article published July 24, 2012.

² Ibid

³ Ibid

This Handbook is not a specific guideline, telling police officers and Crown prosecutors what they *must do*, but rather, a compilation of best practices and current information to assist those working in the investigation and prosecution of adult sexual assault offences. The ultimate goal is to increase the quality of investigations and prosecutions of sexual assault offences and provide appropriate support to victims as they deal with the aftermath of this crime.⁴

It is also important to note that this Handbook is not intended to cover all of the unique issues associated with child sexual abuse. Child sexual abuse is often dealt with in a specialized manner, within specialized units, such as the Zebra Child Protection Centre in Edmonton and the Calgary Child Advocacy Centre. It is possible that a Handbook could be developed in the future to deal with this specific crime.

Why is Sexual Assault a Unique Crime?

Sexual assault is a unique crime, unlike any others. Specifically:

- All cases present with different sets of circumstances, but all victims feel they were violated and that is an important element of this crime.
- Sexual assault is an emotional, psychological, and physical assault on the victim. The victim's response to the sexual assault primarily reflects his/her reaction to the violation of self.
- The perpetrator is usually known to the victim, which makes reporting more difficult.
- Victims of sexual assault are often reluctant to go to the police for a variety of reasons, including those related to one's natural response to a traumatic experience and to the systemic barriers which diminish victims' access to the legal system. In addition, commonly-held attitudes and beliefs about sexual assault engender feelings of shame in the victim.
- Victims of sexual assault are often unsure about whether or not they have been the victim of a crime, due to the confusion over what constitutes a sexual assault and the contexts in which the crime can arise (possible intoxication or previous relationship, for example).⁵
- Societal beliefs about sexual assault, including myths related to a victim "asking for it" due to intoxication and dress, can permeate into the police service, as well as the prosecution service. Sexual assault is one of the only crimes where blame is sometimes placed onto both the victim and perpetrator.

⁴ It is important to note that this Handbook is not intended to deal with cases of child sexual abuse.

⁵ Penwill, Kathryn. "Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims." Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf.

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.

In *R v Seaboyer*, Madam Justice L'Heureux-Dube of the Supreme Court of Canada observed that:

Unlike other crimes of a violent nature, [sexual assault] is for the most part unreported. Yet, by all accounts, women are victimized at an alarming rate, and there is some evidence that an already frighteningly high rate of sexual assault is on the increase. The prosecution and conviction rates for sexual assault are among the lowest for all violent crimes. Perhaps more than any other crime, the fear and constant reality of sexual assault affects how women conduct their lives and how they define their relationship with the larger society. Sexual assault is not like any other crime.⁶

To add to Madam Justice L'Heureux-Dube's comments, a sexual assault prosecution is not like any other prosecution. There are many reasons for this:

⁶ *R v Seaboyer*, [1991] 2 SCR 577.

- The Crown's case most often relies primarily on the evidence of the victim, who may have been intoxicated, drugged, unconscious, and likely confused and terrified at the time of the assault. Often the exact circumstances of the victim that increased his/her vulnerability to attack are the same that can affect his/her credibility or reliability.
- The prosecution must not only prove that an act happened, but that such an act happened without the consent of the victim.
- Sexual assault prosecutions often bring the victim's prior conduct into issue.
- Injury assessment is a very difficult area in sexual assault prosecutions. Thus, physical "proof" of the victim's subjective state of non-consent is often very difficult to attest to.⁷
- Victim is traumatized and needs extra attention.
- Aggressive defence strategies and tactics.
- Complicated legal issues.

⁷ Inglis, Avril. "Autonomy of a Sexual Assault Prosecution." 2010.

IMPORTANT DEFINITIONS AND CONCEPTS

Sexual Assault

Sexual assault⁸ is non-consensual touching of a sexual nature that violates the sexual integrity of the victim. It is a legal term used in Canada to refer to any form of sexual contact without consent. This can include forced or unwanted kissing, touching, vaginal penetration, anal penetration, and/or oral sex.

Sexual offences against the person in the *Criminal Code* encompass conduct ranging from unwanted sexual touching to sexual violence resulting in serious physical injury to the victim. More specifically, these offences include sexual interference, invitation to sexual touching, sexual exploitation, incest, offences in relation to juvenile prostitution, sexual assault, sexual assault with a weapon, and aggravated sexual assault.

In the case of *R v Chase*, [1987] 2 SCR 293, the Supreme Court of Canada provided a definition of sexual assault.⁹ The court ruled that sexual assault does not focus solely on the part of the body part touched. It also deals with the nature of the contact, the situation in which it occurred, the words and gestures accompanying the act, and all other circumstances surrounding the conduct, including threats, which may or may not be accompanied by force.

The Court in *Chase* overturned a New Brunswick Court of Appeal finding that the act of grabbing a girl's breast and demanding that she engage in sexual intercourse with the accused did not constitute a sexual assault on the basis that sexual assault was limited to intentional and forced contact with the sexual organs or genitalia of another person without that person's consent. In overturning the Court of Appeal, Justice McIntyre writing for the Supreme Court of Canada found that:

Sexual assault is an assault within any one of the definitions of that concept in s. 266 of the *Criminal Code* which is committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated. The test to be applied in determining whether the impugned conduct has the requisite sexual nature is an objective one: "Viewed in the light of all the circumstances, is the sexual or carnal context of the assault visible to

⁸ Adapted from the Edmonton Police Service website:

<http://www.edmontonpolice.ca/CommunityPolicing/PersonalPropertyCrimes/SexualAssault/WhatIsSexualAssault.aspx>

⁹ *R v Chase*, [1987] 2 SCR 293, 37 CCC (3d) 97.

a reasonable observer."¹⁰ The part of the body touched, the nature of the contact, the situation in which it occurred, the words and gestures accompanying the act, and all other circumstances surrounding the conduct, including threats which may or may not be accompanied by force, will be relevant. The intent or purpose of the person committing the act, to the extent that this may appear from the evidence, may also be a factor in considering whether the conduct is sexual. If the motive of the accused is sexual gratification, to the extent that this may appear from the evidence, it may be a factor in determining whether the conduct is sexual. It must be emphasized, however, that the existence of such a motive is simply one of many factors to be considered, the importance of which will vary depending on the circumstances.¹¹

Prior to the late 1990s “rape” was the predominant charge in the *Criminal Code*. “Rape” was limited to male-female penile vaginal penetration and excluded penetration with other objects, other body parts and same sex assaults. Since then, the Supreme Court of Canada held that the act of sexual assault does not depend solely on contact with any specific part of the human anatomy but rather the act of a sexual nature that violates the sexual integrity of the victim. When investigating or prosecuting a sexual assault, there are certain relevant contextual factors to consider¹²:

- The part of the body touched.
- The nature of the contact.
- The situation in which the contact occurred.
- The words and gestures accompanying the act.
- All other circumstances surrounding the act.
- Any threats that may or may not be accompanied by force.
- Any physical or psychological consequences related to assault (e.g. injury, dissociation).

The victim of a sexual assault can be a child, a man, or a woman, and the attacker can be of any gender. A spouse may be charged with sexual assault upon the other spouse. It is important to note that sexual assault (pursuant to s. 271 of the *Criminal Code*) is a general intent offence. However sexual offences involving children as set out in sections 151, 152 and 153 of the *Code* are specific intent offences, requiring proof of a sexual purpose (there is a different *mens rea* involved) as per *R v Nelson* and *R v Bone*.¹³

¹⁰ *R v Taylor* (1985), 44 CR (3d) 263 at p. 269.

¹¹ *R v Chase*, [1987] 2 SCR 293, 37 CCC (3d) 97 at para 11.

¹² *Ibid.*

¹³ *R v Nelson* (1989), 51 CCC (3d) 150 (Ont SC)

R v Bone (1993), 85 Man R (2d) 220, 81 CCC (3d) 389 (CA).

Emotional trauma is presumed when dealing with sexual assaults. The law considers such trauma when a perpetrator is sentenced. In addition, the more severe emotional traumas can elevate a sexual assault (CC, s. 271) to sex assault causing bodily harm (CC, s. 272). The emotional effects of a sexual assault can be even longer lasting than the physical injuries inflicted. Post-traumatic stress disorder, for instance, is associated with long term effects such as substance abuse, chronic illness, increased health care use, and increased risks of re-victimization. As many as half of male or female victims of sexual assault will develop post-traumatic stress disorder. It should be noted, however, that lack of visible emotional distress is not proof that the assault did not happen. Reactions are individual and are a result of many factors.

Sexual Assault is about Power and Control, in addition to Sex and Desire¹⁴

Many people believe that sexual assault is an act of passion to which the perpetrator is looking for sexual gratification. This, however, is a myth. Sexual assault does not happen because of uncontrollable desire. Instead, it is a crime that is about power and control. For example, if someone hits their friend over the head with a baseball bat, no one would say they are playing baseball. Instead, we would say that the baseball bat is used as a weapon. Similarly, when someone is sexually assaulted, it is not the same as “having sex;” instead, one person uses sex as a weapon to hurt another.

It is important to frame sexual assault as being motivated by power and control. While there are elements of sexual desire involved in a sexual assault, this is not the motivation. If someone thinks that sexual assault happens when an offender uses power and control to get sexual thrills, he/she implies that the primary motivation is sexual pleasure, with power and control being the way in which pleasure is derived (power and control being the means, sex being the outcome). This is not, however, what experience and research has shown us. Rather, we have learned that sexual assault is about an offender using sex to gain power and control (sex is the means, power and control is the outcome).¹⁵ Careful clinical studies have determined that sexual assault is a pseudo-sexual act that primarily serves non-sexual needs and is motivated more by retaliatory and compensatory motives than by sexual ones.¹⁶

There are many cases of sexual assault which involve no sexual desire. For example, the vast majority of men who are sexual assault victims are offended against by heterosexual men;

¹⁴ Sexual Assault Centre of Edmonton. “Sexual Assault.” September 2009.

¹⁵ Karen Smith, Sexual Assault Centre of Edmonton

¹⁶ Groth, A. Nicholas, with H. Jean Birnbaum. “Men Who Rape: The Psychology of the Offender.” New York: Plenum Press, 1979.

elderly women who are sexually assaulted were not targeted because their offenders found them sexually attractive; three-year-old children who are sexually abused are not victimized because their offender derives sexual pleasure from them; offenders who sexually assault their partners – partners who say they would have given consent before the situation turned violent – do not do so for sexual pleasure. Furthermore, one study estimates that at least one out of three sexual offenders reported experiencing some sexual dysfunction during their offence, including impotency, premature ejaculation, or retarded ejaculation.¹⁷ In sum, the motives underlying sexual assaults have more to do with issues of anger and power than with pleasure and desire.

Consent

The legal definition of consent can be found in s. 273.1 of the *Criminal Code*:

273.1 (1) Subject to subsection (2) and subsection 265(3), “consent” means, for the purposes of sections 271, 272 and 273, the voluntary agreement of the complainant to engage in the sexual activity in question.

Where no consent obtained

- (2) No consent is obtained, for the purposes of sections 271, 272 and 273, where
- (a) the agreement is expressed by the words or conduct of a person other than the complainant;
 - (b) the complainant is incapable of consenting to the activity;
 - (c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
 - (d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
 - (e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Where belief in consent not a defence

273.2 It is not a defence to a charge under section 271, 272 or 273 that the accused believed that the complainant consented to the activity that forms the subject-matter of the charge, where

- (a) the accused’s belief arose from the accused’s

¹⁷ Ibid at page 84-85.

- (i) self-induced intoxication, or
- (ii) recklessness or wilful blindness; or
- (b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the complainant was consenting.

The concept of consent is more thoroughly examined in the section entitled, “Consent and the *Criminal Code*.”

Coercion

Coercion is when an individual uses pressure, threats, or intimidation to force another to act a certain way.¹⁸ Examples include:

- Putting pressure on someone (example: constantly asking for sexual contact).
- Making the person feel guilty (example: “I thought you loved me”).
- Making threats or false promises (example: “I’ll tell everyone we did it anyway, so you might as well”).¹⁹

If someone is coerced into sexual activity, that person may not have given “consent” as defined by the *Criminal Code* (see section 273.1). It is important to note that not all forms of coercion would be considered to negate consent – i.e. a persistent suitor.

Another aspect to consider is the concept of ‘bargaining down.’ When a person is being coerced, they may find themselves bargaining down. For example, when someone realizes they are going to be forced to have intercourse against their will, they may try to bargain down to something they feel is less traumatic for them. But again, this is “submitting” or “giving in” and is not giving consent.²⁰

Age of Consent

- According to the *Criminal Code*, the age of consent to sexual activity is sixteen.
- A child under the age of twelve cannot consent to any kind of sexual activity; children aged twelve to sixteen can consent to sexual activity with peers. Within the parameters of the “close in age” exceptions:

¹⁸ Definition from the University of Alberta Sexual Assault Centre

¹⁹ Sexual Assault Centre of Edmonton. “Sexual Assault Information.” August 2009.

²⁰ University of Alberta Sexual Assault Centre

- A person fourteen to fifteen years old cannot consent to sexual activity with another person who is five or more years older than them.
- A person who is twelve to thirteen years old cannot consent to sexual activity with another person who is two or more years older than them.
- Until eighteen years of age, no one can consent to sexual activity if the other person is in a position of power, trust or authority over them, or if they are in a relationship of dependency with that person.
- Age of consent for sexual activity and age of consent for treatment are different, which can cause confusion in the aftermath of a sexual assault. Alberta Health Services has a “mature minor” provision – any child, regardless of age, can consent to treatment or refuse treatment as long as they are assessed to be capable of understanding the implications of the treatment and of refusing/consenting.²¹ Their decision cannot be overruled by their parents/guardian. This is important for the under 16 year old who has been sexually assaulted by someone within the close in age exception. If the minor does not want to report to police and is deemed to have the capacity for consent (or refusal) of a sexual assault examination, and if the assault was by someone within the close in age exception, then the health care professional cannot report to police and would not proceed with a sexual assault examination, even if the parents desire it.

Canadian Consent Laws

Please refer to *Criminal Code*: ss. 150.1(1) – (6).

Age of Consent is Sixteen

- Youth sixteen or older, may, with consent, have sexual contact with anyone who is sixteen or older.

Exceptions

(A) Close-in-Age Exception for Fourteen & Fifteen Year-olds (CCC s. 150.1(2.1))

- Youth and adults may have sexual contact with fourteen and fifteen-year-olds, provided the age difference is less than five years:
 - With consent, a fourteen-year-old may have sexual contact with someone up to, but NOT including, someone who’s nineteen.

²¹ Alberta Health Services (2010). “Summary sheet for the mature minors procedure.”
<http://www.albertahealthservices.ca/ClinicalPolicy/wf-clp-consent-summary-sheet-minors-mature-minors.pdf>

- With consent, a fifteen-years-old may have sexual contact with someone up to, but NOT including, someone who's twenty.

AND

- The accused must not be in a position of trust or authority towards the complainant.
- The complainant must not be in a relationship of dependency.
- The relationship (with the complainant) must not be exploitative of the complainant.

(B) Peer Experimentation for Twelve & Thirteen Year-olds

- Twelve, thirteen, and fourteen-year-olds may have sexual contact with youth who are twelve or thirteen, provided the age difference is less than two years:
 - With consent, a twelve-years-old may have sexual contact with someone up to, but NOT including, someone who's fourteen.
 - With consent, a thirteen-years-old may have sexual contact with someone up to, but NOT including, someone who's fifteen.

AND

- The accused must not be in a position of trust or authority towards the complainant.
- The complainant must not be in a relationship of dependency.
- The relationship (with the complainant) must not be exploitative of the complainant.

Consent Chart

AGE	11 or younger	12	13	14	15	16	17	18	19	20 & older
11 or younger Can consent with										
Age 12 Can consent with		•	•							
Age 13 Can consent with		•	•	•						
Age 14 Can consent with			•	•	•	•	•	•		
Age 15 Can consent with				•	•	•	•	•	•	
Age 16 Can consent with				•	•	•	•	•	•	•

• = Able to consent (chart to be read from left to right).

SEXUAL ASSAULT MYTHS

The reporting, investigation, and prosecution of sexual assault offences is hindered by sexual assault myths. For example, many people believe that sexual assaults are often false allegations. In reality, false accusations of sexual assault happen no more often than false reports of other types of crime.²² Other prevalent myths include the belief that sexual assault is most often committed by a stranger, and that women who are sexually assaulted “ask for it” by the way they dress or act. Physical harm or threats are also not required for a sexual assault to occur.

Myths and Facts²³

MYTH: Sexual assault is not a common problem.

FACT: Canadians experience sexual assault every day -- at home, at work, at school and on the street.

MYTH: A sexual offender has a distinctive appearance.

FACT: Sexual assaults are committed everyday by healthy, ordinary looking individuals. They do not look strange. The offender may even be someone that the individual knows...a sibling, a cousin, a date, a neighbour. Most offenders look and act like ordinary people and lead fairly typical lives.

MYTH: Victims lie about being sexually assaulted, often because they feel guilty about having sex.

FACT: People rarely make false reports about sexual assault. False accusations of sexual assault happen no more often than false reports of other types of crime.²⁴ In fact, sexual assault is a vastly under-reported crime. Sadly, the credibility of victims is often questioned when they report sexual assault. This is particularly true in the case of victims with disabilities such as developmental, psychiatric, and learning disabilities. The credibility of sex trade workers is also often questioned.

²² Sexual Assault Centre of Edmonton. “Myths and Facts About Sexual Assault.”

²³ Canadian Resource Centre for Victims of Crime. “The Devastation of Sexual Assault.” February 2006. Available at: http://www.crcvc.ca/docs/sexual_assault.pdf.

²⁴ Sexual Assault Centre of Edmonton. “Myths and Facts About Sexual Assault.”

MYTH: Strangers most often commit sexual assault.

FACT: On the contrary, sexual assault is most often committed by someone known to the victim, such as a family member or relative, friend of the family, or trusted neighbour – not by strangers.

MYTH: Victims who are sexually assaulted "ask for it" by the way they dress or act.

FACT: The idea that victims "ask for it" is often used by offenders to rationalize their behaviour. It also blames the victim for the crime, not the offender. Victims of sexual assault report a wide range of dress and actions at the time of the assault. Any person of any age and physical type, in almost any situation, can be sexually assaulted. If a person is sexually assaulted, it is NOT his/her fault.

MYTH: People who commit sexual assault are either mentally ill or sexually starved.

FACT: Sexual assault is about asserting power and control over the victim. Most perpetrators are not mentally ill or sexually starved.

MYTH: People of certain races and backgrounds are more likely to commit sexual assault.

FACT: Offenders come from every economic, ethnic, racial, age, and social group. Beliefs that people of colour or working class people are more likely to commit sexual assault are a stereotype rooted in racism and classism. Anyone can commit sexual assault.

MYTH: It is only sexual assault if physical violence or weapons are used.

FACT: The *Criminal Code* definition of sexual assault includes a number of acts ranging from unwanted sexual touching, to sexual violence resulting in wounding, maiming, or endangering the life of the victim. Many sexual assaults involve verbal pressure, intimidation, intoxication (such as administering drugs without the victim's consent), and/or threats during an assault.

MYTH: Unless he/she is physically harmed, a sexual assault victim will not suffer any long-term effects.

FACT: Any sexual assault can have serious effects on a person's long-term health and well-being. Victims often deal with feelings of anger, shame, and fear for many years after the assault. Victims often also become more cautious and less trusting, affecting their personal relationships.

MYTH: People cannot be sexually assaulted by their husbands/wives or boyfriends/girlfriends.

FACT: Under the law, people have the right to say "no" to any form of sex, even in a marriage or dating relationship.

Here is a chart of sexual assault myth classifications and some relevant factors that may influence participants in the justice system to make decisions based on inaccurate and harmful information:²⁵

Myth	Factors that may Unfairly Impact a Victim's Credibility	How the Myth Impacts Reporting and Hinders Investigation/Prosecution
Nothing happened or a false accusation.	<ul style="list-style-type: none"> • If the assailant was a family member or relative. • If there were no witnesses to the sexual assault. 	<ul style="list-style-type: none"> • Victims may be reluctant to report, thinking they will not be believed. • A report may be classified as false when it is unsubstantiated. False reports are rare. • The defence may attack a victim's credibility.
No harm was done.	<ul style="list-style-type: none"> • If the victim did not physically resist the assault. • If the assailant did not utter verbal threats or use weapons to threaten the victim. • If there was no evidence of any physical injuries. 	<ul style="list-style-type: none"> • Victims may feel that their assault was "not serious enough" to report, or feel shame that they did not fight back. • The victim's interview becomes a critical piece of evidence. The victim can explain why he/she was scared, what the offender stated/threatened, why he/she did not resist, etc. • The Crown should explain that most sexual assaults do not result in physical harm, and that there are many reasons a victim of sexual assault would not resist his/her attacker (such as fear of incurring greater harm, or being in shock).
She wanted it or liked it.	<ul style="list-style-type: none"> • If the assailant was an acquaintance. • If the victim had a previous sexual relationship with the assailant. 	<ul style="list-style-type: none"> • Victims may be scared to report a sexual assault if they had a previous relationship with the offender (out of guilt, fear, etc).

²⁵ Myths in chart are provided by: Burt, Martha R. "Rape Myths and Acquaintance Rape." Contained in *Acquaintance Rape: The Hidden Crime*, Edited by Andrea Parrot and Laurie Bechhofer, John Wiley & Sons, Inc 1991, pages 26-40.

	<ul style="list-style-type: none"> • If the sexual assault took place indoors in a place that was familiar to the victim. • If the victim had agreed to some sexual contact with the assailant, but not more contact, or contact with other assailants. • If the victim did not resist. 	<ul style="list-style-type: none"> • Consent becomes the issue in this instance. As such, the interview with the victim must be comprehensive and conducted properly. • Most of the focus on the victim and his/her credibility.
She asked for it or deserved it.	<ul style="list-style-type: none"> • If the victim was drinking or doing drugs at the time of the assault. • If the victim was engaging in risky behaviour at the time of the assault. • If the victim felt (s)he had a sexual history that could be judged as immoral. • If dressed in a manner that could be seen as risqué or provocative • If the victim was flirting or perceived as a “tease” 	<ul style="list-style-type: none"> • Victims may feel that the assault was their fault, and/or may think that no one would believe them. • Police should determine how intoxicated the victim was, as a victim can be too intoxicated to consent. • Crowns must explain sexual assault myths at trial. Victims cannot “ask” to be sexually assaulted; it is always the offender’s decision. Also, the factors that make victims appear least credible also are the same factors that increase their vulnerability to sexual assault.

THE ROLES OF SEXUAL ASSAULT PROFESSIONALS AND THE IMPORTANCE OF COLLABORATION

Responding to sexual assault requires a coordinated and integrated effort from many different professionals and social agencies. In dealing with sexual offences, it is important for frontline police officers to link with police experts as well as other professionals in the community, particularly sexual assault services, victim services, child protection workers, and physicians and nurses trained in comprehensive sexual assault care, which includes the administration of Sexual Assault Evidence Kits. By pooling their resources and expertise, community agencies can create a team that addresses the victim's needs at the same time as serving the common goals of all agencies. It is important to remember that a well-supported victim will have a more positive criminal justice experience and will likely be a better witness should the case proceed to prosecution. The ultimate goal of interagency collaboration is to provide more effective investigations, prosecutions, and support services for victims of sexual offences while ensuring that re-traumatization by the systems is kept to a minimum.

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. Specialized services offered by these organizations include crisis intervention programs such as crisis counselling through information and crisis lines, at agencies or in community outreach locations, and through hospital accompaniment. Longer term counselling is offered as well as police/court support programs. In addition to those programs offered directly to victims, these professionals act as leaders in and advocates for the coordination of multi-disciplinary services to victims of these crimes. Finally, they offer professional training and community education to their service areas of the province.

The Role of Healthcare Professionals in Sexual Assault Examinations

Some urban areas (Calgary, Edmonton and Red Deer at present) have specialized sexual assault response teams (SARTs). These SARTs consist of a team of a nurse (and sometimes a physician) who examine and treat victims who report being sexually assaulted. All nurses and physicians

working on these teams have additional training in sexual assault care and are generically referred to as sexual assault examiners. If nurses choose to take a special course and write an international examination, they may also add the initials S.A.N.E. (sexual assault nurse examiners) to their name, as long as they keep their certification and continuing education current. Not all nurses choose to go through this certification process.

It is important to note that some of the clients seen by SART are also victims of intimate partner assaults (domestic/dating violence). Sexual assaults in the context of intimate partner assaults are usually an indicator of increasing risks of lethality.

In Edmonton and Red Deer, the victim goes to Emergency at any hospital and states they have been sexually assaulted, while in Calgary they are usually directed to the Sheldon Chumir Urgent Care centre (check with your local Alberta Health Services website to find updated information). Some teams direct adolescents twelve to fourteen years of age to the Children's Hospital (Calgary) or Stollery Children's Hospital (Edmonton). Regardless of the city, the nurses and physicians have been specially trained to be sensitive to the needs of victims – psychologically and physically. SART is available 24 hours a day 7 days a week, and staff will examine anyone over the age of fourteen (if the victim is under the age of fourteen, the child abuse team and/or the pediatric Emergency staff will do the examination but usually ask SART to assist).

The SART examiners are prepared to provide comprehensive health care services to clients reporting sexual assault (male or female). Care options given to the clients include performing physical examinations to look for and treat physical findings such as injuries after a sexual assault, provide crisis interventions for emotional effects of the assault and connect clients with counselling services, to provide treatment for effects of sexual assault including possible medications to protect against pregnancy and common sexually transmitted infections, and to provide discharge resources for follow up medical care and counselling. If the client chooses to report to police (or reporting is mandatory as with close in age exceptions for adolescents) the staff can collect evidence for future legal prosecution of the sexual assault if authorized by the police. The evidence collected (e.g. blood for DNA reference, swabs of potential semen stains, vaginal/cervical or oral swabs, and toxicology tests) will be held securely by staff, maintaining chain of custody until it can be handed over to police. Police do not need to be present for the evidence collection (nor should they be for privacy and protection of health care information). Even if the client is under arrest, the police should remain outside the room.

The decision to report to police is extremely difficult for some complainants (clients) especially in the first few days and if the client had been under the influence of drugs or alcohol or the

assailant was an acquaintance or intimate partner. If they later change their mind to report, evidence is normally lost or cannot be taken as there have been too many intervening variables (e.g. washing, repeat speculum examinations). To reduce this potential added stressor, a new provision for “third option” began in spring 2011 in Calgary. The Calgary SART are trialing collection of evidence kits for any client who is unsure about reporting to police. The SART will then collect the evidence and place it in secure storage along with their documentation for up to one year post assault. If the client later chooses to report, the evidence kit will be available to police with client consent. At the end of the year, the evidence is discarded if not used.

Health services and evidence collection are also provided by Emergency physicians in rural or regional hospitals. There have been a number of gaps identified in the comprehensiveness of services in these areas,²⁶ partly due to resource constraints but also to lack of knowledge or expertise in some of the procedures by the professionals involved (police, victim services, health care staff, counselling). This often results in police having to transport victims hours away to an urban centre, away from their community and supports. A pilot project commenced at Mount Royal University in Calgary in spring 2011 to identify knowledge needs and support resources for rural, reserve, and regional centres in southern Alberta.²⁷ A set of free educational resources will be made available as a result and a network of real time access to SART experts on call will be set up.

The Role of Police in Sexual Assault Investigations

The role of the police in responding to allegations of sexual assault is critical, since it is the police officer who will be the victim’s first point of contact with the criminal justice system. All further decisions and interventions of the criminal justice system are dependent upon this initial contact.

The primary role of the police in dealing with allegations of sexual assault is to ensure that a thorough, unbiased, and professional investigation is conducted. Perhaps more than any other crime, the testimony of the victim is vital because it is often the primary source of evidence for the prosecution. In this respect, police officers must first seek to understand the impact and trauma experienced by victims of sexual assaults.

²⁶ Tutty, L., Jesso, D., McDonald, B., & Smit, D. (2005). “Environmental scan of Alberta services to address sexual assault and sexual abuse.” Calgary, AB: Alberta Association of Sexual Assault Centres.

²⁷ See: www.mtroyal.ca/forensicrosearch

The nature of the police response to the initial complaint will directly impact three critical components: the victim's ability to work towards healing and recovery, the overall investigation, and any court proceedings that result from the investigation.

The police should work collaboratively with external agencies to minimize further trauma to the victim during the investigation and possible prosecution. A collaborative response to victim care ensures that their emotional, mental, and physical health concerns are addressed, while working towards creating a positive experience for all victims involved in the criminal justice system.

If the police have reasonable and probable grounds to believe an offence or offences have been committed, charges are laid. Police disclose their investigation and evidence to the Crown at an early stage to ensure a swift, fair and efficient process.

The Role of Crown Prosecutors in Sexual Assault Prosecutions

Once charges are laid, the Crown prosecutor must evaluate the police file and assess whether or not there is a reasonable likelihood of conviction AND whether or not it is in the public interest to proceed with the prosecution. Only if both those criteria are met does the Crown prosecutor proceed with the prosecution.

Many sexual offences are dual procedure offences. As such, the Crown prosecutor must decide whether to proceed by indictment or by summary conviction. This decision requires consideration of such factors as:

- gravity of the allegations supported by police investigation;
- whether the offence involves an isolated act or a pattern of misconduct;
- whether the police investigation revealed aggravating circumstances (such as the victim being in a relationship of trust/authority or dependency with the accused);
- age of accused;
- whether the accused has any prior record (of convictions or discharges) in Canada or (if reliably ascertainable) elsewhere;
- whether processing the charge(s) is a priority in the circumstances of the particular case;
- whether the victim and/or offence circumstances particularly lend themselves to trial by judge alone; and
- The range of sentence the Crown intends to recommend. ²⁸

²⁸ RCMP. "An Investigative Guide to Sexual Offences."

There are many stages to a criminal prosecution and the prosecution often takes several months. If a not guilty plea is entered, the case can go to a preliminary inquiry, and then to trial. Other times the case can go straight to trial. The trier of fact is sometimes a jury, and other times a judge. The Crown prosecutor must prove the offences in court beyond a reasonable doubt. The Crown prosecutor will work continuously with the police to ensure that all available evidence is gathered, and will often work with SART nurses and other experts as witnesses. The Crown prosecutor will also assist the victim through the court process and his or her testimony. The Crown prosecutor has a duty to meet with the victim during the course of the prosecution, particularly before she/he testifies. The purpose is to inform the victim of many things they need to know, in particular: emphasizing to a witness his/her obligation to tell the truth at all times, general discussion of the court process and what to expect (i.e. you must physically stand to give your evidence and no food, gum etc. allowed) and facilitating access to resources (i.e. victim /court services) the witness may need in the courtroom.²⁹

The Importance of Collaboration

In Alberta, there are multiple agencies that can assist during the investigation and prosecution of sexual assaults and respond to the needs of sex assault victims. When these complementary agencies are combined with the skills of Alberta Justice prosecutors, the overall effect is to provide a coordinated and complete response to a sexual assault victim. Through a criminal complaint, a victim will have broad access to experienced police officers, trained and responsive medical assistance, emotional and therapeutic support and an experienced, informed Crown prosecutor.

The effect of the collaboration among agencies has had many positive benefits to the pursuit of effective prosecutions. The relationship between Crown and police has created a more seamless transition between investigation and prosecution. Educational lectures involving Crown prosecutors and SART nurses have increased the nurses' understanding of their role as witnesses (particularly when being called as an expert) and have made prosecutors more aware of the broad evidence that a SART nurse can provide. Both police and the Crown benefit from having professional ties to sexual assault centres when working with traumatized and troubled victims. The end result of cross-agency collaboration is to improve the quality of investigations and prosecutions as well as increase the supports available to a victim throughout their involvement with the criminal justice system.

²⁹ For more information please refer to "Victims of Crime Protocol: What victims of crime can expect from the criminal justice system." The document is available at:
https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Victims%20of%20Crime%20Protocol.pdf

POLICE

REPORTING TO POLICE

Because the public is not well educated about the reality of sexual assaults, prevalent myths and misunderstandings often prevent victims from reporting sexual assaults. The fact that 90% of sexual assaults are never reported to police means that most offenders are never detected, arrested, or successfully prosecuted.³⁰ This poses a problem, as an undetected offender may go on to claim more victims. For instance, a study of unincarcerated sex offenders in the U.S.A. conducted by Dr. Gene Abel and his colleagues found that 126 men admitted that they had committed rape (the term used in the U.S.A). These 126 rapists had committed a total of 907 rapes involving 882 different victims. The average number of different victims per rapist was seven.³¹ Similarly, David Lisak³² found that 120 out of 1882 surveyed college men had participated in at least one sexual assault. The majority of the 483 rapes (90.9%) were committed by 76 of the men, each responsible for at least 6 rapes. They were also responsible for an additional 14 acts of other forms of aggression, including child abuse and domestic violence. None of these men had been detected and the assaults were less likely to be reported to police as they involved voluntary consumption of alcohol by victims and less physical violence as a result.

Clearly, any government attempt to reduce the incidence of sexual assault must first address this non-reporting problem, which constitutes a serious public safety issue for citizens. In one study, women gave the following reasons for not reporting incidents of sexual assault:³³

- Fear and shame (64%)
- Belief that the police could do nothing about it (50%)
- Concern about the attitude of both police and the courts towards sexual assault (44%)
- Fear of another assault by the offender (33%)

Women who have been sexually assaulted often fear that if they report a sexual assault they will be re-victimized by the justice system. For women of colour, immigrant, and refugee women, this fear is compounded by racism. Similarly, with same-sex sexual assault, this fear is compounded by homophobia. The credibility of women with disabilities has often been questioned when they report sexual assault, particularly in the case of women with

³⁰ Johnson, H. (2006). "Measuring violence against women: Statistical trends 2006." Ottawa: Statistics Canada.

³¹ Kilpatrick, Dean G. (2000). "Rape and Sexual Assault." National Violence Against Women Prevention Research Center Medical University of South Carolina.

³² Lisak, D., & Miller, P. M. (2002). "Repeat rape and multiple offending among undetected rapists." *Violence & Victims*, 17(1), 73-84.

³³ Solicitor General of Canada, "Canadian Urban Victimization Survey," *Bulletin 4: Female Victims of Crime*, Ottawa, 1985.

developmental, psychiatric, and learning disabilities. The credibility of sex trade workers is also often questioned.

Reporting of sexual assaults in rural areas has its own challenges. Underreporting of sexual assault in rural and remote areas is often a result of:³⁴

- Fear of re-victimization by “the system”
- Distrust of outsiders and suspicion of policy solutions “imported” from the city
- Acceptability/normalization of sexual assault
- Fear of not being supported or believed
- Lack of culturally appropriate responses
- Having mutual friends/acquaintances with the perpetrator
- Low anonymity, concern for confidentiality and privacy
- Limited telecommunications (i.e., some homes do not have a telephone)
- Issues with police response and the court system
- Taking “sides” by community members resulting in a loss of social support

Most sexual assaults are not reported to the police. According to the 2004 General Social Survey, women are five times more likely than men to be sexually assaulted and only 8% of all sexual assaults (defined as anything from unwanted fondling to forced sexual intercourse) are reported to police.³⁵ This fact makes it difficult to determine the actual rate of sexual assault.

The Decision to Report³⁶

When deciding whether or not to report a sexual assault to the police, it is best that a victim fully appreciate and understand the criminal justice process.³⁷ It is important that victims remember that the role of the police is to conduct an impartial investigation. When an assault has been reported to the police, officers are responsible for gathering, evaluating, and processing information or evidence. They must critically evaluate whether the evidence supports a prosecution, regardless of their personal feelings, and even then, they often consult

³⁴ Lamont, W. (2006). “Sexual assault services in Alberta: A framework of service delivery for sexual assault victims living in rural, remote and northern communities.” Written for: The Alberta Association of Sexual Assault Centres. Calgary, AB: Lamont & Associates. Available at: http://www.aasac.ca/FINAL_AASAC_Rural_Remote_and_Northern_Service_Delivery_Report.pdf

³⁵ Gannon, K. & Mihorean, K. (2005) “Criminal Victimization in Canada 2004.” Canadian Centre for Justice Statistics. Juristat Catalogue # 85-002-XPE, Vol 25, no. 7.

³⁶ University of Alberta Sexual Assault Centre, “Reporting a Sexual Assault to the Police, Edmonton Area.” Available at: <http://www.uofaweb.ualberta.ca/SAC/pdfs/Reporting%20to%20the%20Police%202009.pdf>

³⁷ Ibid.

with the Crown prosecutor to determine if there is a reasonable likelihood of conviction before proceeding with laying charges.

It is important for victims to remember that if the police decide not to press charges, **it does not mean that they are not believed**. The police may have a number of reasons for not being able to pursue a case, such as not having enough physical evidence to prove the charges in court. The criterion for criminal prosecutions is quite stringent. Accordingly, despite a full and truthful disclosure by a victim, if the required evidence does not meet the standard set forth by the courts, the complaint may not result in charges.

If a victim decides that he/she does not want to go through the court and legal process, he/she can still file a report with the police. This way, there will be a record of the sexual assault in case the victim wishes to pursue it at a later date.

In the end, the decision about whether or not to report the sexual assault to the police is up to the victim. The legal process often takes months and sometimes years from the initial report to the police to the court date, and systemic delays are common. The victim is the one going through the process, and therefore, his/her well-being and comfort with the process is vital.

Victim Advocates with Victim Service Units and Sexual Assault Centres are able to provide support for the victim in this regard by explaining the criminal justice system along with what the victim can expect throughout the process should they chose to report. They will also outline the various roles and responsibilities of all parties involved as well as attend and provide court support and orientation for the victim if requested. This support and information addresses many of the fears and dispels any myths that victims may have about the process.

CONSENT AND THE CRIMINAL CODE

The term "consent" (as it relates to sexual assault) is defined in s. 273.1(1) as the "voluntary agreement of the victim to engage in the sexual activity in question."

Sub-section 273.1(2) of the *Criminal Code* outlines a non-exhaustive list of situations where consent is NOT obtained:

- the agreement is expressed by the words or conduct of a person other than the victim;
- the victim is incapable of consenting to the activity;
- the accused induces the victim to engage in the activity by abusing a position of trust, power or authority;
- the victim expresses, by words or conduct, a lack of agreement to engage in the activity; or
- the victim, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

The principles of consent that apply to *assault* also apply to *sexual assault*. No consent is obtained where the complainant submits or does not resist by reason of:

- (a) the application of force to the complainant or to a person other than the complainant;
- (b) threats or fear of the application of force to the complainant or to a person other than the complainant;
- (c) fraud; or
- (d) the exercise of authority.

The recipient of sexual touching must freely consent to the act, and must understand the nature of the act being consented to. The courts have applied the definition of consent to mean that a person cannot consent to having serious bodily harm done to him or herself (*R v Jobidon* [1991] 2 SCR 714).

Where belief in consent is not a defence (*Criminal Code* s. 273.2)

It is not a defence to a charge under ss. 271, 272 or 273 that the accused believed that the victim consented to the activity that forms the subject matter of the charge, where:

- a) the accused's belief arose from the accused's
 - i. self-induced intoxication, or
 - ii. recklessness or wilful blindness, or

- b) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the victim was consenting.

Consent Chart

Victim is Age 12 to 13 Years Section 150.1 (2)CC	Victim is Age 14 to 15 Years Section 150.1 (2.1) CC	Victim is Age 16 to 17 Years Section 153 CC
Consent is a defence to sexual activity if:	Consent is a defence to sexual activity if:	Consent is a defence to sexual activity if:
<ul style="list-style-type: none"> - there is consent - there is less than 2 years age difference - person is not in a position of trust or authority - is not a relationship of dependency - relationship is not exploitative of the young person 	<ul style="list-style-type: none"> - there is consent - there is less than 5 years age difference - person is not in a position of trust or authority - is not a relationship of dependency - relationship is not exploitative of the young person <p>NOTE: There is an exception for 14 and 15 year olds when there is more than 5 years age difference but conditions had to be in place May 1, 2008 – Section 150.1 (2.2)</p>	<ul style="list-style-type: none"> - there is consent - person is not in a position of trust or authority - is not a relationship of dependency - relationship is not exploitative of the young person

Other Sexual Offences Involving Minors

Sexual Interference Section 151 CC	Invitation to Sexual Touching Section 152 CC	Sexual Exploitation Section 153 CC
For a SEXUAL PURPOSE	For a SEXUAL PURPOSE	For a SEXUAL PURPOSE
Offender touches directly or indirectly body of person UNDER 16 years of age	Invites Counsels Incites Person UNDER 16 years of age to touch body of anyone (including themselves) directly or indirectly	Offender touches directly or indirectly body of a YOUNG PERSON or Invites Counsels Incites YOUNG PERSON To touch body of anyone (including themselves) directly or indirectly
No one 12 or 13 years of age can be tried for this offence unless in a: <ul style="list-style-type: none"> - Position of trust or authority - Relationship of dependency - Relationship is exploitative of victim Section 150.1(3) CC	No one 12 or 13 years of age can be tried for this offence unless in a: <ul style="list-style-type: none"> - Position of trust or authority - Relationship of dependency - Relationship is exploitative of victim Section 150.1(3) CC	Offender must be in: <ul style="list-style-type: none"> - Position of trust or authority - Relationship of dependency - Relationship is exploitative of the young person Inference Relationship Exploitative: <ul style="list-style-type: none"> - Age of young person - Age difference - Evolution of relationship - Degree of control or influence over young person
Summary Conviction Minimum 14 days – maximum 18 months Indictment Minimum 45 days – max 10 years	Summary Conviction Minimum 14 days – max 18 months Indictment Minimum 45 days – Maximum 10 years	Summary Conviction Minimum 14 days – Maximum 18 months Indictment Minimum 45 days – Maximum 10 years

ALCOHOL AND DRUG FACILITATED SEXUAL ASSAULT

Alcohol

“If recreational drugs were tools, alcohol would be a sledgehammer. Few cognitive functions or behaviours escape the impact of alcohol, a fact that has long been recognized in literature.”³⁸ Alcohol is a common depressant that slows the activity of the central nervous system.³⁹ It lowers inhibitions, disturbs motor skills, and a large intake of alcohol can even result in a temporary coma; its effects subside fairly slowly, as it takes the human body one hour to process each alcoholic drink consumed.

Alcohol is by far the most prevalent date rape drug and is easy to use because it is legal and socially accepted. In some cases, perpetrators take advantage of the fact that an individual is drinking heavily. In other cases, the perpetrator is actively involved in ensuring that an individual gets drunk by buying drinks, encouraging her/him to drink, and pouring drinks with more alcohol than usual. In either case, when an individual is drunk she/he may be legally unable to consent to sexual activity. There is a misconception among some people that accepting drinks from someone indicates interest in sexual activity. Yet, consenting to having a drink is NOT consenting to sexual activity it is solely consenting to having a drink.

Unlike other date rape drugs, alcohol is also often used by the perpetrator on him/herself. By using alcohol, the perpetrator lowers his/her own inhibitions and attempts to excuse himself/herself for committing the sexual assault. In other words, perpetrators use alcohol purposefully to aid them in committing the sexual assault.

Rohypnol⁴⁰

The most well known date rape drug is flunitrazepam, which is more commonly known as “rohypnol,” “roofies,” or “the forget pill.” Flunitrazepam is legally sold in Europe and Latin America as a sleep aid, but is illegal in North America.

Rohypnol’s effects vary depending on the dosage that one is given, but they range from sedation to stage four coma (rohypnol is ten times more potent than Valium). After consuming

³⁸ Quoted in: Scalzo, Teresa P. “Prosecuting Alcohol-Facilitated Sexual Assault.” National District Attorneys Association. August 2007. Available at:

<http://www.vaw.umn.edu/documents/prosecutingalcohol/prosecutingalcohol.pdf>

³⁹ University of Alberta Sexual Assault Centre. Date Rape Drugs and Sexual Assault.” Available at:

<http://www.uofaweb.ualberta.ca/SAC/pdfs/Date%20Rape%20Drugs%202009.pdf>

⁴⁰ Ibid.

the drug, it takes 20 - 30 minutes before its sedative effects begin, and the effects can last from 8 - 24 hours. As well as being a strong sedative, rohypnol also causes short-term memory loss. Together these properties make rohypnol a dangerous date rape drug, and when it is mixed with alcohol it is even more dangerous because it can lead to severe intoxication and even death.

GHB⁴¹

Gamma-hydroxybutyrate (GHB) is a fairly common drug with a variety of side effects, and thus has a wide range of users. For instance, some weightlifters use it for its muscle growth enhancing properties, some recreational drug users take it in combination with other drugs, and some individuals use it for its prosexual side effects (such as disinhibition and heightened sense of touch).

GHB takes 15 - 20 minutes to begin having sedative effects that can last a couple of hours. High dosages can have negative side effects such as vomiting, respiratory depression, and even death. GHB is especially dangerous when mixed with alcohol.

Recently GHB has become associated with raves. Other drugs associated with raves, such as ecstasy, have similar effects as GHB and have also been used as date rape drugs. When testing for GHB it is important to remember that it may be undetectable only 12 hours after ingestion.

Ketamine⁴²

Ketamine is an anesthetic used primarily with animals that has both pain relief and memory loss effects. When given to humans it usually results in a state of intoxication that renders the individual temporarily unable to move, feel pain, or remember what took place while intoxicated by the drug. Usually this state lasts only 30 to 60 minutes, and it can be accompanied by hallucinatory experiences similar to those created by LSD or PCP.

Detection of Date Rape Drugs⁴³

All date rape drugs are processed by the body quickly and are thus difficult to detect. When testing for date rape drugs, it is best to test as close to the time of the drugging, as is possible. After 72 hours, detection will be impossible. It also varies depending on the drug used; for

⁴¹ Ibid

⁴² Ibid

⁴³ Ibid

example GHB can be untraceable in only 12 hours whereas rohypnol will be traceable up to 72 hours. Date rape drugs are detected through a urine sample test, but rohypnol can also be detected through a blood test that screens for Valium (as they are similar compounds).

It is recommended that both blood and urine be collected as soon as possible if drug facilitated assault is suspected, preferably collected within 30 to 60 minutes of each other. Two grey topped vacutainers (laboratory tubes) of blood are required and some of the urine can be transported into two more grey topped tubes by health care staff. It is also important for health care staff to note key aspects of the victims' symptoms at the time of the assault as these may help narrow the testing to most likely drugs. Key aspects to note include the following:

- Level of consciousness/behaviours
- Pupil size
- Hallucinations
- Memory gaps (length of time, last memory before passing out, first memory on waking)
- Headaches, dizziness, persistent hangover symptoms longer than usual
- Vital signs (slower than usual, faster than usual)
- Any unusual taste to the drink
- Skin dryness or moisture

Drug Facilitated Sexual Assault⁴⁴

In a survey conducted at the University of Alberta, it was found that over half (54.2%) of the sexual assaults experienced by students took place when the victim of the assault was under the influence of alcohol or drugs. In addition, research shows that this is not a new phenomenon, and has been a reality for university students for many years.

In a drug-facilitated sexual assault, the perpetrator uses alcohol or drugs as a method to decrease resistance from the person they are assaulting. The alcohol and drugs used may have been taken voluntarily by the victim, or forced upon her/him by the perpetrator. The most common drug used in this type of assault is alcohol.

Depending on the drug that was used, some victims of drug-facilitated sexual assault may have little memory of what took place or no memory of being sexually assaulted at all. In the cases where there is no memory of the assault, the individual may still experience symptoms related

⁴⁴ Ibid

to being sexually assaulted such as flashbacks and sudden memories. Like any victim, the victim of a drug-facilitated sexual assault will need time to undergo the healing process, and it may be even more difficult for her/him due to the lack of understanding about what they are experiencing. Having symptoms of a sexual assault or having blacked out, and yet not recalling what happened, can lead to the victim feeling as though she/he is “going crazy” or can lead others to mistrust what she/he is feeling.

Someone who has experienced a drug-facilitated sexual assault is likely to feel very confused and disoriented. This confusion may be accentuated by the continued effects of the drugs that may make it difficult to think clearly. The loss of memory experienced by victims of drug-facilitated sexual assault can make recovery more difficult because part of the recovery process involves remembering and working through the memories, acknowledging that what happened was a sexual assault, and experiencing feelings around the sexual assault such as anger, regret, and acceptance.

Because drugs or alcohol are involved in these assaults, victims are even more likely to blame themselves for what happened. Victims feel that they were at fault because they got intoxicated and “let themselves get out of control.” It must be remembered that consenting to consuming alcohol or drugs is NOT consenting to sex.

Consent⁴⁵

There is a common idea that accepting drinks or a dinner from someone indicates an interest in engaging in sexual activity with that person. Yet this idea is not congruent with what the person accepting the drink feels, or how the *Criminal Code* outlines how consent may be given.

Under the *Criminal Code*, “Consent is defined as a voluntary agreement of the victim to engage in the sexual activity in question” (Section 273.1). Section 273.3 (2) of the *Criminal Code* subsection (b) provides that there is no consent where the victim is incapable of consenting. Where intoxication is involved, the degree of intoxication will be at issue and the Crown will have the onus to prove that the victim did not have the capacity to consent at the relevant time.

⁴⁵ Ibid

Experiencing Date Rape Drugs⁴⁶

There are very few reported cases of date rape drugs other than alcohol noted in police officer's forensic documentation. This may be due to the rapid disappearance of the drugs and delays in reporting, or to the more common use of alcohol or prescription drugs as date rape agents (sometimes voluntary).

Those victims who have received a date rape drug such as Rohypnol report suddenly feeling strangely lightheaded and intoxicated with visual and/or physical impairment. They wake up drowsy, confused, weak, and/or with impaired motor skills, and with almost no recollection of what took place since feeling lightheaded. Often when they can remember parts of the assault they recall feeling paralyzed, powerless, and/or dissociated from their body, or they only remember scattered pieces of what occurred. In some cases, the victims of drug-facilitated sexual assault have no memory at all of what took place. When alcohol is the only date rape drug used, victims may feel that they got drunker than they had planned to that night, or they have some memories of having sexual activity that she/he was not planning on having.

Indications of a Sexual Assault⁴⁷

In drug-facilitated sexual assaults it is possible that the victim has little or no recollection of a sexual assault. The following are some indications that a drug-facilitated sexual assault may have occurred:

Physical Indications

Most body injuries in sexual assault come from victim resistance and resistance is not expected if they are unconscious or sedated. Injuries in sexual assaults are rare even when there is resistance by the victim, however the victim may notice:

- Soreness or feeling swollen in the genital or anal areas
- Marks or bruises on the skin especially inner thighs or ankles from legs being separated or arms from being carried
- Abnormal discharge and/or bleeding

⁴⁶ Ibid

⁴⁷ Ibid

Other Indications

- Loss of memory for a whole part of an evening or day
- Waking up in different surroundings and not knowing how you got there
- Waking up with clothes missing or put on differently
- A sense that something wrong happened or that something is “not right”

Medical Attention⁴⁸

If a drug-facilitated sexual assault takes place or is suspected, it is important to get some form of medical attention to test for sexually transmitted infections (STIs) and/or pregnancy, and if possible to ascertain if a drug was used. A physical exam after a sexual assault can be very difficult, but fortunately in Edmonton and Calgary there are services such as Sexual Assault Response Teams (SARTs) that make the process more comfortable. In rural areas, the available services may differ depending on location.

Even if someone has been drugged, but not sexually assaulted, it is still recommended to seek medical attention for her/his own physical safety. The substance itself could be potentially very harmful to her/his health. If you are with a friend or loved one who you suspect has been drugged, ensure that you stay with the person to ensure her/his safety. Individuals who have been drugged often have the same emotions surrounding the experience as a sexual assault victim may have—loss of control, fears about what they do not remember, loss of trust, feelings of going crazy, etc. It is important that these individuals receive the same support that a sexual assault victim would.

Date Rape Drug Myths⁴⁹

Much of the information about date rape drugs emphasizes ways in which women can stay safe from these drugs. Examples include only accepting drinks from people you know, especially at a bar, keeping an eye on your drink at all times, and not drinking from wide mouthed containers. These statements are misleading for several reasons. Firstly, date rape drugs can be used in many locations, not just in bars. Date rape drugs have been used at house parties, restaurants, and while camping. Also, it is more common for a friend, partner, or acquaintance than a stranger to use these drugs on someone. In addition, these statements are almost always directed at women, but men can also experience drug-facilitated sexual assault. Most

⁴⁸ Ibid

⁴⁹ Ibid

importantly, these statements do not place the responsibility for stopping this crime on the individuals who are using the drug against someone, but on those who may be given the drug. This results in victims' feeling as though they were responsible for their sexual assault, but the only person who should be held responsible is the perpetrator of the assault.

SANES AND SARTS⁵⁰

Implementation of a sexual assault nurse examiner (SANE) model of care has demonstrated reduced waiting times, improved forensic evidence collection and enhanced service for individual victims during a particularly traumatic time. The role of SANEs is to provide comprehensive, sensitive, and objective care to individuals who have been sexually assaulted. This may or may not include the individual reporting, although studies have shown that involvement of a SANE and receipt of comprehensive services generally does result in higher reporting rates. SANEs must remain objective and health focused and not aim services at evidence collection or prosecution. This is actually a benefit to their credibility in court, and also explains why they refer to individuals as “clients” or “patients” rather than “victims”.

What is a SANE?

SANEs are registered nurses who have undergone extensive specialized training qualifying them, in most circumstances, to provide comprehensive medical care and forensic evidence collection services, with limited physician involvement. This model of care increases the efficiency, consistency, and quality of evidence collection and the care of victims by using a single, well-trained professional. Provision of sensitive care means allowing the individual to control the pacing of the services and choices. That philosophy, the time needed for detailed examination and treatment, as well as potential evidence collection and collaboration with police, causes a significant time commitment per individual. SANEs can relieve physicians and other professionals from the burden of forensic tasks and the time commitment, which in turn allows for greater flexibility and control in caring for the victims of sexual violence. Additionally, SANEs can be involved in all aspects of acute and follow-up victim care, being informed of all medicolegal steps and procedures that may be required during and after examination as well as the forensic rationales underlying the procedures.

⁵⁰ This section is based on the following paper: Anna Corynne Zadunayski, LL.B. “ Expert Medical Evidence in the Criminal Justice System: The Case for Sexual Assault Nurse Examiners.” Submitted to: Alberta Association of Sexual Assault Centres, September 26, 2006.

SANE Training⁵¹

The qualifications of registered nurses that are SANEs differ considerably from those who are not. Forensic nursing is the application of forensic principles to an already established foundation of solid nursing practice. SANE certification with the International Association of Forensic Nurses (IAFN) requires that nurse candidates meet a series of rigorous criteria which may include: current employment on a sexual assault team; having worked as a Registered Nurse (RN) for at least two years prior to certification; completion of a minimum 40 hour theory SANE course taught by a certified SANE and meeting the IAFN guidelines for content; and completion of a clinical practicum and certification of clinical competence (including physical examinations, communication, and crisis counselling skills and forensic techniques) by their employer. The theory course must adhere to guidelines set by the IAFN which include multidisciplinary collaboration, cultural and gender sensitivity, crisis intervention and counselling, physical and psychological consequences of sexual assault, ethics, legal testimony, physical and psychological assessment, injury assessment, forensic evidence collection techniques and principles, chain of custody, and health care interventions such as pregnancy and sexually transmitted infection treatment as well as objective documentation. Clinical practicums include “well women” examinations to understand normal versus abnormal findings, speculum insertion techniques, evidence collection and comprehensive head to toe physical assessment techniques and supervised forensic examinations until deemed competent. If these criteria are met, the candidate writes a certification examination. If successful, the SANE certification is valid for three years. The SANE must then participate in regular continuing education (conferences, research, staff meetings) in order to apply to be recertified every three years.

SANE training is offered in many Canadian provinces through sexual assault teams and/or colleges or universities. In Alberta, the theory course is offered through Mount Royal University’s Forensic Studies program (www.mtroyal.ca/forensic) and is also open to other professionals working with sexual assault victims. Instructors bring in experts from the fields of law enforcement, criminal justice, forensic science, nursing and medicine to enhance the multidisciplinary perspective and content. SANEs are expected to have superior problem solving and communication skills, selected diagnostic and therapeutic skills, and the ability to make clinical decisions based upon specialized knowledge and evidentiary bases. Importantly, during training, SANEs are specially educated to deal with the unique characteristics of trauma in

⁵¹ Special thanks to Cathy Carter-Snell, RN, PhD, SANE-A, Forensic Studies Program, Mount Royal University, Calgary AB.

sexual assault cases. Education in the psychosocial aspects of sexual assault, including the emotional dynamics of sexual assault, societal myths, cultural stereotypes, post-traumatic stress disorder, suicide risk, and rape trauma syndrome prepares SANEs for enhanced trauma assessment and counselling capabilities. SANEs are also particularly familiar with community agencies and resources as a result of their training.

Nurses who are not certified as SANEs are generally given “on the job” training and preceptorship by the SART educators and complete a similar practicum. The employers in some cases require the staff to take a SANE course such as Mount Royal’s as a condition of employment if they do not already have one. SANE certification remains optional throughout Canada but does offer some assurance of continuing currency and competence beyond yearly staff evaluations.

Sexual Assault History⁵²

The SANE or examiner will obtain a brief focused history in the individual’s own words. Although this is likely to be excluded as “hearsay” in court it is valuable and is focused not on investigation but on guiding the physical examination, and of providing the examiner with a sense of risks to safety, psychological impact, and physical risks such as pregnancy or infection.

SANEs or examiners begin with the least threatening questions such as medical history, immunization and other factors that impact the assessment. Then they ask the following:

- Where the client was touched or contacted and how (helps guide alternate light exam and later interpretation of injuries by expert).
- Use of drugs or alcohol at time of assault and level of consciousness at that time
- Physical symptoms (e.g. pain, known injuries)
- Safety and suicide risks
- Consensual sexual activity in the last 7 days (for vaginal penetration) or 3 days for oral/anal –and whether condoms were used at that time. These time periods may explain alternate DNA or injuries
- Whether they injured assailant and by what means (e.g. to look for evidence under fingernails)
- Activities since assault that may impact evidence preservation (e.g. washing, urinating, defecating)

⁵² Special thanks to Cathy Carter-Snell, RN, PhD, SANE-A, Forensic Studies Program, Mount Royal University, Calgary AB.

Forensic Evidence Collection

In several jurisdictions across Canada, Sexual Assault Centres/Services have developed detailed protocols for the collection of forensic evidence in sexual assault cases for use by emergency physicians, gynaecologists, sexual assault physicians, nurses and SANEs. These protocols involve meticulous documentation of the victim's emotional and physical states, including extragenital and genital injuries. New forensic techniques including staining techniques, for example using toluidine blue dye, and colposcopy to visualise genital microtrauma not visible to the naked eye are emerging. This information would require continuing education which would not be available to a general practitioner who is not actively seeking it out. Forensic medical evidence obtained by examination of the victim is of critical importance in the investigation and trial of sexual assault offences.

Deborah Parnis and colleagues have observed that:

"Evidence represents the critical thread running through the course of sexual assault investigative and legal proceedings. While corroborating evidence may be gathered from a number of sources, including the scene of the offence, the suspect, and witnesses, great emphasis has been placed on that which is obtained from the body of the woman who has been assaulted. ...This evidence is most commonly collected during a post-assault forensic medical examination, and is intended to provide proof of penetration, semen, and physical and/or emotional trauma."⁵³

Any lack of skill, or a less than thorough examination, could potentially lead to the loss of vital evidence. Some victims refuse an examination as they do not think they were injured, but a review of injury studies revealed that only 1 in 5 women with genital injuries had pain.⁵⁴ Victims are encouraged to have an examination if possible, although the choice must remain theirs.

Much of the North American literature suggests that the evidence collection and documentation practices of SANEs are superior in quality to those of other health care professionals. Not only are SANE evidence kits significantly more complete and better documented, but SANEs are specifically trained in maintaining the proper chain of evidence, and do so more consistently overall than other nurses or physicians. This makes sense as SANEs

⁵³ Parnis, D., *et al.*, "Examining the Standardized Application of Rape Kits: An Exploratory Study of Post-Sexual Assault Professional Practices", (2002) 23 Health Care for Women International, 846 at page 847.

⁵⁴ Carter-Snell, (2007), "Understanding Women's Risks of Injury from Sexual Assault," PhD dissertation, Edmonton: University of Alberta.

are “required” to learn how to use the Sexual Assault Evidence Kit as part of their training and thus may be more informed than other professionals about the kinds of evidence to be collected, how it should be collected, and the uses to which it will be put in the context of a prosecution. American studies also highlight the completeness of SANE evidence. In one comparative Minnesota study, SANEs collected the correct swabs to match the recorded orifices of penetration, included blood evidence for blood-type identification with an extra tube of blood for blood alcohol and/or drug analysis, prepared proper blood-stain cards, identified the sources for all miscellaneous swabs, and generally included all of the proper documentation with each evidence kit. Upon completion of the data analysis stemming from that study, authors Linda Ledray et al concluded that,

“The SANE kits are significantly more complete and better documented. They maintained the proper chain of evidence more consistently than kits completed by other nurses or physicians. ...This supports the expectations that SANEs will collect better evidence as a result of their experience and training.”

The more recent Canadian literature also points to improved evidence collection through the use of SANEs during the sexual assault examination process, particularly with regard to the physical evidence of blunt force trauma. In one comparative Canadian study, SANE evidence kits did not contain critical errors that would render them inadmissible in court; a powerful indicator for the use of SANEs throughout our criminal justice system.

It is important to note that many nurses and/or physicians have been educated in the components of sensitive, comprehensive care without certification. It is anticipated that, while not tested and monitored, these specialized services are preferable in terms of efficiency, quality, and victim outcomes than the previous system of a rushed examination by a physician unfamiliar with sexual assault services and limited time. The challenge will be to find a way for physicians and nurses in rural or remote areas to provide comparable services without sending victims away from their community. An important first step is having police aware of the range of services to help guide these professionals through the process.

Sexual Assault Examination

The sexual assault examination consists typically of four components:

1. Alternate light source examination (if available) – look from head to toe for stains (likely semen if using light > 400 nm and patterned) and bruising. Some bruises are in deep tissue

and may only appear with light for first 24-36 hours (deep bruising). Swabs of stains may be taken for evidence at this time.

2. Ambient light exam – repeat examination from head to toe using both inspection for injuries as well as palpation (applying gentle pressure) looking for tenderness and deformities/breaks. There has been inconsistency in terms used for injuries and in the extent of physical findings sought or documented during the examination. The revised RCMP kit 2011/2012 will include a mnemonic (memory aid) to guide documentation of physical findings developed by Cathy Carter-Snell known as “BALD STEP”⁵⁵ (the mnemonic shown in the following diagram). This mnemonic provides a standardized terminology and a way of documenting injuries in “shorthand.” It has also been incorporated into the documentation for some of the SART teams (e.g. Edmonton) and adopted in various centres across Canada and in the USA.
3. Genital examination – includes obtaining external swabs for DNA/semen and application of toluidine blue dye to highlight the subtle injuries typically found. An internal examination is then conducted on females with a speculum to obtain vaginal wall swabs and cervical swabs for DNA and look for internal injuries. Some teams also perform STI baseline testing at this time. Males will have swabs taken from the end of penis and shaft if the penis was involved and the penis and scrotum will be examined for injury. An anal swab for DNA/semen and application of toluidine to the anal area is then typically performed. Internal rectal swabs are only obtained if there was a history of anal penetration and the client consents.
4. Blood/urine testing – blood is obtained for baseline DNA reference testing on FTA card and samples are also sent to local laboratories for sexually transmitted infection (STI) testing. Blood and urine may also be obtained for toxicology if drug facilitated assaults are likely.

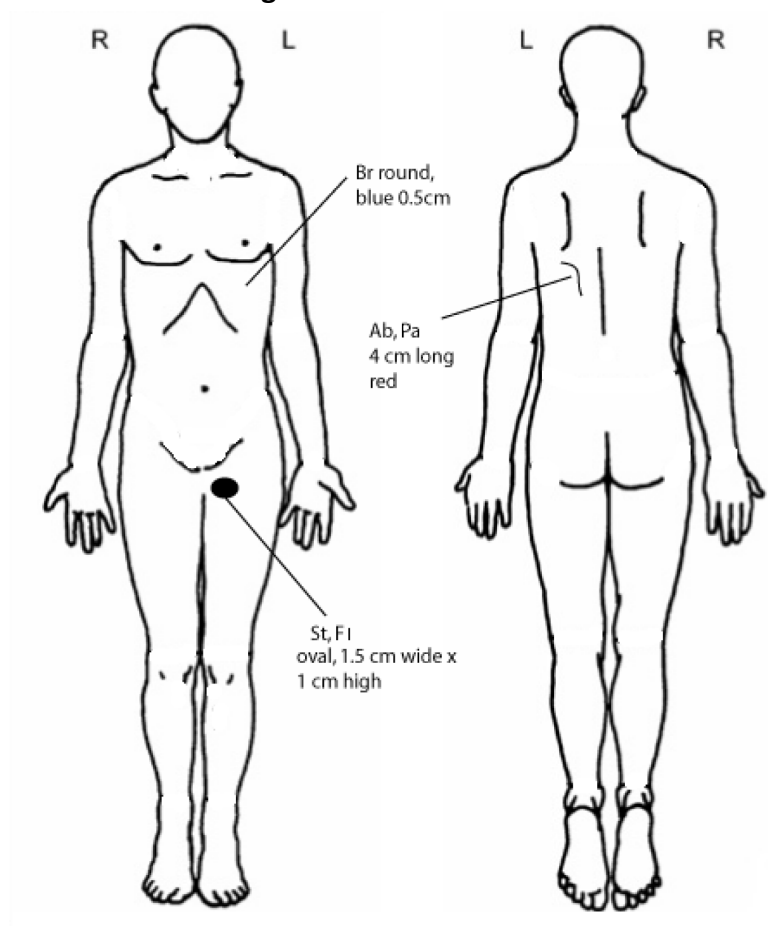
⁵⁵ Carter-Snell, C (2011). “Injury documentation: Using the BALD STEP mnemonic and the RCMP sexual assault kit.” *Outlook*, 34(1), 15-20.

BALD STEP Traumagram

BALD STEP Mnemonic for Physical Findings	
B	BI bitemark BL bleeding BR bruise BU burn
A	AB abrasion AV avulsion
L	LA laceration
D	DE deformity (<i>acute</i>)
S	SW swelling ST stain (+ <i>FL if fluorescent</i>)
T	TE tenderness to palpation TR trace evidence (+ <i>specify type</i>)
E	ER erythema
P	PA patterned (<i>draw shape</i>) PT petechiae (<i>draw region/spread</i>) PE penetrating (+ <i>I incised, S stab, P puncture, G known gunshot</i>)
<i>Indicate characteristics (e.g. shape, size, colour) beside each injury</i>	

Carter-Snell, C. (2011). Snellconsulting.org OR cartersnell@shaw.ca. May be reproduced.

Example of BALD STEP Used in Traumagram



BALD STEP Mnemonic for Physical Findings

B	BI bitemark BL bleeding BR bruise BU burn	S	SW swelling ST stain (+ FL if fluorescent)
A	AB abrasion AV avulsion	T	TE tenderness to palpation TR trace evidence (+ specify type)
L	LA laceration	E	ER erythema
D	DE deformity (acute)	P	PA patterned (draw shape) PT petechiae (draw region/spread) PE penetrating (+ I incised, S stab, P puncture, G known gunshot)

Indicate characteristics (e.g. shape, size, colour) beside each injury

Evidence Kit and Transfer to Police

The evidence kit must be authorized by police before it can be collected by examiners or physicians (unless a Third Option or anonymous kit is used). Authorization is done either by a Sex Crimes Detective in the urban centres or by the RCMP officer assigned in other areas. In some areas the examiners call Sex Crimes directly after they get the individual's history of the assault (e.g. Edmonton) while in others it is the investigating patrol officer who calls them (e.g.

Calgary). The kit must be authorized prior to the physical examination if it is to be done. This is to prevent disruption of evidence by requiring a second examination. It also limits later arguments by defence that the genital injuries could have been caused by the first speculum examination rather than the assault.

After collecting the evidence, the nurse or physician examiner will maintain chain of custody on the kit, keeping it with them at all times or in a locked area. Once ready to receive the kit, the police and examiner /physician will go through the items in the box together to each initial the item and sign them off on the Forensic Evidence Record. There is a standard record in the RCMP kit but Edmonton and Calgary have their own which is similar. The RCMP kit and some of the urban kits have unique identification numbers on labels so that each specimen is labelled with the same number. One of these labels should also be placed on the client's documentation and on the Forensic Evidence Record. The time of evidence transfer is noted on the form. The examiner/physician gives the kit and a copy of their documentation (history and findings) to the officer.

The kit is then transported to the police evidence storage until it can be transferred to the Forensic Laboratory. Ensure that prior to transport the samples are not left in temperature extremes in the police vehicle. Once at the evidence storage area each police service has their own procedures for storage but some key principles are important:

- Use gloves at all times when handling samples
- Minimize handling of samples
- Clean any surfaces off before placing the samples on them
- Dry any wet samples or clothing before storing (e.g. swabs, wet clothing)
- Avoid cross-contamination of samples when handling
- Non-fluid evidence can be stored at room temperature if dry
- If blood/urine samples are in grey topped tubes they do not need to be refrigerated in ER or during transport (drugs will not decay with the preservatives in the grey top tubes).
Refrigeration is recommended once at the evidence storage. Some services freeze them, although the Forensic Laboratory reports occasional shattering of the tubes if frozen.

Follow-up Care and Support

SANEs are trained to carry out not only an important forensic function, but a critical therapeutic function as well. The introduction of SANEs has generally reduced the time that an assaulted person must wait for medical attention, including the time it takes to complete an examination, but SANEs also provide continuity of care and access to follow-up support services. Follow-up services vary but generally include: arranging opportunities for a visit in the week following the assault, preparing a

written summary of treatment and recommended follow-up care, along with linking a victim with appropriate community services for ongoing support, including safe housing, counselling services, further medical care, legal services or child protective services. This part of the SANE role necessarily involves some element of psychological and social assessment and requires close ties with other professional service-providers, in particular, a close working relationship with the local police department and the Crown prosecutors' office.

Follow-up care and support is critical in the context of the complex and unique needs of sexual assault victims. In the days and weeks following an assault, a victim may experience insomnia, self-blame, thoughts of suicide, and numerous senses of loss, not the least of which may be for a freedom previously known. Those close to victims may also require support. A victim's husband and children may feel isolated and confused and may require counselling or education regarding the larger, extended experience of the assault. In any event, preventing secondary revictimization through sensitive services, as well as good follow-up care is important. This includes helping a victim to identify a support system and empowering the victim through access to community supports and services. These interventions are an essential element of the SANE protocol, one which may well contribute to effective prosecutions if victims feel supported.

THE THIRD OPTION⁵⁶

The “Third Option” for forensic evidence collection entails offering victims of recent sexual assault the additional choice to defer the decision to report to police. Thus, victims presenting to the sexual assault response team (SART) would have the option to say “Maybe” rather than being restricted to: “Yes – I’ll report” or “No – I don’t wish to report.”

Rationale for the Third Option

The rationale underlying the Third Option is to give the victim additional time to consider the difficult decision to report to police. By far the most consequential issue for effective sexual assault response is the chronic underreporting of sexual violence. As reported by Statistics Canada, just 8% of sexual assaults are reported to police. There are significant barriers to reporting, particularly for rural victims. This means that over 300,000 women ages sixteen to sixty-four will never receive the protection, recovery, and justice to which they are entitled. If evidence suggests that the Third Option increases the likelihood of successful prosecution this is a step in the right direction.

Sexual assault response professionals broadly accept the overarching principle of victim empowerment as a necessary condition for achieving service objectives of safety, recovery, healing, and justice. This entails giving victims a set of choices appropriate to their unique circumstances, plus the professional support to make informed choices best suited to achieving these objectives.

Another concept central to this issue is the fact that a traumatized victim may feel unsure, confused, or ambivalent about whether or not to involve police at that time. The myriad of thoughts and emotions besetting the victim can compound the trauma of the original assault. Being presented with only two options – to report or not to report – may leave the victim so overwhelmed as to avoid reporting altogether. Thus, the rationale for the Third Option is to give victims an empowering, compassionate alternative.

⁵⁶ Mihalcheon, Garth. “Analysis of the “Third Option:” Collecting and Storing Forensic Evidence When the Sexual Assault Victim is Uncertain About Reporting to Police.” 2009.

Current Practice

In Spring 2011, the Calgary Committee Against Sexual Assault began a one year pilot project of the Third Option. This project has been evaluated, and there are proposals to implement the Third Option in other locations in Alberta.

Currently, the Calgary pilot project is the only formal Third Option program in Alberta.

HISTORICAL SEXUAL ASSAULTS

Historical sexual offences listed in the table at the end of this section include all relevant indictable offences that were in force prior to January 1, 1988. As the charges are indictable, there are no time limitations on charging under the *Criminal Code's* principal sexual offences listed in the table below. A summary conviction offence must, under s. 786(2), be charged within six months "after the time when the subject-matter of the proceedings arose." Criminal charges do not apply retroactively. Police must lay the appropriate charge based on statutory provisions in effect at the time the offence is alleged to have occurred. It is an error to use more recent legislation that was not in force at the time of an alleged offence for a historical offence.

No time limitation applies to laying charges for sexual offences formerly part of the *Criminal Code* and now repealed, in respect of alleged misconduct when those offences were in force. If, for example, police receive a report in 2010 of a sexual offence that took place in 1982 which, following the investigation, police determine they have reasonable grounds to believe has occurred, and police are satisfied the behaviour warrants the indictable charge of rape, police may charge that offence. Although rape ceased to be a criminal offence under the *Criminal Code* after January 3, 1983, rape was an offence when, in 1982, the crime is alleged to have occurred and there is no requirement that rape charges be laid within a specific period after the underlying conduct is said to have occurred.

While the police must lay charges under the old provisions of the *Criminal Code* even if they no longer apply to current behaviour, if the conduct in question has been "decriminalized," s. 11(i) of the *Charter of Rights* may effectively preclude conviction. Thus, if a rape (which is a sexual assault by a male against a woman with vaginal penetration) occurred in 1982, a man must be charged with rape even though since 1983 the offence of rape no longer exists. However, anal intercourse between two consenting adult males was a criminal offence in 1982, but this type of conduct is no longer a crime, and this charge should no longer be laid. Aside from consensual anal intercourse between persons of the age of consent, most current types of prohibited sexual conduct were also crimes under the old offence provisions, and charges can be laid.

The area of historical sexual offences is highly technical. Police encountering these cases should seek legal advice from a Crown prosecutor before charging and ensure that they are citing the relevant *Criminal Code* offence provision for the date of the occurrence. If possible, police should obtain this advice in writing.

Historical Sexual Offences Table(Prior to January 1, 1988)⁵⁷

<i>Criminal Code</i> Section and Date in Force						
Section Description	April 1, 1955**	July 15, 1970	January 4, 1983	December 4, 1985	January 1, 1988	December 12, 1988
Rape	s. 135	s. 143	Repealed			
Attempted rape	s. 137	s. 145	Repealed			
Sexual intercourse with female under 14	s. 138(1)	s. 146(1)	s. 146(1)	s. 146(1)	Repealed	
Sexual intercourse with previous chaste female from 14 to 16	s. 138(2)	s. 146(2)	s. 146(2)	s. 146(2)	Repealed	
Sexual intercourse with feeble-minded female	s. 140	s. 148	Repealed			
Indecent assault of a female	s. 141	s. 149	Repealed			
Incest (intercourse with blood relative)	s. 142	s. 150(2)	s. 150(2)	s. 150(2) and	s. 155(2)	s. 155(2)
Sexual intercourse with step daughter or foster daughter	s. 145(a)	s. 153(a)	s. 153(a)	s. 153(a)	Repealed	
Seduction of female passenger on vessel	s. 146	s. 154	s. 154	s. 154	Repealed	
Anal intercourse ⁵⁸	s. 147	s. 155	s. 155	s. 155	s. 154	s. 159
Bestiality	s. 147	s. 155	s. 155	s. 155	s. 155(1)	s. 160(1)
Indecent assault on male	s. 148	s. 156	Repealed			
Gross indecency	s. 149	s. 157	s. 157	s. 157	Repealed	
Sexual assault			s. 246.1	s. 246.1	s. 246.1	s. 271
Sexual assault with weapon, threat, or bodily harm			s. 246.2	s. 246.2	s. 246.2	s. 272
Sexual assault: aggravated			s. 246.2	s. 246.2	s. 246.2	s. 273

⁵⁷ RCMP. "An Investigative Guide to Sexual Offences."

⁵⁸ This section has been found to be unconstitutional

Overview of Important Dates

July 1, 1893

- *Criminal Code*, 1892 proclaimed in force
- “Offences against the person and reputation” including assault, rape, abortion, bigamy, abduction
- “Offences against public morals and public convenience” including incest, gross indecency, seduction, procuring and defiling

April 1, 1955

- *Criminal Code*, 1953-54 proclaimed in force
- “Sexual offences, public morals and disorderly conduct” including sections 130-67.

October 9, 1970

- General statutory revision published which essentially consolidated all previous amendments and renumbered the sections
- “Sexual offences, public morals and disorderly conduct” Part IV retained

April 26, 1976

- Amendments proclaimed in force which altered several procedural rules in non-consensual sexual offences:
 - (1) Repeal of mandatory jury warning concerning the danger of acting on the uncorroborated evidence of the victim in cases of rape, attempted rape, sexual intercourse with females under 14 and indecent assault on a female (former Section 142)
 - (2) Introduction of the “rape shield” provision (Section 142)
 - (3) Exclusion of the public and non-publication of the victim’s name -Sections 442(3) and 442 (3)

January 4, 1983

- Bill C-127 proclaimed in force

January 1, 1988

- Bill C-15 proclaimed in force
 - New offences created – re: children
 - New evidentiary rules added

December 11, 1988

- Section # Changes

May 1, 2008

- Changes to section 150.1 CC – age of consent raised from 14 to 16 years

Chronology of Important Dates

Offences Extant After April 1, 1955

As below, numbering as indicated in []

Offences Extant After October 9, 1970

Section 143 [135]	Rape
Section 145 [137]	Attempt Rape
Section 146 [138]	Sexual intercourse with a female under 14 years of age
Section 148 [140]	Sexual intercourse with the feeble minded
Section 149 [141]	Indecent assault on a female
Section 150 [142]	Incest
Section 151 [143]	Seduction of female between 16 and 18 years of age
Section 152 [144]	Seduction under a promise of marriage
Section 153 [145]	Sexual intercourse with a step-daughter, foster daughter, female ward or female employee
Section 154 [146]	Seduction of female passengers on vessels
Section 155 [147]	Buggery or bestiality
Section 156 [148]	Indecent assault on a male
Section 157 [149]	Gross indecency

Offences Extant as of January 4, 1983 (S.C. 1980-81-82-83 c.125)

Section 146 (1)	Sexual intercourse with female under 14 years
Section 146 (2)	Sexual intercourse with female 14-16 years of previously chaste character
Section 150	Incest
Section 151	Seduction of female between 16-18 years of previously chaste character
Section 152	Seduction under a promise of marriage
Section 153	Sexual intercourse with stepdaughter, foster daughter, ward or employee of previously chaste character under the age of 21 years
Section 154	Seduction of female passengers on vessels
Section 155	Buggery or bestiality

Section 157	Gross indecency
Section 166	Parent or guardian procuring defilement
Section 168	Corrupting children
Section 246.1	Sexual assault
Section 246.2	Sexual assault with a weapon, threats to third party or causing bodily harm
Section 246.3	Aggravated sexual assault

Related Sections/Evidentiary Matters

Section 140	Consent of child under 14 years no defence to charge under section 146
Section 141	Time limitation of 1 year for offences under sections 151, 152, 153 (b), 166, 167, 168
Section 146 (1)	“Whether or not he believes that she is 14 years of age or more” - Unconstitutional
Section 146 (2)	“Whether or not he believes that she is 16 years of age or more” - Unconstitutional
Section 147	No offence under section 146 or 150 if accused under 14 years
Section 158	Exception Re: Acts in private between spouses or consenting adults (21 years) for sections 155 and 157
Section 246.1 (2)	No defence to charge under section 246.1, 246.2, 246.3 that victim under 14 years consented, unless accused is less than 3 years older than victim
Section 246.4	No corroboration required for 150, 157 246.1, 246.2, 246.3
Section 246.5	Rules regarding recent victim abrogated
Section 246.6	No evidence concerning sexual activity
Section 246.7	Reputation evidence
Section 246.8	Spouse may be charged

Offences Extant as of January 1, 1988 (S.C. 1987, c. 24)

Section 151 [140]	Sexual interference
Section 152 [141]	Invitation to sexual touching
Section 153 [146]	Sexual exploitation
Section 155 [150]	Incest
Section 159 [154]	Anal intercourse
Section 160 [155]	Bestiality
Section 170 [166]	Parent or guardian procuring sexual activity
Section 171 [167]	Householder permitting sexual activity

Section 172 [168]	Corrupting children
Section 173 (2) [169]	Indecent exposure to person under 14 years (summary only)
Section 271 [246.1]	Sexual assault
Section 272 [246.2]	Sexual assault with a weapon, threats to third party or causing bodily harm
Section 273 [246.3]	Aggravated sexual assault

Evidentiary Provisions

Section 274 [246.4]	Corroboration not required
Section 275 [246.5]	Rules re: recent complaint abrogated
Section 276 [246.6]	Unconstitutional
Section 277 [246.7]	Reputation evidence
Section 278 [246.8]	Spouse may be charged
Section 486 [442]	Exclusion of public Testimony outside courtroom Testimony behind screen Non publication of name order
Section 586	Corroboration required for unsworn testimony – Repealed (as well as s. 16 of CEA)
Section 715.1	Videotape evidence

CROWN PROSECUTORS

PROSECUTION

The importance of carefully prosecuting sex assaults

Sexual assault is an offence of violence that can and does have serious, long-lasting repercussions for the victims of the offence. Sexual assault is an extremely personal offence that damages the body, psyche, and integrity of the victim as a whole. And because of that extremely personal dynamic, the file should be treated as a one of a kind – factually and legally.

Crown prosecutors should establish communication with the complainant as early as possible, and be sure that he/she is informed of important steps in the legal process. By developing the complainant's trust in the Crown's competence and attention to the file, chances are that he/she will be willing to pursue the prosecution. Sex crimes are about power; and through information and support, the Crown can empower the complainant and increase his/her satisfaction with the justice system.

PUBLICATION BANS, EXCLUSION ORDERS AND FACILITATING TESTIMONY

Section 486.4 of the *Criminal Code* sets out the steps for seeking a publication ban in a sexual assault case.

What is the purpose of a publication ban?⁵⁹

A judge's order prohibiting the public and media from broadcasting or publicizing the identity of victims and witnesses is intended to protect the privacy of victims and witnesses of crime. The publication ban may enable victims and witnesses to participate in the justice system without suffering adverse consequences.

When can a judge order a publication ban?

The principle of openness is one of the hallmarks of our criminal justice system. As a general rule, all proceedings take place in open court and the names of witnesses, victims, and accused persons are made public. However, the *Criminal Code* provides that a judge **shall** order a publication ban to protect the identity of all victims of sexual offences and witnesses of sexual offences who are less than 18 years old. In these cases, the judge tells the victim, witness or Crown prosecutor that they may make a request for this protection. If a request is made, the judge shall order a publication ban.

How does a victim or witness get a judge to consider making a publication ban?

It is always open to the victim or a witness to discuss the issuance of a publication ban with either the investigator or the prosecutor and the victim or witness can make the application themselves before the court. However, in practice, Crown prosecutors in Alberta are proactive with regard to publication bans and they will request one automatically without application by the victim. The publication ban becomes mandatory once it is requested by the Crown.

What are the responsibilities of victims and witnesses who successfully obtain a publication ban?

It is important for victims and witnesses to realize that if a judge makes a publication ban, they will not be permitted to discuss the case with any reporter or communicate with the media

⁵⁹ Department of Justice Canada. "Publication Ban." Available at: <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/ban-inter.pdf>

through any other means — for example, by writing a letter to the editor which identifies him or her as a victim of or witness to the offence.

If the victim or witness later decides that he or she no longer wants the publication ban to continue, he or she must apply to the court for an order terminating it. It may be necessary to state why the circumstances that made the order necessary have changed.

Publication Bans, Exclusion Orders and Facilitating Testimony⁶⁰

In criminal proceedings, while the general rule is that all proceedings against an accused shall be held in open court, the *Criminal Code* sets out exceptions, including those which are intended to protect the privacy of victims, for example:

- Subsection 486(1) which permits the exclusion of the public in certain circumstances.
- Section 486.4 which provides for an order prohibiting publication of the identity of sexual offence victims and young witnesses in sexual offence proceedings.
- Section 276.3 which restrict publication of proceedings to determine the admissibility of evidence regarding a sexual assault victim's sexual history.

⁶⁰ Department of Justice Canada. <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/code.html>

ALLEVIATING VICTIMS' FEARS ABOUT THE COURT PROCESS

Trial, Verdict, Sentencing and Beyond

Fear of having to testify in court: Having to relate the details of the sexual assault in a court and be subjected to cross-examination can be painful and leave the victim feeling that his/her story is not believed. Unless the victim is well prepared, this can interfere with the healing process. Going to court many months after the assault may take the person back to the acute phase of trauma. This is normal, but can be hard.

How a Victim Advocate could help:

- Help the victim understand how the criminal justice system works and what might happen. This preparation can help the person better maintain emotional equilibrium.
- Identify what the specific fears are, and then put in motion anything that will help to alleviate the fear.

Fear of having prior sexual history or other personal matters revealed in court: Many victims of sexual assault have heard stories of how the defence attempts to discredit the victim by asking the victim about past sexual behaviour or other personal matters. In some cases, the defence may apply to access personal records of the victim. The victim may feel this as a further violation, and also be fearful of what might be disclosed in public, or what might happen while the victim is a witness in court.

How a Victim Advocate could help:

- Applications to access personal records of the victim in sexual cases are called s. 278.1 (*Criminal Code*) applications. If the defence makes an application, the victim will receive a notice of the application.
- Victims are entitled to have a lawyer represent them if the defence makes an application under s.278.1.
- Legal Aid will appoint and pay for a lawyer to represent the victim in cases of a s.278.1 application, regardless of the victim's income.
- If the application is successful, the court gets the records and reviews them to see if the records are relevant to the case. Only if relevance is shown can the defence access the records and cross examine the victim on the contents. Section 278.7 of the *Criminal Code* explains this process. It is important to note that when production of the record or part of

the record is ordered to the accused, the judge can set conditions on what gets disclosed, and must provide reasons.

- Likewise, the defence must make an application to the court to cross-examine the victim on prior sexual acts and has to show that it is relevant before the questions are allowed. If the judge allows the defence to question the victim about previous sexual history, the Victim Advocate can assist the victim to prepare for the emotional aspects of the experience.
- The Victim Advocate could also suggest that a victim speak to the Crown prosecutor about the possibility of a records application or an application to ask questions about prior sexual history.
- It is important to note that applications to cross-examine on prior sexual history are rarely granted and defence is often restricted in the type of questions that will be allowed. The information cannot be used to show that the complainant is less worthy of belief, or that he/she was more likely to have consented. Further, the court is required to consider the “potential prejudice to the complainant’s personal dignity and right of privacy” in determining whether the evidence is admissible.

Verdict and Sentencing: The accused may be found not guilty or guilty of a lesser offence. The sentence may seem inappropriate: The victim may experience many emotional reactions – feeling betrayed; feeling disbelieved, discredited or discounted; feeling further violation, feeling even more endangered than before. The world may seem bleaker and more unjust than it ever was before.

How a Victim Advocate could help:

- As part of preparation for court, the Victim Advocate can prepare the victim for these possibilities, and discuss that the verdict and sentencing are dependent on many factors.
- The Victim Advocate can help the victim prepare a plan for how the victim will be supported at the times of verdict and sentencing.

Victim wishes to submit a victim impact statement before sentencing: If the accused is found guilty, the victim may wish to submit a new or updated Victim Impact Statement to be considered at the time of sentencing.

How a Victim Advocate could help:

- If the victim wishes to update the Victim Impact Statement, the Victim Advocate can ensure the Crown prosecutor and Court Services are aware that a victim impact statement is on the way.
- Inform the victim of the procedure to prepare and submit a victim impact statement.

Victim has safety concerns: At any time before, during or after court proceedings, the victim may fear retaliation by the accused or friends or relatives of the accused. If the accused is found not guilty, or found guilty and released into the community, the victim may feel unsafe.

How a Victim Advocate could help:

- Report the victim's safety concerns to police and/or Crown prosecutor.
- If the accused has been found guilty and is under the supervision of a probation officer, ensure the probation officer knows of the victim's safety concerns.
- If appropriate, provide the victim with information about restraining orders or other forms of legal protection, such as no-contact orders.

As well, victims who have safety concerns may wish to read *Strategies for Safety – Quick Reference Sheet*:

http://www.solgps.alberta.ca/safe_communities/community_awareness/family_violence/Documents/GUIDE-QuickRef_2013_03_27.pdf

Offender is sentenced to a correctional facility: If the accused is sentenced to a correctional facility, the Victim Impact Statement submitted at sentencing will accompany the offender to the correctional system. As well, the victim may submit a new Victim Impact Statement to the Correctional Service of Canada, and the Parole Board of Canada.

Victims may ask to receive ongoing information so they are kept informed of changes such as an offender's move from one institution to another or the grant of a conditional release. To obtain information, contact any regional office of the Parole Board of Canada or Correctional Service of Canada (CSC).

- Correctional Service Canada. Victim Services at CSC.
<http://www.csc-scc.gc.ca/victims-victimes/index-eng.shtml>
Toll free 1-866-806-2275
- Parole Board of Canada. Victims of Crime.
<http://pbc-clcc.gc.ca/victims/victims-eng.shtml>

Toll free 1-866-789- 4636

At all Stages of the Criminal Justice process:

Victims are entitled to receive information about the court process and the status of the offender. All justice system participants (prosecutors, police, advocates, witnesses, victims, etc.) should be familiar with their roles and responsibilities as set out in the *Victims of Crime Protocol: What victims of crime can expect from the criminal justice system*. The document is available at:

https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Victims%20of%20Crime%20Protocol.pdf

TESTIMONIAL AIDS

Prior to the commencement of the trial or preliminary inquiry, particularly one involving children under eighteen or witnesses with disabilities, Crown prosecutors should consider the use of testimonial aids that assist in the discovery of truth, minimize the stress and trauma on the victim as he/she participates in the criminal justice system, and minimize the need for adjournments.

Crown prosecutors should consider bringing applications to utilize the following testimonial aids:

Support Person

Section 486.1(1) of the *Criminal Code* provides that in any proceedings against an accused, the judge or justice shall, on application of the prosecutor, of a witness who is under the age of eighteen years or of a witness who has a mental or physical disability, order that a support person of the witness' choice be permitted to be present and to be close to the witness while the witness testifies, unless the judge or justice is of the opinion that the order would interfere with the proper administration of justice.

Screens and Closed Circuit Television

Section 486.2 of the *Criminal Code* provides for an order allowing a witness to testify from behind a screen, or from outside of the courtroom in certain circumstances.

Video-Recorded Evidence of Children

Section 715.1 refers to the admission of video-recorded evidence of a child victim/witness where certain conditions are met, and 715.2 refers to the admission of video recorded evidence a victim or witness who has a disability where certain conditions are met.

Cross-examination by an Unrepresented Accused

Section 486.3 authorizes a judge to prohibit the accused from personally conducting a cross-examination of witnesses under the age of 18. It also provides for the appointment of counsel to conduct such cross-examinations.

Evidence

Upon appropriate notice, the Crown prosecutor may present the evidence of a witness in the form of a prior statement versus calling viva voce evidence (calling the witness in person).

Defence may make application to the court for leave for the defence to cross examine any witness in person where the crown tenders the witness evidence via s. 540 (7) of the *Criminal Code*.

OTHER CRIMINAL CODE PROVISIONS OF INTEREST TO AND BENEFIT FOR VICTIMS OF CRIME

Section 161 of the *Criminal Code*

Section 161 of the *Criminal Code* permits the court to make an order prohibiting an offender convicted of a sexual offence involving a young person (under 16) from attending at or near certain public places where children may be present or seeking, obtaining or continuing employment that involves being in a position of trust or authority towards a young person.

Sex Offender Information Registration Act (SOIRA)

SOIRA was proclaimed by Parliament on December 15, 2004, creating a National Sex Offender Registry designed to capture certain classes of sex offenders. The main purpose of the legislation is to help police services investigate sex crimes by giving police agencies access to a data bank containing confidential personal information about convicted sex offenders. The law requires sentenced sex offenders, in jail or on probation or parole, for sex crimes as of December 15, 2004 and persons convicted of sex crimes after December 15, 2004 to register as sex offenders at their nearest police service or RCMP detachment.⁶¹

Registering a Sex Offender

Subject to those mandatory designated offences, when an individual is convicted and sentenced for any designated offence under s.490.011 of the *Criminal Code*, the Crown can apply to the court for a *Sex Offender Information Act* Registration Order pursuant to section 490.012. The Crown may apply for registration orders not only for sexual offence convictions, but also for other offences such as Trespassing at Night, or Break and Enter, if it can be shown that these acts were done with the intent to commit one of the designated 'sexual' offences.

A convicted sex offender is required to register when a court makes an order. There are various durations under which an offender must report. Generally the order begins on the day on which it is made.

- If the conviction was for a summary conviction offence or was punishable by two or five years, then the order ends after ten years.
- If the offence had a maximum penalty of ten or fourteen years, then the order will end after twenty years.

⁶¹ Crown prosecutors should refer to the [SOIRA Practice Protocol](#), regarding SOIRA Orders, available on the Criminal Justice intranet site, as well as the [SOIRA Handbook for Prosecutors](#).

- An order for life will be imposed in these situations:
 - If the offence had a maximum penalty of life imprisonment;
 - If the person was convicted or found not criminally responsible on account of mental disorder of more than one mandatory designated offence;
 - If the person is or was at any time subject to an obligation under section 490.019 or 490.02901 of the *Criminal Code* for a previous conviction;
 - If the person is or was at any time subject to a court order made previously under section 490.012 of the *Criminal Code*;
 - If the person was before April 15, 2011 convicted or found not criminally responsible on account of mental disorder of any mandatory designated offence, and that person was not served with a notice to comply and is not already subject to a court order.

Sex offender information remains on the database indefinitely; barring final acquittal on appeal or the offender receives a pardon.

Alberta has introduced community notification programs that target certain high-risk, dangerous, or sex offenders. Generally, police agencies are integral to the process because they work closely with corrections officials to determine if and what type of notification is necessary for community safety, and police agencies have authority to disclose specific information about the offender.

Sex Offender Registry Centre Alberta - SORCA

Sex Offender Registry Centre Alberta (SORCA) is Alberta's response to the National Sex Offender Registry. SORCA manages the database, service of orders, identification of offenders who fail to comply with their orders, risk assessment of each offender who registers, ensuring the information on the database is up to date and accurate, and the training of all persons involved in delivering this service. Across Canada, all police services and the RCMP contribute to the national database. SORCA also links with the Violence Crime Linkage System (ViCLAS) to provide a tactical analysis of offenders and the risk posed by them in the event of on-going sex based crimes such as a child abduction or sex based homicide. SORCA is operated by the RCMP Behavioural Sciences Group on behalf of, and provides its service to all, police services and the RCMP in Alberta.

Section 810.1 (*Criminal Code*) Judicial Restraint Order – Fear of Sexual Offence in relation to Children Under the Age of 18

Pursuant to s. 810.1 of the *Criminal Code*, where a provincial court judge is satisfied by evidence that there are reasonable grounds to fear that a person will commit a sexual offence in respect of person(s) under the age of 16 years, the court may order that person to enter into a recognizance for not more than twelve months on conditions that include:

- Prohibiting the person from engaging in any activity that involves contact with a person under the age of 16 years, including using a computer system.
- Restricting the person from attending a public park or public swimming area where children under 16 years of age are likely to be present, or a day care centre, playground, school ground or community centre.

Section 810.2 (*Criminal Code*) Informations – Fear of Serious Personal Injury Offence

Pursuant to this provision, with the consent of the Attorney General, a person who fears on reasonable grounds that another person will commit a serious personal injury offence, as defined in s. 752 of the *Criminal Code*, may lay an information before a provincial court judge.

Section 810.2 is not limited to offences in respect of persons 16 years or younger. The court may order a person to enter into a recognizance for not more than twelve months on conditions, which include:

- Prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance
- Requiring the surrender of weapons, and authorizations, licenses or registration certificates for weapons
- Reporting to a correctional authority or police authority.

SENTENCING⁶²

General purposes and principles of sentencing

Purpose:

Section 718 of the *Criminal Code* sets out the fundamental purpose of sentencing:

The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

(a) to denounce unlawful conduct;

(b) to deter the offender and other persons from committing offences;

(c) to separate offenders from society, where necessary;

(d) to assist in rehabilitating offenders;

(e) to provide reparations for harm done to victims or to the community; and

(f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

A further fundamental principle of sentencing is found at s. 718.1 of the *Criminal Code*:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

The severity of the sanction for the crime should reflect the seriousness of the criminal conduct, properly measured by gravity of the offence and the offender's degree of responsibility.

While the court assesses various mitigating and aggravating factors in imposing a sentence (as discussed below), it is clear that the facts and circumstances of each case will guide the length

⁶² Many thanks to Carla Ball and Sue Hughson for their input on this section

and type of a sentence. For example, the following aspects of a crime can contribute to greater sanctions:

- Planning/deliberation
- A continuation of the offence or multiple offences
- Choking, stalking or a random attack on a random victim
- Unconscious victim
- A particularly vulnerable victim
- Extreme youth of the victim
- Multiple victims
- That the offence ceased only on intervention by a third party
- Threats
- Gratuitous violence
- Demeaning/degrading conduct, protracted confinement/kidnapping
- Use of pornography (usually with child victims)
- Invasion of the sanctity of the home
- Several offenders acting together
- Pregnancy resulting from the crime
- Sexually transmitted diseases resulting from the crime, including but not limited to HIV/AIDS
- The use or display of a weapon

Mitigating and Aggravating factors in Sentence

Section 718.2 of the *Criminal Code* sets out other sentencing principles that a court "shall" take into consideration in sentencing. These secondary principles include the principle of reducing or increasing sentence based on mitigating or aggravating circumstances.

As stated in 718.2(1)(i, ii ii.1, iii, iv, v) of the *Criminal Code*, aggravating factors include, but are not limited to:

- Evidence that the offence was motivated by bias, prejudice or hate
- Evidence that the offender, in committing the offence, abused the offender's spouse, partner, or child;
- Evidence that the offender, in committing the offence, abused a person under the age of eighteen years old (the younger the victim, the more aggravating the factor);

- Evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim (i.e. relatives, friends, co-workers, employee / employer relations)
- Evidence that the offence was committed for the benefit of, at the direction of, or in association with a criminal organization, or
- Evidence that the offence was a terrorism offence.

There are various mitigating factors that can be considered by the court when imposing a sentence which include, but are not limited to:

- Early guilty plea
- The expression of remorse
- The “youthfulness” of the offender (this does not necessarily mean a person under the age of 18, but rather a person who is young within the criminal justice system having committing an offence often for the first time).
- Cooperation with authorities

It is also noteworthy that section 718.2(e) of the *Criminal Code* states:

All available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

The judge therefore must consider the unique systemic or background factors that may have played a part in bringing the offender before the court and the types of sentencing procedures and sanctions that may be appropriate in the circumstances because of the offender’s heritage or connection.⁶³

⁶³ See also, *R v Gladue*, [1999] 1 SCR 688, 133 CCC (3d) 385.

VICTIM IMPACT STATEMENT⁶⁴

Victim Impact Statements are the key to communicating to the court the depth of harm to a victim. Crown prosecutors should NEVER miss this opportunity to bring visceral images to the Court.

Section 722 of the *Criminal Code* requires the court to consider a Victim Impact Statement at the time of sentencing an offender where such a statement has been prepared. The Victim Impact Statement describes the harm done to or loss suffered by the victim of the offence. The form of the statement may be in accordance with procedures established by a Victim Impact Statement Program designated by the Lieutenant Governor in Council of the Province. Courts have accepted a variety of forms of Victim Impact Statements regardless of whether there is a designated program.

Recent amendments to the *Criminal Code* provide that the victim may read their Victim Impact Statement aloud at sentencing, where they wish to do so. Information from the surviving victims may also be considered in proceedings pursuant to s. 745.6 of the *Criminal Code*, where an offender sentenced to life for murder, may apply for a reduction in the number of years before being eligible to apply for parole.

Victim Impact Statement forms are available from the local police service or Victim Service Unit.

More information on Victim Impact Statements and related information can be accessed at:

https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Pages/default.aspx

⁶⁴ Department of Justice Canada. <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/code.html>

FIREARMS PROHIBITIONS

In each case involving a sexual offence, Crown prosecutors should consider whether a mandatory or discretionary firearms prohibition order is applicable under s. 109 or s.110 respectively of the *Criminal Code*.

A conviction for a s. 271 of the *Criminal Code* offence can result in a firearms prohibition order being made. If the Crown proceeded by indictment on the sexual assault, then the firearms prohibition is mandatory under s. 109. If Crown proceeded summarily, then the judge has discretion to make the order under s. 110. Usually these orders can last up to ten years from the date of conviction.

Section 113 of the *Criminal Code* provides for the judge to lift the order for the purposes of subsistence hunting or trapping or for employment. The application is extensive, and requires a full hearing of all of the circumstances. Even if it is granted, the order is not lifted, but specific exceptions may be made in writing.

DANGEROUS/LONG-TERM OFFENDER APPLICATIONS

Part XXIV of the *Criminal Code*

The legislative scheme for dangerous and long-term offender applications is set out in Part XXIV of the *Criminal Code* (ss. 752-761). The purpose of this legislation is to target high risk and sexual offenders. Part XXIV of the *Criminal Code* is not about punishment; rather, protection of society is the paramount consideration for the court.⁶⁵

Dangerous and long-term offender applications should be on a Crown prosecutor's radar screen any time he/she reviews a file (whether for docket, bail, witnesses, trial or sentence) where the person has been charged with an eligible offence.

For both practical and policy reasons, the use of these provisions should be exercised with great restraint. The application to have an offender designated as a dangerous or long term offender has been reserved, quite properly, for the most serious of offenders.

The decision to pursue a dangerous offender or long-term offender application is at the discretion of the Crown but requires the consent of the Deputy Minister of Justice and Deputy Attorney General.

Dangerous Offender Applications

Where an offender is convicted of a sexual assault or a "serious personal injury offence," Crown prosecutors may bring an application, before the sentence is imposed to have the offender declared a dangerous offender. If declared a dangerous offender, the court is required to sentence that person to an indeterminate sentence in a penitentiary, unless it can be shown that another sentence will adequately protect the public. To succeed, the prosecution's evidence must satisfy the court that the offender meets the statutory conditions defining dangerousness.

Section 752(a) of the *Criminal Code* defines a "serious personal injury offence" as an indictable offence for which the offender may be imprisoned for more than 10 years, involving the use or

⁶⁵ Thanks to Michele Collinson and Patti MacKinnon for their presentation to the Alberta Justice Sexual Assault Conference entitled, "When to Make DO/LTO Applications and What to do at Trial to Further Your Application." The entire presentation is available to Crown prosecutors on the Criminal Justice intranet site.

attempted use of violence, or endangering/likely to endanger life/safety or inflicting/likely to inflict severe psychological harm.

Sexual offences under ss. 271, 272, and 273 of the *Criminal Code* are specifically enumerated in the definition of serious personal injury offence under s. 752(b).

Sexual offences under ss. 151, 152, 153, and 153.1 of the *Criminal Code* are not enumerated in s. 752(a) or (b) of the *Criminal Code*. To be eligible as a “serious personal injury offence,” a court would have to rule that they fall under the definition in section 752(a) of the *Criminal Code*.

Section 753 of the *Criminal Code* sets out the legislative criteria for a dangerous offender finding:

- Pattern of repetitive behaviour showing failure to restrain behaviour, likelihood of causing death or injury or inflicting severe psychological damage.
- Persistent aggressive behaviour, indifference respecting consequences to others.
- Brutal nature of offence, behaviour in future unlikely to be inhibited by normal restraint.
- Sexual conduct showing failure to control sexual impulses, likelihood of causing injury, pain or other evil.

What constitutes a pattern?

- The pattern of conduct must be substantially or pathologically intractable⁶⁶
- Prior conduct must be similar in kind or result⁶⁷
- The focus on a pattern of behaviour means that the focus is on actions and not thoughts⁶⁸
- Two incidents can be enough for a pattern⁶⁹
- A series of offences within a single incident can be enough for a pattern⁷⁰

⁶⁶ *R v Lyons* [1987], 2 SCR 309 (SCC).

⁶⁷ *R v Neve* (1999), 137 CCC (3d) 97 (Alta CA).

⁶⁸ *Ibid*

⁶⁹ *R v Langevin* (1984), 11 CCC (3d) 336 (Ont CA).

⁷⁰ *R v Young* (1998), QL (Nfld CA) (leave to appeal dismissed [1998] SCCA No 122 (QL) [167 Nfld and PEIR 358n])

A dangerous offender will not automatically receive an indeterminate sentence. Rather, once the Court declares the offender a dangerous offender, it has the following sentencing options:

- It can impose an indeterminate sentence
- It can impose a fixed sentence and a supervision order; or
- It can impose a fixed sentence.

The dangerous offender label is important. If a person is declared a dangerous offender, but sentenced to a determinative period of detention and placed on a supervision order, then breaches his/her supervision order or commits another serious personal injury offence, he/she can be given an indeterminate sentence without the Crown having to reprove that he/she meets the dangerous offender criteria.

Long-Term Offender Applications

Long-term offender provisions pose somewhat different criteria than those for dangerous offenders. To be eligible, an offender must have been convicted of:

- A “serious personal injury offence” as defined in s. 752(a) and s. 752(b) of the *Criminal Code*, or
- An offence under ss. 151-153, s. 163.1(2)-(4.1), s. 172.1, s. 173(2), ss. 271-273 of the *Criminal Code*, or
- Another offence involving serious conduct of a sexual nature: s. 753.1(2) of the *Criminal Code*.

In these circumstances, a Crown prosecutor may bring an application, before sentence is imposed, that the offender be declared a long-term offender.

A court may make a long-term offender finding if:

- It is appropriate to impose a sentence of two years imprisonment or more for the offence for which the offender was convicted;
- There is a substantial risk the offender will re-offend; and
- There is a reasonable possibility of eventual control of the risk in the community.

Some of the factors which should be considered in determining whether dangerous offender or long term offender proceedings are appropriate are:

- The age and health of the offender;
- The nature of the predicate offence, the maximum penalty provided for the offence, the sentencing range for the predicate offence applying regular sentencing principles and the length of any proposed potential Long Term Supervision Order;
- The pattern and time span of the offences; and
- The nature and length of the criminal history, including any unproven criminal acts established by evidence.

ALBERTA JUSTICE HIGH RISK OFFENDER PROGRAM/NATIONAL FLAGGING SYSTEM

This Criminal Justice Division unit identifies, profiles and tracks high risk and sex offenders. They receive information from a broad range of stakeholders, including police, Crown and federal and provincial correctional centres, and actively build substantial files for each offender being tracked. These offenders are also entered on the Justice Online Information System (JOIN). Once an offender has been identified and entered on JOIN, the unit is notified of any subsequent offence(s). When one of these offenders comes before the courts, the unit makes its file available to the Crown to ensure an appropriate sentence is sought and obtained. File material is very beneficial in determining whether to bring an application for a dangerous offender or long term offender designation and has been critical in successfully obtaining such designations. The unit is also involved in making applications under sections 810.1 and 810.2 of the *Criminal Code*. File information is also valuable in providing evidence to support these applications.

Alberta Review Board

If the offender is found by the courts to be not criminally responsible because of a mental disorder, they will be under the supervision of the Alberta Review Board. The Board is required to hold hearings periodically to assess the mental condition of the patient and the risk they pose. A victim can ask the Alberta Review Board to provide the results of these disposition hearings. To do this, a victim or victim's family must provide the Alberta Review Board their mailing address and phone number.

The Board can be contacted by phone at 780-422-5994 or by calling toll free at 310-0000 and asking for 780-422-5994.

If a hearing occurs, the victim has the right to send a Victim Impact Statement and present it at the disposition hearing in a way that the Alberta Review Board deems appropriate. The Alberta Review Board may also protect a victim of a sexual offence by imposing a publication ban.

Correctional Services, Alberta Solicitor General and Public Security

Convicted offenders sentenced to less than two years of incarceration, young offenders, or offenders serving community sentences are supervised by Alberta Correctional Services. To obtain information about an offender who is under community supervision or in a provincial correctional centre, a victim or victim's family must make a request in writing and prove that they are a victim of the offender's crime. Alberta Correctional Services can be contacted by calling toll free at 310-0000. The following forms allow a victim to request more information:



Correctional Service of Canada and Parole Board of Canada Victim Notification Program

Victims should be made aware that if the offender is found guilty and sentenced to two years or more for the offence, the victim can receive ongoing information about the offender by registering with the Correctional Service of Canada or the Parole Board of Canada. The two departments work together to provide the victim information about the offender's location, length of sentence, institutional transfers or temporary absences, release dates as well as any decisions made in the offender's case and the conditions of any release. The victim also has the option to submit an updated Victim Impact Statement and to attend and read their statement at parole hearings. More information is available at the following links:

Parole Board of Canada:

<http://www.bpc-clcc.gc.ca>

<http://www.pbc-clcc.gc.ca/victims/victims-eng.shtml>

Correctional Service of Canada:

<http://www.csc-scc.gc.ca>

<http://pbc-clcc.gc.ca/forms/pdf/npb0031e.pdf>

This information is outlined in the *Victims of Crime Protocol*, along with more information on what a victim can expect from the criminal justice system. A copy can be accessed at: www.victims.alberta.ca.

POLICE OFFICER AND CROWN

PROSECUTOR SELF-CARE

VICARIOUS TRAUMA OF POLICE AND CROWN PROSECUTORS

Traumatic events do not occur in a vacuum; they hold tremendous meaning for those who touch the victims' life, affecting all persons involved. The effects and ramifications of a sexual assault have been shown to affect those working with victims of sexual assault, even if the trauma is only experienced indirectly through the investigation or recounting of others' experiences. This exposure may result in vicarious trauma, secondary traumatization, and/or burnout.

Vicarious Trauma and Secondary Traumatization

Just as people who help during a crisis may experience symptoms, so may people who come into contact with victims or victims at a later time. People who listen for the first time to the details of a victim's traumatic experience may sometimes experience the same symptoms (heart pounding, tension, going blank, etc.) as the emergency workers who attend crisis calls.⁷¹

'Vicarious trauma' (VT) is a psychological term used to refer to changes in a person that can occur when they are repeatedly exposed to traumatic material in which the professional transforms the perceptions of the individual into their own lives.⁷² VT is described as resulting in disruptions in 5 major areas:

- Safety - see the world as unsafe
- Trust – self or others is reduced, alienating self from others
- Esteem – low self-esteem
- Intimacy – reduced intimacy or negative impact on relationships
- Control – feeling helpless in caring for self/others

Secondary traumatic syndrome (STS) is often used interchangeably with VT, but it has been argued that it is separate.⁷³ It is the result of working with traumatized individuals but results in “compassion fatigue” (decreased motivation, efficacy, and empathy) as well as symptoms which closely mimic those of Post-Traumatic Stress Disorder (PTSD):

⁷¹ Victim Services and Crime Prevention, Alberta Solicitor General

⁷² Morrison, Zoë. 2007. “‘Feeling heavy’: Vicarious trauma and other issues facing those who work in the sexual assault field.” Published by the Australian Institute of Family Studies. Available at: <http://www.aifs.gov.au/acssa/pubs/wrap/w4.html>

⁷³ Baird, K., & Kracen, A. C. (2006). Vicarious traumatization and secondary traumatic stress: A research synthesis. *Counseling Psychology Quarterly*, 19(2), 181-188. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,url,cookie,uid&db=rzh&AN=2009311906&site=ehost-live>

- Exhaustion
- Arousal/hyper-vigilance
- Avoidance
- Numbness to reminders
- Re-experiencing the client's event

Vicarious trauma and secondary traumatic syndrome are both processes that can manifest themselves in persons who work with victims of trauma.

The helper working with victims of trauma such as sexual assault may experience profound psychological effects that can be disruptive and painful for the helper and can persist for months or years after work with traumatized persons.⁷⁴ It is believed that working with trauma victims can elicit reactions considerably different than working with other difficult populations because the professional "is exposed to the emotionally shocking images of horror and suffering that are characteristic of serious traumas."⁷⁵ This is distinct from the chronic frustrations of dealing with individuals or with inadequate resources seen with burnout.

Risk factors for VT or STS exist if professionals have less experience with the situations or type of clients, less education or preparation for the role, limited organizational or personal supports, and/or have a personal history of trauma themselves. Increased numbers of traumatized clients or exposure to trauma material is less of a risk factor.⁷⁶

Implications for prevention of VT or STS are therefore providing professionals with sufficient resources and education or preparation for their role working with sexually assaulted clients, structuring their exposure so that they gain sufficient experience, and being aware of the personal impacts of their own traumas.

Critical Incident Stress⁷⁷

The kinds of situations that crisis workers deal with may be particularly shocking. Dealing with these situations has an impact on emergency workers such as police, fire fighters, paramedics,

⁷⁴ Quoted in: Baird, Stephanie. 1999. "Vicarious Traumatization, Secondary Traumatic Stress, and Burnout in Sexual Assault and Domestic Violence Agency Staff and Volunteers." Available at:

http://www.library.unt.edu/theses/open/19992/baird_stephanie/thesis.pdf

⁷⁵ Ibid

⁷⁶ Devilly, G. J., Wright, R., & Varker, T. (2009). Vicarious trauma, secondary traumatic stress or simply burnout? Effect of trauma therapy on mental health professionals. *Australian & New Zealand Journal of Psychiatry*, 43(4), 373-385. Retrieved from:

<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,url,cookie,uid&db=rzh&AN=2010242045&site=ehost-live>

⁷⁷ Victim Services and Crime Prevention, Alberta Solicitor General

prosecutors and Victim Services workers. A critical incident is a situation faced by people helping a trauma victim, which causes the crisis workers to have unusually strong reactions, and has the potential to interfere with their ability to function, either at the scene or later.

Critical incident stress refers to the cluster of emotional, physical and cognitive symptoms in reaction to a critical incident:

- Emotional symptoms may include shock, fear and anxiety that make it difficult to make decisions.
- Physical symptoms may include sweating, heart pounding and muscle tremors.
- Cognitive symptoms may include distress about not being able to help someone, or going 'blank' and not remembering what to do in a particular situation.

Exposure to a critical incident may result in Acute Stress Disorder (ASD) or PTSD as previously discussed. Recall that the criterion for either ASD or PTSD is a significant trauma that resulted in intense fear, horror or helplessness. It can happen directly to you, or you may hear about it through your professional role. Again, the rule of thumb is that if you are experiencing any of the symptoms of arousal, avoidance or intrusive recollection with the same intensity, and/or you cannot resume your activities of daily living within 2-4 days of the event or more, then you should be assessed by a professional for ASD or PTSD.

Self Care During a Critical Incident⁷⁸

Prevention of vicarious trauma, burnout, and ASD/PTSD is extremely important as symptoms may be hard to treat once established. Research and experience with people who have been exposed to traumatic events provide a variety of techniques that help the helper stay healthy both during and after the event.

Actions to stay healthy during a traumatic event

- Try to control breathing: slow and regular
- Focus on the immediate task
- Stay in contact with others by talking/connecting with others during the event
- Care for yourself physically. Make sure you have proper food, water, clothing, rest and exercise.

⁷⁸ Ibid

- Recognize events that are particularly difficult for you (e.g. child the same age, similar circumstances, colleague affected) and remove yourself if possible.

Maintain a positive attitude

- Do the things that help you stay positive
- For example:
 - Remember examples of resilience and strength: your own and other people's
 - Remind yourself that you are doing everything you can
 - Connect with your spiritual beliefs or inner wisdom that gives you strength, hope and faith
 - Remind yourself that all traumatic situations, no matter how horrific, do come to an end
 - Look for things to appreciate even in this situation -- for example, the kind gestures of strangers, help from your colleagues, equipment that works, etc.

Recognize the signs of critical incident stress and traumatic stress. If you notice signs in yourself, tell someone you need to take a break, and tell them where you will be.

If you have prolonged exposure to a traumatic situation, take breaks and rotate tasks with other crisis workers.

Self Care After a Critical Incident

Talk. Talk about the event -- what you saw, heard, smelled, did, etc. when ready to do so (versus on someone else's timeline). Talk about your reactions with a confidential support, such as your supervisor or a colleague whom you anticipate will be a positive support, including what you thought and felt. Talk about what happened.

Practice stress management techniques such as:

- Deep breathing exercises
- Progressive relaxation
- Meditation and/or prayer
- Physical activity
- Music, reading, gardening
- Activity or entertainment that makes you laugh
- Writing in a journal

Expect that the incident may bother you.

- Remember your reactions are normal.
- Treat yourself gently, and allow time to recover.

Use humour about your reactions to facilitate acceptance of the reactions.

Participate in Critical Incident Stress Defusing as soon as possible after the event if ready to disclose, and later participate in Critical Incident Stress Debriefing (if available). Feeling ready to talk is essential, as is having follow-up counselling. Although survivors of the New York Trade Center disaster had people to assist with debriefing and reported feeling positive, they had higher rates of PTSD than ever before. It is suggested that being made to talk about the events before you have processed them yourself may result in re-traumatization, especially if it's not followed up with repeat sessions.^{79 80} It is recognized, however, that speaking when ready is a crucial part of recovery and resilience. A key component of defusing and debriefing therefore is the voluntary nature of the sessions.

- **Critical Incident Stress Defusing:** a group meeting of those involved in the event, immediately after the event. The purposes of Critical Incident Stress Defusing are to allow those involved to tell what happened and talk about their reactions, and to provide information about normal stress reactions and available support services.
- **Critical Incident Stress Debriefing:** a specific structured group process to mitigate the impact of a critical incident. An organized and facilitated group meeting allows and encourages those involved in a critical incident to share their thoughts, feelings and reactions in a safe, non-threatening environment. Ideally, Critical Incident Stress Debriefing takes place 48 to 72 hours after the critical incident.

Spend time with people you enjoy: friends, family, co-workers.

If symptoms persist, seek help.

Reactions to a critical incident are normal symptoms experienced by normal people following an abnormal event. These symptoms can temporarily interfere with a person's ability to cope at work or at home. Usually the symptoms diminish within a few days or weeks. If the symptoms do not disappear within a few weeks, seek help.

⁷⁹ McNally, R. J., Bryant, R. A., & Ehlers, A. (2003). "Does early psychological intervention promote recovery from posttraumatic stress." *Psychological Science in the Public Interest*, 4(2), 45-80.

⁸⁰ Rose, S., Bisson, J., & Wessely, S. (2003). "A systematic review of single-session psychological interventions ('debriefing') following trauma." *Psychotherapy & Psychosomatics*, 72(4), 176-184.

Does anything predict vicarious trauma?⁸¹

As already stated, vicarious traumatization is a normal response to repeated exposure to traumatic material. The Australian Institute of Family Studies quotes McAllister:

*It is the nature of the trauma that causes [vicarious traumatization], not some weakness or failure within the provider or organization.*⁸²

Thus, plainly put, exposure to trauma is the clearest predictor of vicarious traumatization. Related to this, 'caseloads', or the extent of trauma exposure, have been found to be predictive factors of vicarious traumatization.

Employee and Family Assistance Program

All employees of the Government of Alberta have access to the Employee and Family Assistance Program which is a confidential and voluntary support service that can help employees and immediate family members receive support over the telephone, in person, online, and through a variety of issue based health and wellness resources. More information is available at the following toll free number: 1-800-268-5211 or TTY Service: 1-800-363-6270

⁸¹ Morrison, Zoë. 2007. "'Feeling heavy': Vicarious trauma and other issues facing those who work in the sexual assault field." Published by the Australian Institute of Family Studies. Available at: <http://www.aifs.gov.au/acssa/pubs/wrap/w4.html>

⁸² Ibid

SEXUAL ASSAULT FACTS AND STATISTICS

SEXUAL ASSAULT FACTS AND STATISTICS

How Often is Sexual Assault Reported?

The majority of sexual assaults are not reported to police. According to Statistics Canada, victimization surveys have found that sexual offences are among the crimes least likely to be reported to the police. Once reported to police, sexual offences are also less likely than other violent offences to be considered by police to be “founded” and are less likely to result in charges laid against a suspect.

- Statistics Canada’s 1999 “General Social Survey (GSS) on Victimization” found that victims 15 years of age and older did not report 78% of sexual assaults to the police that year. This rate is considerably higher than the unreported rate for robbery (51%), physical assault (61%), and break and enter (35%).
- The 2004 GSS suggests that only 8% of sexual assault incidents that year were reported to police.
- Approximately 1/6 sexual offences reported to the police in 2002 were declared “unfounded” by the authorities.⁸³
- In 2007, charges were laid in over a third of sexual offences reported to police compared to almost half of other types of violent crime.⁸⁴
- The clearance rate for sexual offences (including cleared through a charge being laid and cleared otherwise) has been decreasing since 1995. Between 1991 and 1995, the clearance rate was around 74%, but dropped to 63% in 2002.⁸⁵
- Just under 4 in 10 cases of sexual assault that came before adult courts in 2003/04 resulted in a conviction.⁸⁶

What type of Sexual Assault is Most Common?

- The majority of sexual assaults reported to the 2009 GSS involved minor physical injuries or no injuries to the victim.

⁸³ Statistics Canada. (2003). Sexual Offences in Canada. (Juristat: Canadian Centre for Justice Statistics, Catalogue No. 85-002-XIE, Vol. 23, No. 6, p. 9). Ottawa, ON: Statistics Canada.

⁸⁴ Statistics Canada. (2008). Sexual Assault in Canada. (Canadian Centre for Justice Statistics, Catalogue No. 85F0033M, No. 19). Ottawa, ON: Statistics Canada.

⁸⁵ Statistics Canada. (2003). Sexual Offences in Canada. (Juristat: Canadian Centre for Justice Statistics, Catalogue No. 85-002-XIE, Vol. 23, No. 6, p. 9). Ottawa, ON: Statistics Canada.

⁸⁶ Statistics Canada. (2006). Measuring Violence Against Women: Statistical Trends 2006. (Statistics Canada, Catalogue No. 85-570-XWE, p. 53). Ottawa, ON: Statistics Canada.

- For example, incidents of sexual touching, unwanted grabbing, kissing, or touching accounted for 81% of sexual assaults reported to the GSS. In contrast, sexual attacks, which involve the use of threats or physical violence, accounted for about one in five sexual assault incidents. These findings reflect those shown in police-reported data where, in 2009, the least serious types of sexual assault (level 1) comprised the majority of sexual offences.⁸⁷

Who most often commits sexual assault/abuse?

- According to the Uniform Crime Reporting Survey (UCR), in 2002, 97% of persons accused of sexual offences were male, higher than the representation of males among persons accused of all other types of violent offences (82%).⁸⁸
- Overall, compared to other violent offenders, sexual offenders are somewhat older. In 2002, the mean age of persons charged by police with sexual offences was 33 years as compared to 31 for those charged with other violent offences. However, rates of sexual offending were highest among the youngest males, aged 13 to 17, and peaked for 13 and 14-year-olds.⁸⁹
- About half of sexual assault victims who reported to the sample of police services represented in the UCR were assaulted by a friend or acquaintance (10% and 41%, respectively), 28% by a family member, and 20% by a stranger.⁹⁰ There are differences in offender types by age:
 - Children aged 12 and under are most often victimized by family members especially in the case of girls.⁹¹
 - The highest risk group for sexual assault is adolescents and young adults 15 to 24 years.⁹² This group is most often assaulted by someone recently met (e.g. at a bar or party) or a friend rather than a stranger or an intimate partner.
 - Women in their late 20s and older are more typically assaulted by an intimate partner or stranger
- Sexual offenders have a higher tendency of being repeat offenders before being reported to the police than other types of violent crimes (62% compared to 27%).⁹³

⁸⁷ Statistics Canada. Juristat. "Criminal victimization in Canada, 2009." Summer 2010, Vol. 30, no. 2.

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Johnson, H. (2006). "Measuring violence against women: Statistical trends 2006." Ottawa: Statistics Canada.

⁹³ Statistics Canada. (2003). Sexual Offences in Canada. (Juristat: Canadian Centre for Justice Statistics, Catalogue No. 85-002-XIE, Vol. 23, No. 6, p. 10). Ottawa, ON: Statistics Canada.

- David Lisak's work with 1882 college males in Boston revealed 120 men who were responsible for a total of 1225 acts of sexual assault, battery, intimate partner violence and child abuse (Lisak, 2002). The repeat offenders were responsible for 5.8 sexual assaults each. The typical undetected rapist identified by Lisak has the following characteristics:
 - Skilled at finding likely targets (vulnerable individuals) and testing their personal "boundaries"
 - Planning and premeditating their attack (e.g. fraternity house party, bar hopping)
 - Using techniques to "groom" them and isolate from friends (e.g. "don't worry - I can give you a ride home instead of your friend")
 - Using alcohol as an easily available and acceptable means to make victims more vulnerable
 - Limiting violence to only that needed to coerce or control the victim⁹⁴
- Three-quarters of all violent incidents reported in 2009 involved one perpetrator. This was particularly true for self-reported sexual assaults, as 92% of these incidents involved someone acting alone. This remained unchanged from the previous cycle of the GSS.⁹⁵

Who is at risk of sexual assault/sexual abuse?

- First, anyone can be sexually assaulted. Victims of sexual assault/abuse are boys and girls, women and men, young and old.
- Compared to other violent crimes, females are much more likely to be victims of sexual assault than are males. Females accounted for 85% of victims of sexual offences who reported to police services in 2002.⁹⁶
- While males make up a small proportion of reported victims of sexual offences overall (15%), this proportion is higher for younger victims. In incidents involving children under 12, boys made up 29% of victims compared to 12% of youth aged 12-18 and 8% of adults.⁹⁷
- Victims of sexual offences tend to be young. The vulnerability of youth to sexual violence is emphasized by the fact that, overall, youth under 18 represented 22% of the Canadian population in 2004 but made up 58% of victims of sexual offences.⁹⁸

⁹⁴ Lisak, D., & Miller, P. M. (2002). Repeat rape and multiple offending among undetected rapists. *Violence & Victims*, 17(1), 73-84.

⁹⁵ Statistics Canada. Juristat. "Criminal victimization in Canada, 2009." Summer 2010, Vol. 30, no. 2.

⁹⁶ Kong, Rebecca, Holly Johnson, Sara Beattie and Andrea Cardillo. "Sexual Offences in Canada." Juristat- Canadian Centre for Justice Statistics. Vol 23. Num. 6. 2003. Available at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-002-XIE/0060385-002-XIE.pdf>

⁹⁷ Ibid

⁹⁸ Statistics Canada, "Risk Factors Associated with Violence Against Women." 2006. Available at: <http://www.statcan.gc.ca/pub/85-570-x/2006001/findings-resultats/4144394-eng.htm>

- In the 2004 GSS, the rate of sexual assault for Canadians aged 15-24 was almost 18 times greater than the rate recorded for Canadians 55 and older.⁹⁹
- 83% of women with disabilities experience sexual assault in their lifetime.¹⁰⁰
- 32% of men with developmental disabilities experience sexual assault.¹⁰¹
- The risk for people with disabilities of being sexually abused in institutions is 2 to 4 times more likely than the risk for being sexually abused in the community.¹⁰²
- Police statistics comparing crime on and off First Nations shows that sexual assaults and other violent crimes are more likely to occur on First Nations. For example, sexual assault rates on First Nations are seven times higher than off First Nations. Rates of sexual assault and other sexual offences were 564 per 100,000 population on First Nations and 83 per 100,000 population off First Nations, respectively.¹⁰³
- People who have been previously sexually assaulted are at higher risk of being re-assaulted, especially if they have any of the following (Classen, 2005; Kimerling, 2007; Humphrey, 2000; Mason, 2009):¹⁰⁴
 - If they were sexually assaulted as children initially (2 to 4 times greater risk of sexual assault in college if assaulted vs. non-assaulted in childhood)
 - If they experienced severe distress with initial assault and/or develop post-traumatic stress disorder and/or develop substance abuse as a result of the initial assault. This is why we often see victims with previous histories of assault.

⁹⁹ Statistics Canada. (2008). Sexual Assault In Canada. (Canadian Centre for Justice Statistics, Catalogue No. 85F0033M, No. 19). Ottawa, ON: Statistics Canada.

¹⁰⁰ Metropolitan Action Committee on Violence Against Women and Children. "Statistics Sheet: Sexual Assault". Accessed on January 27, 2009 from http://www.metrac.org/programs/info/prevent/stat_sex.htm.

¹⁰¹ Duke, Jessica E.A. (2006). "Summary of Literature on Sexual Violence Against People with Disabilities", 2. Oregon Public Health Division, Office of Family Health. Retrieved on January 27, 2009 from <http://www.oregonsatf.org/prevention/docs/DD%20Literature%20Summary.pdf>.

¹⁰² Sobsey, D. & S, Mansell. (1992). The prevention of sexual abuse of people with developmental disabilities. *Network*, 2 (3), 8 - 17.

¹⁰³ Brzozowski, Jodi-Anne, Andrea Taylor-Butts and Sara Johnson. "Victimization and offending among the Aboriginal population in Canada." *Juristat- Canadian Centre for Justice Statistics*. Vol. 26. Num. 3. 2006. Available at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-002-XIE/85-002-XIE2006003.pdf>

¹⁰⁴ Classen, Catherine C., Oxana Gronskeya Palesh, and Rashi Aggarwal. "Sexual Revictimization: A Review of the Empirical Literature." *Trauma, Violence & Abuse*. April 2005 vol. 6 no. 2 103-129.

Kimerling, Rachel, Jennifer Alvarez, Joanne Pavao, Amy Kaminski, and Nikki Baumrind. "Epidemiology and Consequences of Women's Revictimization." *Women's Health Issues* 17 (2007) 101-106.

Humphrey, John A. and Jacquelyn W. White. "Women's vulnerability to sexual assault from adolescence to young adulthood." *Journal of Adolescent Health* Volume 27, Issue 6, December 2000, Pages 419-424.

Mason, Gillian E., Sarah Ullman, Susan E. Long, LaDonna Long, and Laura Starzynski. "Social support and risk of sexual assault revictimization." *Journal of Community Psychology* Volume 37, Issue 1, pages 58-72, January 2009.

- If they received less information, less social support or more blaming/secondary victimization after initial assault

Where are people most at risk of sexual assault/abuse?

- The majority of sexual offences reported to police in 2002 took place in a residence (64%), followed by public and open areas (26%), and commercial places (11%) (police reported data).¹⁰⁵
- According to the 2004 GSS, more than half (51%) of sexual assault incidents occurred in a commercial or institutional establishment and 31% of sexual assaults occurred in a residence or surrounding location (victimization survey data).¹⁰⁶
- In 2003, police reported sexual offences were highest in Saskatoon, Sudbury and Regina. Edmonton ranked 10th and Calgary ranked 19th out of 25 Canadian cities.¹⁰⁷
- Among adult victims of sexual assault responding to the 1999 GSS, 48% were of the opinion that the incident was related to the perpetrator's alcohol or drug use.¹⁰⁸ Perpetrators who are drunk routinely use intoxication as an excuse for the assault. They also report consuming alcohol in order to facilitate the sexual assault. As such, frequenting places where alcohol is being consumed may increase one's risk of being sexually assaulted.

What Impact Does Sexual Assault Have on Victims?

It is common for those who have experienced sexual violence to blame themselves for what happened. For example, if the offender is someone the victim knows (which is often the case), the victim may blame his/herself for trusting that person. When drugs or alcohol are involved, the victim may feel guilty for getting drunk or stoned or high.¹⁰⁹

While feeling responsible is common, the only person to blame is the perpetrator of the assault. Sexual assault is a unilateral act – that is, it happens when one person violates another.

¹⁰⁵ Canadian Centre for Justice Statistics. (2003). Juristat, 23 (6), 1 - 26.

¹⁰⁶ Statistics Canada. (2008). Sexual Assault In Canada. (Canadian Centre for Justice Statistics, Catalogue No. 85F0033M, No. 19, p. 14). Ottawa, ON: Statistics Canada.

¹⁰⁷ Ibid

¹⁰⁸ Kong, Rebecca, Holly Johnson, Sara Beattie and Andrea Cardillo. "Sexual Offences in Canada." Juristat- Canadian Centre for Justice Statistics. Vol 23. Num. 6. 2003. Available at: <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-002-XIE/0060385-002-XIE.pdf>

¹⁰⁹ Sexual Assault Centre of Edmonton. "Sexual Assault." September 2009.

As well as self-blame, people who have been sexually assaulted may:

- Sleep more or less than usual
- Feel unsafe or afraid
- Have difficulty trusting others
- Use alcohol and/or drugs to numb the emotional pain
- Feel like they're reliving the event (flashbacks)
- Change the amount and type of sexual activity they engage in (have sex much more or much less than before)
- Change perceptions of themselves (they may feel as if they're "only good for sex")
- Engage in self-harming behaviours (cutting, shoplifting, scratching, increased risk-taking behaviours)

What are the Costs Associated with Sexual Assault?

Studies of the economic costs of sex-related crimes to society and victims (to health, criminal justice, social services and lost productivity) estimate figures in the billions of dollars.¹¹⁰ In 1995, researchers from the London Ontario Centre for Research on Violence Against Women and Children, estimated an annual cost of \$4.2 billion Canadian dollars for the social services/education, criminal justice, labour/employment and health/medical service systems to address sexual abuse and assault as well as intimate partner violence.¹¹¹ A study that examined the economic cost of child abuse to victims and adult victims estimates the cost to be \$15 billion.¹¹² Clearly, sexual violence costs society in many ways.

¹¹⁰ Statistics Canada. "Measuring Violence Against Women: Statistical Trends 2006." Catalogue no. 85-570-XIE. Available at: <http://www.uregina.ca/resolve/PDFs/Women%20and%20violence.pdf>

¹¹¹ Tutty, Leslie and Janie Christensen. "Environmental Scan of Alberta Services to Address Sexual Assault and Sexual Abuse." Final Report for the Alberta Association of Sexual Assault Centres. 2005. Available at: <http://www.ucalgary.com/resolve/reports/2005/2005-02.pdf>

¹¹² Statistics Canada. "Measuring Violence Against Women: Statistical Trends 2006." Catalogue no. 85-570-XIE. Available at: <http://www.uregina.ca/resolve/PDFs/Women%20and%20violence.pdf>

SEXUAL ASSAULT OFFENDERS

CHARACTERISTICS OF SEXUAL ASSAULT OFFENDERS¹¹³

- Most adolescent sexual offenders are male. A Canadian study found that 92% of the young accused were male. While females are clearly a minority of offenders, the portion of adolescent female sexual offenders appears higher than adult female offenders.
- When adolescent females are involved as perpetrators of sexual assault, they are often involved as co-perpetrators.
- A Canadian study of adolescents accused of sexual offences found that the majority (67%) were 14 to 17 years old, 23% were 12 to 13 years old, and 11% were 11 years or younger.¹¹⁴
- As many as 50% of all adult sexual offenders report starting sexually deviant behaviour during their adolescence.¹¹⁵
- It is estimated that the average adolescent sex offender will commit about 380 sex crimes over their life.¹¹⁶
- Adolescent sexual offenders often come from dysfunctional family backgrounds.
- Many young sexual offenders have experienced a history of physical abuse, sexual abuse, emotional abuse, or a combination. Between 18 and 50% of juvenile sex offenders have a history of sexual victimization themselves.¹¹⁷
- These youth appear to have problems in school associated with learning problems and behavioural difficulties. They may also lack basic social skills.
- Adolescent sexual offenders pose a long-term risk and should be taken seriously because of the danger of progressing to more victims and more serious behaviour.

Situation Characteristics

Most victims of juvenile sex offenders are acquainted with the offender, often as friends or relatives. When the sexual offences occur within a family, the most common form is between brother and sister. One study found that 15% of females and 10% of males reported at least one sexual experience involving a sibling.¹¹⁸

The following findings are from a study of adolescent sexual offenders in Canada, as presented in the RCMP's "An Investigative Guide to Sexual Offences":¹¹⁹

¹¹³ RCMP. An Investigative Guide to Sexual Offences

¹¹⁴ Ibid

¹¹⁵ Ibid

¹¹⁶ Ibid

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ Ibid

- Young male accused tended to be friends (32%), siblings (21%), or babysitters (15%) of the victim, and young female accused tended to be babysitters (40%) or siblings (23%) of the victim. Only 8% of the young male accused and 4% of the young female accused were strangers to the victim.
- More than one victim was involved in 35% of the cases, and more than one offender was involved in 17% of the cases.
- The majority of cases were reported to be single incidents (53%).
- The most common behaviour for young accused was genital fondling (57% for males and 50% for females). Of the cases involving young female accused, 43% involved mutual genital fondling and 30% involved oral sex. Of the cases involving young male accused, 24% involved oral sex and 22% involved non-genital fondling. A substantial proportion also involved penetration of the vagina (17%) or anus (9%) with the penis.
- Force was used by both young male (40%) and female (26%) accused, and was more common with female victims (46%) than male victims (28%). Young female accused used force more with male victims (38%) than female victims (19%).
- Weapons were involved in only 2% of the cases involving young accused, and alcohol was involved in only 4% of the cases.
- Victims of both young male accused (11%) and young female accused (13%) were equally likely to suffer physical injury.

A review of the literature on sex offender typologies identified a number of similarities in individuals who have committed sexual assault. These include: ¹²⁰

- having negative views of women;
- endorsing rape myths;
- condoning the use of violence;
- displaying hyper-identification with the masculine role;
- having a sense of worthlessness, low self-esteem and substance abuse problems;
- being unable to manage their mood states; and
- coming from “broken homes.”

Much of the research on typologies has dealt with stranger assailants and those incarcerated for their offences. These characteristics were found to mirror those of college men who commit acquaintance sexual assaults, termed “date rapes”.^{121 122} These are men who are not seen as

¹²⁰ Robertiello, G., & Terry, K. J. 2007. “Can we profile sex offenders? A review of sex offender typologies.” *Aggression and Violent Behaviour*, 12, 508–518.

¹²¹ Lisak, D. (2004). Predators. *Connection: The Journal of the New England Board of Higher Education*, 19(1), 19-20. Retrieved from:

the “typical” sexual offender, and are often referred to as good guys acting out due to alcohol (when in fact they are predators). They typically plan their attacks and venue (e.g. fraternity party, bar hopping), separate their victims from supports, such as by offering a ride home, and use alcohol to lower their victims’ defences thereby reducing the need to restrain with more violent means. As a result their assaults are often unreported and Lisak refers to them as “undetected serial rapists”. A very small group of men are responsible for a disproportionate amount of undetected violence, including other forms of assault or abuse. Their behaviour is often facilitated by male bystanders/teammates as the rapists joke about “scoring” or “conquests”. These findings have implications for investigation, as there may be a pattern of prior assaults.

Nearly all of the literature on the “tactics” of sexual assault perpetrators includes an acknowledgement that they are affected by multiple factors.¹²³ In a broad sense, these could be described as either individual personality traits or situational factors. Individual personality traits (which could be psychological or social constructs) might include early childhood experiences of violence and pornography or sexual assault (whether as a witness or a victim). An introduction to sex at a young age is also indicated as a possible factor in the future perpetration of sexual coercion. Attitudes such as those listed below have also been found to play a role in the perpetration of sexual coercion and/or violence:

- hostility to women/hostile masculinity;
- misperception of women’s sexual intentions;
- attitudes (of both men and women) that are supportive of rape;
- attitudes about casual sex;
- sexual dominance;
- peer approval of forced sex; and
- heavy pornography consumption.

<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,url,cookie,uid&db=ehh&AN=13683046&site=e>
host-live

¹²² Lisak, D., & Miller, P. M. (2002). Repeat rape and multiple offending among undetected rapists. *Violence & Victims*, 17(1), 73-84.

¹²³ Clark, Haley and Antonia Quadara. 2010. “Insights into sexual assault perpetration Giving voice to victim/victims’ knowledge.” Australian Government: Australian Institute of Family Studies. Research Report Number 18. Available at: <http://www.aifs.gov.au/institute/pubs/resreport18/rr18.pdf>

YOUNG SEXUAL OFFENDERS

Most research on sexual offenders has focused on adult offenders, but a growing number of Canadian and American studies highlight the problem of young sexual offenders (i.e., under eighteen years of age). It is estimated that adolescents commit over a third of all sexual assaults in Canada.¹²⁴ In the United States, it is claimed that "...about twenty percent of all rapes and about thirty percent to fifty percent of all cases of child sexual abuse can be attributed to adolescent offenders."¹²⁵

Many sexual offenders begin their highly destructive patterns of behaviour in adolescence, and their pattern of offences may progress from less serious to more serious sexual offences. As a result, legal intervention with young sex offenders is especially important as it may provide future societal protection through both general and specific deterrence and court-mandated treatment. The police can play an important role in this process because they are typically the "agency of first contact" when a sexual assault or other sexual offence is reported. The police have the responsibility of assessing the situation, determining the seriousness of the offence, notifying the parents of the offender, and deciding on the most appropriate initial response to the occurrence. Although interagency protocols exist in most police services, the decision to charge the young offender, make a referral to child welfare agencies, or issue a verbal warning to the adolescent may be left to the discretion of the investigating officer.

Minimal intervention, such as verbal warnings, would be appropriate only for very minor incidents, e.g., an unwanted kiss. Research indicates that there is a lack of comprehensive training programs for Canadian police in this area, as well as limited access to treatment services for adolescent sexual offenders. It is critical, however, that the police have a thorough understanding of the adolescent sexual offender and the circumstances involved in cases of sexual abuse.

Under the *Youth Criminal Justice Act*, a young person who is between fourteen and sixteen years of age (depending on the provincial legislation) or older, charged with aggravated sexual assault under s. 273 of the *Criminal Code*, or a serious violent offence for which an adult is liable to imprisonment for more than two years, may be dealt with by way of an adult court sentence unless they satisfy a youth court judge that their case should be dealt with by way of a youth sentence. Aggravated sexual assault occurs when a sexual assault "wounds, maims, disfigures, or endangers the life" of a victim (s. 273(1) CC). The offence carries a maximum penalty, for an adult, of life imprisonment, and where a firearm is used in the commission of the offence, it

¹²⁴ RCMP. "An Investigative Guide to Sexual Offences."

¹²⁵ Ibid

carries a mandatory minimum penalty of four years imprisonment (273(2)(a) CC). These penalties may be imposed on a youth who is dealt with by way of an adult sentence.

It should also be noted that twelve and thirteen year olds cannot be tried for an offence under s. 151 CC (sexual interference), s. 152 CC (invitation to, counselling, inciting sexual touching), or s. 173(2) CC (exposure of genitals to a person under the age of fourteen) unless they are in a position of trust or authority, or the victim is in a relationship of dependency with the accused (s. 150.1(3) CC), for example, where a youth babysits the victim.

Children Under The Age of Twelve

Children under twelve are exempt from prosecution under the *Youth Criminal Justice Act*.¹²⁶ However, it is apparent that these children do commit offences, including quite serious sexual offences, and police officers have the legal basis for intervention under different pieces of legislation. In every jurisdiction in Canada, child protection legislation also gives police some authority to apprehend child offenders, although legislation varies. If a child protection response is authorized, it is because the offending behaviour is a basis for finding the child "in need of protection" (or "endangered"). Police who apprehend a child under protection legislation must immediately involve protection authorities, who may have authority to detain a child.

The most common response to offending behaviour by children under twelve is to involve parents or guardians, and engage some type of voluntary intervention. Parents or guardians of a child offender should always be contacted.

When a child (especially one who is under twelve) is a victim of a sexual offence, police should involve non-offending parent(s) or guardian(s). This will be important for the success of the investigation and the emotional support of the child. Parents who obstruct an investigation may be charged with obstruction of justice.

There are special provisions in the *Criminal Code* to assist child victims through the court process. Please refer to the section on "Testimonial Aids" to learn about the tools available to Crown prosecutors when prosecuting sexual assault cases involving young sexual assault victims.

¹²⁶ SC 2002, c 1, s 2(1).

SEXUAL ASSAULT VICTIMS

BARRIERS TO REPORTING

Delayed reporting of sexual assault crimes is common. Frequently, victims report sexual assaults after they have arrived at a safe location and/or after they have received the support of sexual assault advocates, family, clergy, or friends.¹²⁷ Typically, victims who seek assistance after an “acute” (recent) assault do not present until at least 12 to 24 hours later, which is often misconstrued as a “delay.” This time (or more) is needed for victims to process the assault and seek counsel from a support person. Other victims report a sexual assault many years after its occurrence (a “historical” assault).

It is important to note, however, that sometimes a long delay in reporting can compromise the investigation or prosecution of an offence. A lengthy delay in reporting (years) can also have an adverse effect on the prosecution.

Victims may delay reporting or fail to report the crime of sexual assault due to:

- Mistrust or fear of the criminal justice system
- Shame
- Confidentiality concerns in tight knit communities
- Fear of retaliation by the perpetrator or his/her family
- Fear that he/she will be arrested on unrelated criminal matters (e.g. public intoxication, outstanding warrants, etc.)
- Difficulty discussing sexual contact or attempted sexual contact with others

Kathryn Penwill, in a report commissioned for *Action Ontarienne contre la violence faite aux femmes* outlines several structural and systemic barriers that prevent victims from reporting sexual assault and engaging with the criminal justice system.¹²⁸

The Media

News reports of victim’s negative experiences with the justice system and portrayals in film and television of the legal process as extremely difficult and injurious to sexual assault victims may

¹²⁷ Tribal Law and Policy Institute and Southwest Centre for Law and Policy. “Prosecutor Sexual Assault Protocol.” 2008. Available at: http://www.tribal-institute.org/download/Final_Prosecutor_Sexual_Assault_Protocol_-_September_30.pdf

¹²⁸ Penwill, Kathryn. “Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims.” Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

inadvertently create barriers for victims. Reports about defence tactics are absorbed into the larger culture through the media and influence the decision-making of individual victims who are sexually assaulted, dissuading them from reporting the crime to police.

The idea that “it is not worth it to go through the system” is a barrier in itself.

The Community

The role of informal support such as family, friends or romantic partners is extremely important to a victim’s decision to report and to their recovery. Most victims will delay reporting until they have had an opportunity to discuss it with someone and it is usually these peers or support people who encourage them. Negative responses to disclosure are linked to greater risks of non-reporting¹²⁹ and of poor recovery such as the development of post-traumatic stress disorder.¹³⁰

In small or rural communities, or in cultural communities where everyone knows each other and they speak the same language (i.e. deaf community, sexual minorities, Aboriginal and ethno-cultural communities), victims may be shut down by the rejection or judgment of their community. Gossip, hearsay, fear or sympathy for the aggressor may create a hostile environment, which discourages victims from reporting to the police. Further, victims often know individuals working in the legal system personally. If those individuals are less likely to be sympathetic, this may lessen the likelihood a victim will report.

“Even if the abuser is convicted, the community may respond with ‘He has a family, now the children don’t have their dad.’”

¹²⁹ Guerette, S. M., & Caron, S. L. (2007). “Assessing the impact of acquaintance rape: Interviews with women who are Victims/Survivors of sexual assault while in college.” *Journal of College Student Psychotherapy*, 22(2), 31-50. doi:10.1300/J035v22n02-04

¹³⁰ Borja, S. E., Callahan, J. L., & Long, P. J. (2006). “Positive and negative adjustment and social support of sexual assault survivors.” *Journal of Traumatic Stress*, 19(6), 905-914. doi:10.1002/jts.20169

Ullman, S. E., Filipas, H. H., Townsend, S. M., & Starzynski, L. L. (2007). “Psychosocial correlates of PTSD symptom severity in sexual assault survivors.” *Journal of Traumatic Stress*, 20(5), 821-831.

"In rural communities, everyone knows everyone. Women know that certain police officers won't be open to their story."

Internal Barriers

Victims internalize society's belief systems, reinforced by the media's portrayal of sexual assault, typically characterized by myths and stereotypes about the crime, the aggressor and the victim. They may struggle with feelings of shame related to the assault, and the belief that they are responsible (for example, if they wore a short skirt).

One woman didn't report to police because she was ashamed she didn't fight back.

It is very difficult for victims to report a sexual assault when they know the perpetrator personally. Such situations are often complicated, and victims may struggle with self-doubt and self-blame as they do not want to hurt the aggressor ("it'll ruin his life," "it was just sex"). Victims are often more prepared to go through the system when the assault is perpetrated by a stranger. They are motivated because they want their attacker to be caught.

Societal attitudes and attributions of responsibility impact the victim's perception and labelling of the event. Some victims may not even call the event a sexual assault, particularly if the perpetrator was their boyfriend, if it involved oral or digital penetration rather than vaginal or if they were severely intoxicated at the time.¹³¹ This contributes to delays in reporting or non-reporting if victims do not believe the assault will be seen as a rape by others.¹³²

Incest victims may have difficulty recognizing the assault as abusive; given their experiences, abuse may seem normal. In cases of historical sexual abuse, victims know they will be interrogated and may fear they will lack credibility if their memory of the abuse is less than perfect.

The Complexity and Formality of the Court System

The atmosphere of formality in the courtroom during trial is, in and of itself, a barrier for some victims. Rigid rules demonstrating respect for the court have the effect of intimidating victims,

¹³¹ Kahn, A. S., Jackson, J., Kully, C., Badger, K., & Halvorsen, J. (2003). "Calling it rape: Differences in experiences of women who do or do not label their sexual assault as rape." *Psychology of Women Quarterly*, 27(3), 233-243.

¹³² Patterson, D., Greeson, M., & Campbell, R. (2009). "Understanding rape survivors' decisions not to seek help from formal social systems." *Health & Social Work*, 34(2), 127.

especially those who are most vulnerable in our society (e.g. newcomers to Canada, people with disabilities, people living in poverty, women with a history of abuse). Court proceedings come often a few years after the event, at a time when the victim has begun to move on. The traditional court process does not fit well with the needs of crime victims.¹³³ The court gives them little control over the process, asks them to relive the experience and to confront the assailant at a time when they need to regain privacy, control and reduce exposure.¹³⁴ Although reporting has been found helpful by some crime victims, actually proceeding to court may be more harmful to their psychological recovery.

“The Victorian atmosphere of formality, tradition and hierarchy makes it clear who is in charge – it’s very controlling. It makes people feel small and stupid. This is an unspoken barrier.”¹³⁵

Lack of Systemic Support for Victims

Given its complexity and formality, most victims have great difficulty understanding and accessing the legal system. This is exacerbated by the use of “legalese” and complex technical terms.

Victims need access to support services in order to understand and navigate the legal system. Advocacy and community services can become overwhelmed without adequate funding and community support.

In rural communities, geographic distances can make courts, police and other services difficult to access. Sometimes courts are located in different municipalities. The large geographical areas covered by some community service agencies make it difficult for a timely response to occur. This creates a feeling of disconnect and a psychological barrier. In all communities, lack of access to transportation and child care is highly problematic for victims.

¹³³ Herman, J. L. (2005). “Justice from the victim's perspective.” *Violence Against Women*, 11(5), 571-602.

¹³⁴ Herman, J. L. (2003). “The mental health of crime victims: Impact of legal intervention.” *Journal of Traumatic Stress*, 16(2), 159-166.

¹³⁵ Penwill, Kathryn. “Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims.” Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

Practices Which Create Barriers

Kathryn Penwill conducted research on the behaviours and practices of groups and individuals that create barriers for victims in reporting sexual assault.¹³⁶

Police attitudes and treatment of the victim

Attitudes vary with individual police officers. While most police officers work hard to treat victims with sensitivity and respect, occasionally a victim may have a negative experience. When a victim does encounter a police officer who disbelieves them, it can be very traumatic. As such, it is important that police deal with all victims in a respectful manner, and take precautions to not minimize the crime, victim-blame, or act on biases related to a victim's appearance, marginalized status, or criminal/sexual history.

"A woman had been assaulted. She went home and called police at 2 a.m. They told her to come in and make a report (did not offer to send a car). She said "I'll come tomorrow." Their attitude became more disbelieving after that."

"Sexual assault is more likely to be seen as a crime if you're a white, middle class, virgin. For many other women, it is not seen as a crime."¹³⁷

Two groups of sexually assaulted women were surveyed about their experiences after interaction with physicians (non-SANE services) and police.¹³⁸ The women overwhelmingly reported negative experiences. They were discouraged by police from filing reports, police and doctors significantly underestimated the amount of distress they were in, and there were very high rates of secondary victimization from staff. Women reported the following reactions:

- Felt violated (89%)
- Felt bad about themselves (87%)
- Were unlikely to seek help again (80%)
- Felt depressed (71%)
- Experienced distrust of others (53%)

¹³⁶ Penwill, Kathryn. "Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims." Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

¹³⁷ Ibid

¹³⁸ Campbell, R. (2005). "What really happened: A validation study of rape survivors' help-seeking experiences with the legal and medical systems." *Violence and Victims*, 20(1) 55-69.

A White House roundtable of agencies involved in sexual assault in the U.S.A. concluded that police tend to minimize the impact of non-stranger sexual assault on women and to consider them less serious.¹³⁹ They also concluded that police have a limited understanding of the impact that sexual assault trauma has on individuals and how it affects their ability to participate in the investigation, and require further training in this area.

Investigative Techniques

It is important that police use sensitive interviewing techniques and carefully choose the words they use when speaking to victims. It may not be a good idea to interview a victim immediately following an assault in an aggressive or intimidating manner.

“One victim went through an intense and very long interview by police – it took hours.”¹⁴⁰

The lack of support and burden of proof for a sexual assault victim is higher than for any other victim. They routinely encounter disbelief and interviewing techniques that transmit that disbelief, further fuelled by myths and misperceptions. A lack of formal and informal support for victims is strongly linked to negative outcomes such as not reporting, discontinuing participation in the investigation, and long term consequences such as post-traumatic stress and depression, as well as risks of revictimization.^{141 142 143 144}

Lack of Police Protection

Victims’ fear of reprisal from the perpetrator following a report is a significant factor preventing victims’ from reporting an assault. The fear is especially prevalent in remote and isolated communities (including small cultural communities in cities), where the abuser is often in the

¹³⁹ U.S. Department of Justice. (2010). *Sexual violence in the United States: Summary of the roundtable proceedings*. Washington, D.C.

¹⁴⁰ Penwill, Kathryn. “Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims.” Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

¹⁴¹ Ahrens, C. E., Cabral, G., & Abeling, S. (2009). “Healing or hurtful: Sexual assault survivors' interpretations of social reactions from support providers.” *Psychology of Women Quarterly*, 33(1), 81-94.

¹⁴² Ullman, S. E., & Filipas, H. H. (2001). “Correlates of formal and informal support seeking in sexual assault victims.” *Journal of Interpersonal Violence*, 16(10), 1028-1047.

¹⁴³ Ullman, S. E., Townsend, S. M., Filipas, H. H., & Starzynski, L. L. (2007). “Structural models of the relations of assault severity, social support, avoidance coping, self-blame and PTSD among sexual assault survivors.” *Psychology of Women Quarterly*, 31(1), 23-37.

¹⁴⁴ Mason, G. E., Ullman, S., Long, S. E., Long, L., & Starzynski, L. (2009). “Social support and risk of sexual assault revictimization.” *Journal of Community Psychology*, 37(1), 58-72.

same house, is related, or has a large family. Victims are also particularly fearful when they continue to have contact with the abuser after they have reported.

Overcoming Victim's Fears about Reporting

Please refer to the section on "Testimonial Aids" to learn about the tools available to Crown prosecutors to help alleviate victims' fears about testifying.

INFORMATION FOR VICTIMS – ENSURING VICTIM’S NEEDS ARE ADDRESSED¹⁴⁵

A lack of support and assistance for victims can result in further trauma. Support for victims and provision of victim support services to deal with the effects of the crime are essential for responding effectively to victims of sexual assault. As part of this support, victims should be kept informed throughout the investigative process and subsequent prosecution. The impact of the sexual assault on others close to the victim needs to be recognized and addressed as well. Parents, family members, associates and friends may also need personal support and protection. Failure to recognize and address the needs of the victim may have severe consequences and result in long-term costs to society and may jeopardize a prosecution.

Secondary victimization can increase the victim’s risks for post-traumatic stress disorder or depression and the subsequent consequences. Protective features include allowing the victim some control over his/her recovery, while harmful responses include:¹⁴⁶

- use of distraction techniques - e.g. “get over it” or “move on”
- blaming the victim
- egocentric behaviours – focusing on professional’s agenda/needs/timeframe
- taking control of decision making
- treating differently (labelling, stigmatizing)

It is not the responsibility of the investigator or assigned prosecutor to counsel the victim regarding the trauma experienced. However, it is important for the investigator and prosecutor to be aware of the potential impact the trauma may have on the victim and be prepared to deal with the victim in a sensitive and professional manner. Victim Service Units are responsible for providing emotional support, court orientation and referrals to support agencies.

Investigators and Crown prosecutors should refer victims and their families to the *Victims of Crime Protocol: What victims of crime can expect from the criminal justice system*. The document is available at:

https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Victims%20of%20Crime%20Protocol.pdf

¹⁴⁵ Please refer to Appendix 1 for a listing of Alberta sexual assault initiatives and resources.

¹⁴⁶ Ullman, S. E., Townsend, S. M., Filipas, H. H., & Starzynski, L. L. (2007). “Structural models of the relations of assault severity, social support, avoidance coping, self-blame and PTSD among sexual assault survivors.” *Psychology of Women Quarterly*, 31(1), 23-37.

Victim Impact Statement

Section 722 of the *Criminal Code* allows victims to express in writing to a judge how being a victim of crime has affected them and their family in a Victim Impact Statement (VIS). The VIS should describe the harm done, the loss suffered by the victim, and the emotional impact that they have experienced. Victims of sexual assault can submit a VIS to the court.

Information or evidence regarding the offence should already have been included in the witness statement provided to police and should not be included on the VIS. The VIS should not contain criticisms of the offender or recommendations as to the severity of punishment. The victim advocate will assist the victim in obtaining the proper forms and submitting the completed VIS to the court.

If the accused is found guilty, the VIS will be considered by the judge at the time the offender is sentenced. The victim can read their statement to the court, have the Crown prosecutor read it for them, or have the judge consider the statement without it being read aloud in court.

A victim may be cross-examined in court on the contents of his/her VIS, but there is no automatic right of cross-examination. Where an issue is raised, the court must be satisfied there is an air of reality to the disputable facts in the VIS before the court permits the cross-examination.¹⁴⁷

A copy of the VIS will be shared with the offender. It is very important that the victim is aware of this prior to submitting a VIS. VIS forms and information are available through police or local Victim Service Units in Alberta.

Financial Benefits Program

The Financial Benefits Program assists direct victims of violent crime in Alberta, who have suffered physical or emotional injury, by providing one-time payments based on the injuries they received. Victims make their own decisions on the use of the money depending on their individual priorities.

Eligibility to apply is not dependent on an offender being charged or convicted but a victim should be encouraged to apply as soon as possible. For information on how to apply, contact Financial Benefits at 780-427-7217, or the victim service program in the community.

¹⁴⁷ *R v W(v)*, 2008 ONCA 55, 229 CCC (3d) 344.

Restitution

If a victim has suffered financial loss as a result of a crime, they may have the right to seek restitution from the offender. Restitution is a way for the offender to repay the victim for the loss they have suffered. Restitution may be ordered by the court as a result of:

- Damage, destruction, and loss of property: restitution order will not exceed the value of property and will be reduced by the value of any property that has been returned.
- Psychological or bodily harm: the restitution order will cover monetary loss including income or support.
- Expenses incurred in moving out of the offender's house: the restitution order will cover any reasonable expenses.
- Losses incurred by unknowingly purchasing or lending money on stolen property: where the property has been returned to its lawful owner, the restitution order will cover the loss the victim has incurred. The order will not exceed the original amount paid or the amount outstanding on a loan.

Information about restitution and a Request for Restitution form is available from the police or the local Victim Service Unit. Once the victim has completed the form and established the amount of restitution that they are seeking, they should return the form to the police or local Victim Service Unit as quickly as possible. The form is then given to the Crown prosecutor who may make application to the court for a Restitution Order as part of a sentencing submission.

The *Victims of Crime Act*

The *Victims of Crime Act* governs the treatment of victims of crime in Alberta. The *Victims of Crime Act* includes a set of principles to be honoured by people in the criminal justice system during their day-to-day involvement with victims of crime. These principles are:

1. Victims should be treated with courtesy, compassion and respect.
2. The privacy of victims should be considered and respected to the greatest extent possible.
3. All reasonable measures should be taken to minimize inconvenience to victims.
4. Victims should promptly receive, in accordance with the Act and the regulations; financial benefits for the injuries that they have suffered.
5. The safety and security of victims should be considered at all stages of the criminal justice process, and appropriate measures to protect victims from intimidation and retaliation should be taken when necessary.

6. Information should be provided to victims about the criminal justice system and the victim's role and opportunities to participate in criminal justice processes.
7. Information should be provided to victims, in accordance with prevailing law, policies, and procedures, about the status of the investigation, the scheduling, progress and final outcome of the proceedings and the status of the offender in the correctional system.
8. Information should be provided to victims about available victim assistance services, including the Victim Impact Statement Program, requesting restitution, means of obtaining financial reparation and other assistance and programs.
9. The views, concerns and representation of victims are an important consideration in criminal justice processes and should be considered in accordance with prevailing law, policies and procedures.
10. The needs, concerns and diversity of victims should be considered in the development and delivery of programs and services and in related education and training.
11. Information should be provided to victims about available options to raise their concerns when they believe that these principles have not been followed.

Contact Information

Alberta Solicitor General and Public Security helps communities assist victims of crime. Victims of crime who want further information or feel they have not been treated fairly can contact:

Victim Services

Telephone: 780-427-3460

Fax: 780-422-4213

More information is available at the following website: www.victims.alberta.ca.

For more information on applying for benefits for injuries suffered as a result of crime contact:

Financial Benefits Program

Telephone: 780-427-7217

Fax: 780-422-4213

Alberta Solicitor General and Public Security
10th Floor, J.E. Brownlee Bldg.
10365 – 97 Street, Edmonton, AB T5J 3W7

VICTIM RESPONSES¹⁴⁸

Common Victim Reactions to Trauma

Violence against Canadian women, men and children has an enormous impact, not only in personal costs to well-being, self-esteem and safety, but monetarily as well. Victimization surveys have shown that sexual assault has a negative emotional and psychological impact on victims and their families and that this impact has costly consequences that extend to society as a whole.¹⁴⁹ In an acute stage most have a stress response – often termed “flight or fight” in which their heart rate and breathing increase, their cortisol levels rise to provide sugar to fight or flee and they are fearful. In the longer term, victims may suffer from post-traumatic stress disorder, psychological reactions, depression, and other mental health related disorders. Rape trauma, anxiety and suicidal thoughts are only a few of the other immediate and long-term effects of sexual assault.¹⁵⁰

If the victim is experiencing dissociative symptoms (e.g. not believing it has happened, feeling like it happened to someone else, like it’s a dream) the impact may not have set in and they are still processing the event. A study of 817 recently sexually assaulted women in Alberta revealed that the majority (61%) were pleasant and communicative during the health exam and interview, with another 9.2% quiet and occasionally crying but cooperative.¹⁵¹ Of the remainder, only 12% were overtly emotional (2.2% were too upset to proceed, 4.7% were overly talkative and 5.4% very “flat” or unresponsive). Judgments about the “correct” response should be avoided as these reactions will differ by the victim’s initial responses, their history of prior traumas and coping resources, their culture and their support systems.

The following list, while not exhaustive, includes some of the more common acute responses to victimization and trauma. It should be noted that there is a wide range of “normal” responses - one victim may be laughing with a friend in the waiting room while another may be immobilized with crying. The initial outward responses should not be construed as evidence of how little or how much the victim was impacted. They may still be struggling with the reality of

¹⁴⁸ Special thanks to Cathy Carter-Snell, RN, PhD, SANE-A, Forensic Studies Program, Mount Royal University, Calgary AB.

¹⁴⁹ The Commonwealth of Massachusetts Executive Office of Public Safety and Security. “Adult Sexual Assault Law Enforcement Guidelines 2009.” Available at: http://www.mass.gov/Eeops/docs/mptc/2009_SA_Final_6-9-09.pdf

¹⁵⁰ Tutty, Leslie and Janie Christensen. “Environmental Scan of Alberta Services to Address Sexual Assault and Sexual Abuse.” Final Report for the Alberta Association of Sexual Assault Centres. 2005. Available at: <http://www.ucalgary.com/resolve/reports/2005/2005-02.pdf>

¹⁵¹ Carter-Snell, C. J. (2007). Understanding women's risks for injury from sexual assault. University of Alberta.

the situation or it may be just one more adverse event in a series of traumas for them. The following factors affect the likelihood of reporting and/or illustrate how a victim might describe the incident during an interview or investigation.

- Denial: "I'm OK." "It wasn't anything, really." "I overreacted." This is also sometimes expressed as a desire to "put this behind me," "move on" or "get over this." Questioning of the assault, "I don't know if I was really sexually assaulted."
- Shock: Immobilized, stunned, disbelief, unable to remember what happened during the crime, unaware of events that occurred during the crime, or of others involved.
- Overwhelmed/disorganized: Unable to remember information or understand explanations, a need to have things repeated, being forgetful of appointments, losing papers, etc. This disruption in memory function can be indicative of trauma and may explain why a victim's story appears inconsistent at times.
- Frightened: This may be expressed verbally or through actions such as not reporting the crime, delayed reporting, refusing to testify, or not responding to calls and letters.
- Fearful of seeing defendant and of retaliation: Afraid the perpetrator will cause further harm to self or others, afraid to report or give name and address, being startled when seeing someone who resembles the perpetrator.
- Feeling vulnerable: Having trouble concentrating on their job or going about daily routines because of constant fear for safety. A sense of needing to look over one's shoulder or hide, change their phone number or move.
- Guilt/Shame: "I shouldn't have...," "If only...," "I should have known better," and "It must be my fault."
- Why me?: Although we all know crime exists, we are likely to believe it will be someone else who is victimized and that we can take care of and protect ourselves.
- Embarrassment: "I was stupid to have...," or "I should have fought harder" (especially for male victims). Withholding of some information that is perceived to be embarrassing or humiliating or pertaining to something personal/private is common.

- Sense of loss and subsequent grieving: Loss of belongings, money, or property. Loss of physical mobility and dexterity due to injury, loss of sense of security and trust, loss of person to death, loss of relationships because of an inability to relate to others in the same way as before the crime. If the criminal justice system does not meet expectations, there is a loss of a sense of justice, loss of a belief in the fairness and "justness" of the world.
- Altered perception of safety and control: Difficulty trusting others, anxiety about safety of self and others -- "if it happened once, it will happen again" or "it happened to me, it could happen to others I love." A need for additional security in home, car, etc. Hyper-vigilance and extreme or minor modifications in daily routine intended to assure safety.
- Anger: Anger directed towards the perpetrator, anger or frustration towards the "system" -- want immediate action, want wrong to be righted. Anger about the adaptations in lifestyle made because of the crime. Self-directed anger -- "Why did I do this?" "Why didn't I do that?" "Why am I reacting this way?" "I don't want to feel like this." Anger is sometimes closely related to feelings of fear and vulnerability.
- Conflict over dependence /independence: Should I "give in" and alter my lifestyle and give up some of my independence and (thereby suffer another loss) so that I feel safer? Or should I refuse to let the crime and criminal "get to me" and continue to feel anxious and unsafe?
- Protective of family and friends: "I can't tell them everything that happened if they know everything, they will get too upset or they will never let me go anywhere alone" or "I can't tell them about my nightmares, they are already so worried about me".
- Fear of victim blaming: "Why did you walk home that way?" "Why were you carrying so much money?" "Why did you go out with him?" Sometimes victims blame themselves or perceive that others blame them and become defensive or more sensitive to this.
- Fear of Criminal Justice system: Fear and/or perceptions about the police and courts based on media portrayals and stereotypes or use of illegal drugs or underage alcohol use. Fear of harassment by defence counsel. Belief that "nothing will be done anyway" or "the offender will just get a slap on the hand."

In addition to the above, victims may experience sleeping and/or eating disturbances and somatic complaints such as headaches, stomach problems, nausea, insomnia, self injury, and/or suicidal tendencies. Behavioural changes may include withdrawal, isolation or, paradoxically,

engaging in risk-taking behaviour. There may be a change in a victim's use of alcohol or drugs as they seek some relief from the disruption and the pain they are experiencing (avoidance reactions). Relationships may change resulting in increased difficulty in maintaining social or intimate relationships. They may feel as though they are going "crazy" which is frightening on its own.

One of the key response factors is the duration of symptoms and the ability to return to pre-assault activities. If the victim cannot return to work/school and is having the same intensity of reactions two to four days later, he/she should be strongly encouraged to seek professional counselling, if not already done. He/she is very high risk for stress disorders such as Acute Stress Disorder or Post-traumatic Stress Disorder. Once established, these disorders may be very hard to treat, therefore prevention is important.

STRESS DISORDERS

1. Acute Stress Disorder

If the initial response to stress persists beyond two to four days, remains intense, and the person cannot return to normal activities, they may be developing Acute Stress Disorder (ASD). ASD is described in the Diagnostic and Statistical Manual (4th ed) as a disorder that arises as a response to an extreme or significant trauma (e.g. death, injury, threat) that results in "intense fear, helplessness or horror." The trauma may occur directly to the person or be experienced through another (e.g. television, hearing a victim recounting the events). The symptoms or characteristics of ASD are in 4 major groupings:

- Dissociation: feeling it is not really happening (derealization), feeling like it's happening to someone else (depersonalization), amnesia, decreased emotional responses, decreased awareness of surroundings
- Avoidance: efforts to avoid reminders of event (e.g. thoughts, feelings, people, places, activities), use of substances, inability to recall events, numbing
- Arousal: difficulty falling/staying asleep, hypervigilance, exaggerated startle, irritability or outbursts
- Intrusive recollection: recurrent unwanted recollections or dreams, feeling as if it is happening again ("flashbacks"), intense reactions with triggers/reminders

The most common symptoms are mainly from the dissociative group as well as marked avoidance and arousal symptoms. Victims usually have one or more intrusive recollections as well. The other key is timing - the stress symptoms last longer than two to four days or more

after the trauma.

2. Post-traumatic Stress Disorder

Post-traumatic stress disorder (PTSD) has the same criterion – an extreme trauma to which the victim reacts with fear, horror or helplessness. The same symptom clusters are also seen as with ASD (avoidance, arousal, intrusive recollection) but with slightly different emphasis than for ASD– the dominant symptoms of PTSD are avoidance/numbing and arousal. They may also dissociate and have intrusive recollections, however. The real difference is in the timing of symptoms. The symptoms either persist at least 4 weeks post-trauma or they begin at least 4 weeks afterward. A person does not have to have ASD before PTSD, although there has been an increased risk of PTSD found if someone has ASD.^{152 153 154}

There is significant impairment in function with PTSD and the attempts at avoidance often result in substance abuse, suicidal ideation, and chronic illnesses. The arousal and intrusive recollections can be extremely upsetting, with victims experiencing the same smells, feelings, heart rate and intensity as during the actual event – the avoidance behaviours are an attempt to reduce these symptoms. This may include wanting to leave the interview if it is causing distressing recollections when describing the event.

At least half of women with PTSD will also develop depression. Women's symptoms are often more severe than men and are harder to treat for a variety of reasons, many of which are physiological.¹⁵⁵ Prevention is therefore important. One key strategy is through limiting secondary victimization (e.g. negative responses to disclosure). It has also been demonstrated that re-telling the events of a trauma too soon after the event such as with critical incident stress debriefing has been associated with increased risks of PTSD.^{156 157} It is therefore reasonable to assume that requiring the victim to retell their trauma events too soon and too often after an event may also raise the risk. For this reason, combined with the effects of stress

¹⁵² Birmes, P., Brunet, A., Carreras, J., Charlet, J., Lauque, D., Szulman, H., & Schmidtt, L. (2003). "The predictive power of peritraumatic dissociation and acute stress symptoms for posttraumatic stress symptoms: A three-month prospective study." *American Journal of Psychiatry*, 160(7), 1337-1339.

¹⁵³ Bryant, R. A. (2003). "Early predictors of posttraumatic stress disorder." *Biological Psychiatry*, 53(9), 789-795.

¹⁵⁴ Elklit, A., & Brink, O. (2004). "Acute stress disorder as a predictor of post-traumatic stress disorder in physical assault victims." *Journal of Interpersonal Violence*, 19(6), 709-726.

¹⁵⁵ Carter-Snell C, Hegadoren KM (2003). "Stress disorders and gender: implications for theory and research." Accepted by CJNR. Vol. 35, No.2, 34-55.

¹⁵⁶ McNally, Richard J. "Progress and Controversy in the Study of Posttraumatic Stress Disorder." *Annu. Rev. Psychol.* 2003. 54:229-52.

¹⁵⁷ Rose S, Bisson J, Wessely S. "Psychological debriefing for preventing post traumatic stress disorder (PTSD)." *The Cochrane Library*, Issue 1, 2003.

on memory, investigators have described improved results if they delay their detailed interviews for a day or two after the event.

3. Rape Trauma Syndrome¹⁵⁸

Rape Trauma Syndrome (RTS) is a nursing diagnosis used to describe a set of observed changes and recommended nursing interventions, while ASD and PTSD are medical diagnoses. It is of note that RTS was developed and tested by Dr. Ann Burgess and Linda Holmstrom in the 1970s, while ASD did not emerge in the Diagnostic and Statistical Manual until 1994. There was a gap in the ability to describe the set of symptoms a victim of sexual assault may experience in that first month before being classed as possibly having PTSD.¹⁵⁹ RTS is characterized by a period of disorganization followed by a reorganization of lifestyle through which victims may pass through some or all of phases and at different speeds.¹⁶⁰ It is now recognized that RTS is a subset of PTSD¹⁶¹, but despite the overlap of symptoms many victims with RTS may not meet all the criteria for PTSD.¹⁶²

There are three phases to RTS: acute; outward adjustment; and long term reorganization.

a) The Acute Phase

Immediately following a sexual assault, victims may experience a wide range of emotional reactions that result from being faced with a traumatic, and in some cases, potentially life-threatening situation. Most commonly, victims go into a state of emotional and physical shock immediately after a sexual assault. The symptoms that may be experienced while in this state include:

- *Arousal symptoms:* Constant anxiety (characteristic), Fear, Hyper-vigilance (being on edge and easily startled) , nightmares, disturbed sleeping (difficulty falling asleep or staying

¹⁵⁸ Information provided by the University of Alberta Sexual Assault Centre. Based on original research from: -Burgess, Ann Wolbert and Lynda Lytle Holmstrom. "Rape Trauma Syndrome." *American Journal of Psychiatry* 131:981-986, September 1974.

-Sutherland, Sandra and Donald J. Scherl. "Patterns of Response Among Victims of Rape." *American Journal of Orthopsychiatry* Volume 40, Issue 3, pages 503-511, April 1970.

¹⁵⁹ McGowan, M. G., & Helms, J. L. (2003). "The utility of the expert witness in a rape case: Reconsidering rape trauma syndrome." *Journal of Forensic Psychology Practice*, 3(1), 51-60.

¹⁶⁰ Doenges, M. E., & Moorhouse, M. F. (1998). *Nurses' pocket guide: Diagnoses, interventions and rationale* (6th ed.). Philadelphia: F.A. Davis.

¹⁶¹ Keogh, A. (2007). "Rape trauma syndrome: Time to open the floodgates?" *Journal of Forensic & Legal Medicine*, 14(4), 221-224.

¹⁶² McGowan, M. G., & Helms, J. L. (2003). "The utility of the expert witness in a rape case: Reconsidering rape trauma syndrome." *Journal of Forensic Psychology Practice*, 3(1), 51-60.

asleep), body shakes, increasing anxiety during interview (e.g. stuttering, fidgeting, speech problems, physical distress)

- *Dissociation*: Feeling scattered and unable to focus
- *Intrusive recollection*: Flashbacks, recurrent dreams
- *Disturbed eating* (increase or decrease in eating, nausea, vomiting), genitourinary discomfort

In addition to being in a state of shock, victims in this phase are often overwhelmed by their feelings of guilt, shame, and self-blame regarding the sexual assault. It is these feelings that often deter victims from reaching out for support from others.

Not all victims' emotional reactions to a sexual assault are expressed in the same way. Most often their reactions are manifested in one of the two following ways:

1. **Expressive** - obvious outward expression such as crying, shaking, tenseness or restlessness. Demonstrations of anger, fear and/or anxiety.
2. **Controlled** - appearing quite calm and rational about the situation, and/or masking or hiding their feelings.

One individual may experience both of these reactions at various times. It is important for investigators to understand that both reactions are normal and should not impact whether the victim is believed.

During the first few weeks following the assault the victim may experience acute physical symptoms, for example, soreness and/or bruising on various parts of the body. These symptoms may be specific to the location on the body where the sexual assault took place, such as vaginal discharge, burning sensations, pain, itchiness, irritation of the mouth or throat, or rectal pain or bleeding. In more complex cases, these symptoms may persist or begin years later and the victim may not relate them to the original assault.

In the period immediately following the assault, victims may have many practical problems to deal with such as:

- Informing family and friends (who to tell and how to tell them)
- Medical examinations (whether or not to have one, and/or where to go)
- Concern of STIs, AIDS, and/or (for females) pregnancy
- Decisions about pressing charges or not

b) Outward Adjustment

In the next phase toward recovery it is common for victims to attempt to forget about the sexual assault and to return some normalcy to their life. While they may seem to have forgotten about the incident and gone on with their life, there is usually a high level of denial and repression of feelings regarding the incident. Some victims may express this denial by acting as though the sexual assault has no affect on them anymore, and others may frame the sexual assault as “just a bad sexual experience.”

Most victims will not want to talk about the sexual assault during this phase, and will be actively avoiding any potential triggers or reminders of the sexual assault. For this reason, many people begin making some life changes such as moving, changing schools/job, travelling, changing friends, etc. while others keep busy to avoid thinking about it by working or partying hard. In this phase there is a sense of “getting on with life and forgetting about the sexual assault.” This phase of denying and repressing feelings serves both an important and functional role; it is an essential part of the healing process.

c) Long-Term Reorganization

Long-term reorganization is the phase where the victim is no longer able to repress the assault or forget about it and healing begins to take place. It begins when something triggers the victim to think about the sexual assault again (this usually comes in the form of an intrusive recollection/ flashback). The beginning of this phase can be very frustrating, as many feel that they have already dealt with this, and yet now they cannot seem to stop thinking about it again. In this phase victims often make changes to their lifestyle such as changing their residence, seeking support people, or using other coping mechanisms to deal with intrusive recollections.

In this phase it is common to feel overwhelmed by the return of frequent flashbacks, nightmares, anxiety, and feelings of hopelessness. For some victims this is a time when they may think about suicide. Fortunately, it is in this phase that the victim is able to work to heal from the sexual assault and integrate it into their life; this phase provides the opportunity for victims to regain a sense of safety, control and trust.

Long-term adjustment to sexual assault depends on several factors. Some influencing factors include the degree of support received from friends and family, previous self-concept, treatment by professionals following the assault, involvement with the criminal justice system,

and their relationship to the perpetrator. Lack of support from friends or family has been strongly associated with PTSD¹⁶³ as has negative reactions from professionals.^{164 165}

The three phases of Rape Trauma Syndrome provide victims and their supporters with a better understanding of the stages victims commonly experience when recovering from a sexual assault. Each victim will move through the phases at their own pace and each will find their own unique path to healing and recovery.

By understanding ASD, PTSD and the different phases of Rape Trauma Syndrome, investigators can better understand why a victim reports when he/she does, and how the stages affect the investigative process. Victims may report the assault immediately (while in the “Acute” phase) and then decide not to go forward or seem to lose interest in the reporting process during outward adjustment. This is NOT because they are changing their story but because of where they are in the recovery process. Unfortunately court often occurs during the recovery versus reorganization phase, potentially affecting their progress.

¹⁶³ Borja, S. E., Callahan, J. L., & Long, P. J. (2006). Positive and negative adjustment and social support of sexual assault survivors. *Journal of Traumatic Stress*, 19(6), 905-914. doi:10.1002/jts.20169

¹⁶⁴ Ahrens, C. E., Cabral, G., & Abeling, S. (2009). Healing or hurtful: Sexual assault survivors' interpretations of social reactions from support providers. *Psychology of Women Quarterly*, 33(1), 81-94.

¹⁶⁵ Ullman, S. E., & Filipas, H. H. (2001). Correlates of formal and informal support seeking in sexual assault victims. *Journal of Interpersonal Violence*, 16(10), 1028-1047.

VICTIMS OF ONLINE EXPLOITATION

“The Internet is an open door to knowledge, entertainment, communication — and exploitation.”

The above statement is powerful not only because of its ramification with respect to our children, but also because of the source: Mr. Justice Fish speaking for a unanimous Supreme Court of Canada.¹⁶⁶ In the opening paragraph of that judgment, the Court describes the need to respond effectively to those who “troll the Internet for vulnerable children and adolescents.”

The victims of online sexual exploitation can be very young children, infants and newborns. The most typical online sexual exploitation victim is a male or female between 13 – 14 years of age from any socio-economic strata. That said, victims may also be adults who have been tricked, extorted, or betrayed. Private photographs originally taken by consent can be placed online by a spurned or hateful ex-partner. Voyeuristic photos can be taken with “up-skirt” cameras and extreme telephoto lenses.

Child Pornography

It is a tragic fact that the most common form of online sexual exploitation is child pornography. Whereas historically this heinous material could only be passed from offender to offender surreptitiously through copies which diminished in quality with each instance, the Internet has now allowed this perverted community to network globally, exchanging digital images and videos which retain their quality perpetually. And, because of the complexity and ubiquity of the Internet, once posted, the child pornography is almost impossible to remove from circulation. For the children who have been exploited, or who have naively uploaded the material themselves, they must know that it will be there forever.

Online Sexual Exploitation is Unique

The distinctions between “traditional” sexual assault victims and those in the cybercrime context can be myriad. At the extreme end of the range, the online sexual exploitation victim may be completely unaware that they have been victimized. This can happen when a perpetrator obtains the illegal material through surreptitious means, such as hidden cameras or when the person is unconscious.

¹⁶⁶ *Regina v. Craig Legare*, 2009 SCC 56

Another common situation in the online context which is different from others arises where the victim is tricked into a sexual relationship under completely false pretences. Prior to the advent of the internet, the victim would have met with the perpetrator and at least had the opportunity to assess that person's age, gender, and demeanour before deciding to engage in sexual activity. This would inform the victim's decision as to consent. Obviously, if the sex was non-consensual or violent this assessment would have a markedly different aspect. When dealing with cybersex, though, anonymity and deception are hallmarks of the Internet. A perpetrator can convincingly pretend to be a completely different person and dupe their victim into the most aggravating of circumstances.

Example

In an Edmonton case, a 29 year old male from Montréal posed as a 16 year old girl and conned his way into an online friendship with a 13 year old Edmonton girl and a 14 year old Airdrie girl. After grooming this relationship, he convinced the 13 year old to perform sex acts via webcam which he recorded. After awhile he revealed his true self and blackmailed her to continue the sexual activity by threatening to reveal his recorded material to her friends and family.

Grooming

"Grooming" is a term used to describe the process by which a perpetrator builds trust in their would-be victim. Adult perpetrators do not use physical threats but rather a process of psychological manipulation. That process involves gaining the affection, interest and trust of children/adolescents within the target group. The contact may advance from email to gifts or pictures and, if the child is receptive, move into more overt sexual contact – sexually explicit conversation or material. It then rises to the level of physical activity progressing from back rubbing or fondling to full sexual activity.

The Internet increases access to children/youth by allowing adults to enter a teen chat site and observe or interact, identifying the potentially vulnerable. From there it is an easy step to persuade the child to enter into a private chat room or instant message, which then becomes more intensive to reduce inhibitions through sexual talk. The intimate talk is rapid and followed up by requests for images or a physical meeting. It is a process of showering attention on the child victim, motivating the child to continue the relationship or create a sense of obligation, testing interest in sex, lowering inhibitions by touching casually then more intimately, and giving victims alcohol, drugs and exposure to pornography.

Investigation and Prosecution of Online Sexual Offences

In investigating and prosecuting cases like this, the victim can be in a remarkably different situation vis-à-vis the detective, the prosecutor, and the Court. In a traditional sexual assault, the offence is complete when the police and prosecutor meet the victim. The details of the offence, and the veracity of the retelling, are largely within this witness's control. It is not unusual for the only substantiation for the complaint to be "he said – she said" with perhaps some forensics to confirm the act occurred. Where the victim is a child, there is huge pressure on them because of the need to establish the precise details of what happened so that the event can be recreated for assessment by the trier of fact, whether that is a judge alone or a jury. In these cases, confessions from the would-be accused are critical pieces of evidence upon which the prosecution may ultimately succeed or fail.

In Internet sexual exploitation cases there is usually evidence of the offence itself preserved in one digital form or another: photographic, video, or text. In many cases the recording allows the investigator, prosecutor, and judge or jury to see precisely what happened in its context. Surrounding digital evidence, such as chat logs or social networking records, can establish the relationship between the victim and the accused. Accordingly, the pressure on the victim witness, particularly if they are a child, is completely different since there is no need to go into excruciating detail about what happened. It also places statements from the Accused in a different light since there is no question about "what" happened.

Where there can be additional stress on victims is in situations where the recordings make it clear that they were complicit in what is ultimately illegal sexual activity. There is no opportunity to minimize what happened or to leave out embarrassing details. Whatever happened, whoever instigated it, however much each party enjoyed themselves, is all apparent for review by the police, Crown, and Court. Investigators and prosecutors dealing with such victims must be alive to the emotions that can be expected, whether it is embarrassment or shame, or defensiveness. Another crucial distinction in this situation is that the offence may be ongoing; the exploitation and grooming could be continuing even as the investigation is ongoing. The nature of these investigations puts police and Crown prosecutors in the position where it is not uncommon for them to know more about the offence and the offender than does the victim themselves.

Supporting Victims

Victims of Internet sexual exploitation need to be supported just as do traditional victims. They can present with unusual challenges, though. They may not even see themselves as "victims."

To be sure, it is not novel to have an exploited child who believes that they are in love with their perpetrator; however, the grooming process and the opportunities for deception present in an online relationship can exacerbate this. Remember that the victim may have never actually met their abuser face-to-face, and may know nothing but lies about his/her personal life and history. The reaction of parents, family members, and support workers must be measured. “Victim blaming” has to be guarded against, such as a parent removing a child’s computer in response to the events.

In closing, when dealing with victims of online sexual exploitation, the approach must be informed by the additional characteristics that exist. Victims’ wounds may be open and fresh. Investigators and prosecutors will be tested, and occasionally traumatized, by virtue of becoming witnesses to such profound violations of personal integrity.

Internet Resources

www.cybertip.ca

www.getwebwise.ca

www.cyberbullying.ca

www.ncecc.ca

www.cyberwise.ca

www.isafe.org

www.bullying.org

www.msn.staysafeonline.ca

ABORIGINAL VICTIMS

It is very important for the police and Crown to note that there is tremendous within-group diversity in the Aboriginal culture. Aboriginal victims across Canada have different languages, traditions, and spiritual beliefs. Further complicating the issue of heterogeneity is the continuous migration between First Nations and urban areas. An Aboriginal person may have a different framework based on whether she/he grew up in an urban setting or on a First Nation. There are also political and economical differences that must be considered.

Many Aboriginal victims residing on First Nations live in such poverty that they do not have access to telephones, transportation, or childcare. In many cases, the remote areas in which they live do not even have telephone lines or a transportation system. Some Aboriginal people do not speak English. All these factors severely impact a sexual assault victim's help-seeking behaviour.

Some communities and victims have a long history of victimization (including experiences with residential schools) which desensitizes them to sexual violence. They may not be aware that they have rights as a victim and that there are supportive services available.

Many Aboriginal victims live in small, close-knit communities and the abuser is often well-known in the community and may hold a position of authority.¹⁶⁷ Aboriginal victims may find that police on First Nations are reluctant to lay charges in sexual assault cases. On some federal lands, police may refuse to enforce any provincial orders, including restraining orders and child protection orders.

Most urban, Aboriginal victims and those living on a First Nation fear racism on the part of police. Many young, Aboriginal victims report having witnessed or experienced significant racism and antagonism from police towards their friends, family members and community members. This experience leads many to view police as biased against Aboriginal people, and to expect persecution, disbelief, or racism at their hands, should they attempt to report a sexual assault.¹⁶⁸

¹⁶⁷ Penwill, Kathryn. "Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims." Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

¹⁶⁸ Ibid

Furthermore, Aboriginal men are more likely to be convicted due to their marginalized status. Aboriginal women are often aware of this, and it may create an additional barrier, as women may feel protective of the men from their community.¹⁶⁹

*Some young native women have expressed that, regardless of their assault, giving that information to the police is tantamount to “ratting.” This could lead one to conclude that, in some areas, police treatment of the community is seen as so poor that a rapist or abuser may even be seen as the lesser of two evils.*¹⁷⁰

When dealing with Aboriginal victims, it is important to understand that they may be dealing with a multitude of issues. Health Canada provides the following examples:¹⁷¹

- Their resources may be very limited
- Their support system may be in the very community in which they live
- Their perpetrator could be an important member of the community
- The perpetrator may have possession of the house
- Suspicion about the justice system may discourage many Aboriginal people from seeing it as an option
- Victims are loath to put a perpetrator in a system that is viewed as racist
- Many victims in cases of spousal violence fear police will take their children
- Lack of housing results in frequent over-crowding and lack of alternative housing options
- Extended family may pressure the victim not to report to maintain the current residence
- In many instances, there are no culturally appropriate services

The issue of sexual assault in Aboriginal communities is the subject of the work of the Alberta Justice Aboriginal Sexual Assault Committee (AJASAC). This committee was formed by the Criminal Division of Alberta Justice to explore the problem of sexual assault and related crimes of violence within Alberta Aboriginal communities. The Committee was asked to identify gaps in service and explore best practices to improve the Criminal Justice response to sexual assault in Aboriginal Communities. The Committee found that many Aboriginal people do not embrace as part of their understanding of justice, the practices of the typical criminal court. The “adversarial process” is often at odds with Aboriginal concepts of truth, healing and respect. Examples of points of divergence between these concepts and the practices of our justice system include the following:

¹⁶⁹ Ibid

¹⁷⁰ Ibid

¹⁷¹ Health Canada. Family Violence in Aboriginal Communities: An Aboriginal Perspective. From the National Clearinghouse on Family Violence, 1996.

- A defence lawyer advising a not guilty plea when the accused knows that he has committed the offence.
- A lawyer denying or refusing to admit facts that the accused is not contesting.
- A lawyer being entitled to wide ranging cross-examination of the victim or witness of a sexual assault.
- Crown prosecutors relating with victims merely as witnesses and therefore often without sensitivity to their personal needs.
- Crown Prosecutors are not the lawyers for the victims in court.
- An adversarial system of justice or “win-lose” system of justice.
- Courtroom decorum such as bowing to a judge or dealing with a judge who sits higher than the Aboriginal individual suggesting inequality and inferiority.
- Emphasis on punishment, denunciation, incarceration as compared to restorative remedies, apologies, rehabilitative programs and healing.

Misunderstanding can occur when mainstream values which underpin our justice system come into direct conflict and undermine those values held by traditional Aboriginal people.

The Committee Report provides further critical information that will help Crown prosecutors appreciate the unique issues and stresses facing Aboriginal victims of sexual assault.

PEOPLE WITH DISABILITIES

People with disabilities are often specifically targeted for sexual assault.¹⁷² People with disabilities may be dependent upon caretakers who are the perpetrators of sexual violence against them. An overwhelming majority of perpetrators are known to the victim. People with disabilities may be repeatedly victimized by the same perpetrator.

People with disabilities are at risk for sexual assault whether they reside in an institutional setting (such as an assisted living facility), in their own home, or with relatives or other caretakers.

It can be difficult for people with disabilities to initiate contact with police to report a sexual assault. Inaccessible buildings and communication systems can pose significant barriers to accessing the criminal justice system.

Police officers and Crown prosecutors can assist victims with disabilities by:

- Treating victims with dignity and respect.
- Remembering that victims may not have the legal capacity to form consent to sexual acts because of the nature of their disability. Do not assume that the victim cannot consent simply because he or she has a disability.
- Providing copies of police reports and other victim information in alternative formats.
- Understanding the power imbalance between a caregiver and a person with a disability which may affect the ability and willingness of a victim to report the crime and cooperate with the investigation and prosecution.
- Utilizing formats and communication styles that ensure that the victim understands the criminal justice process and investigation.
- Understand that not all persons with disabilities have guardians.
- Ensure that the victim has time, support, and resources to understand legal proceedings.

¹⁷² Tribal Law and Policy Institute and Southwest Centre for Law and Policy. "Prosecutor Sexual Assault Protocol." 2008. Available at: http://www.tribal-institute.org/download/Final_Prosecutor_Sexual_Assault_Protocol_-_September_30.pdf

Vulnerability¹⁷³

Persons with disabilities are more vulnerable to sexual assault and abuse for a number of reasons, including:

- Dependence on, and close personal contact with, a number of caregivers who provide help with daily living. Almost half of perpetrators of abuse against persons with disabilities contacted their victims through services related to the victim's disability.
- Limited sex education, meaning that persons with disabilities are not taught to recognize abuse or their rights as individuals.
- Isolation from communities. This leads to a lack of tools and resources to prevent abuse. Isolation also prevents persons from accessing the help needed to begin the healing process.
- Lack of power to make decisions for themselves.
- Beliefs that people with disabilities lie about abuse.
- Beliefs and practices that people with disabilities should be trained to be compliant, and that they should be punished for being assertive or challenging authority figures.

Myths and Facts¹⁷⁴

Myth: No one would sexually abuse a person with a disability because no one would be sexually attracted to that person.

Fact: Sexual abuse has nothing to do with the way a person looks, behaves or dresses. It is a crime of violence that is used to control or humiliate the victim. Sexual assault can happen to anyone, no matter what their age or physical characteristics, and it can happen in any situation. Perpetrators may use this myth to their advantage by targeting populations that are less likely to seek help or support. This means children, elderly people, persons with disabilities, Aboriginal women, and immigrant women are some of the groups most vulnerable to sexual assault.

Myth: People with disabilities are rarely sexually abused.

Fact: Research indicates that 83% of women with disabilities will be sexually assaulted in their lifetime.¹⁷⁵

¹⁷³ Sexual Assault Centre Edmonton. "Information for those working with persons with disabilities."

¹⁷⁴ Ibid

¹⁷⁵ Ibid

Myth: If people with disabilities do not understand what sexual abuse is, they will not be emotionally damaged.

Fact: Even though persons with disabilities are often given very little, if any, sex education, this does not change the impact sexual abuse has on the person. Persons with disabilities experience feelings just like anyone else. Some of these reactions include self-blame, depression, fear, anger, relationship problems, questions about sexuality, addictions, and loss of trust. Not everyone will experience all of these feelings, or react to the same degree, but in whatever way that a victim experiences these reactions, it is normal.

Myth: If we keep people with disabilities in an institution away from the community, it will protect them against anything bad happening to them.

Fact: Persons with disabilities who are in institutions are two to four times more likely to experience sexual abuse than people with disabilities who live in the community.¹⁷⁶

Police Officers should be aware of the following factors:¹⁷⁷

Victims with disabilities are a large group, which may include people with physical, communicative, neuromuscular, developmental, cognitive, visual, medical, learning, psychiatric, and other disabilities. This group is sexually assaulted at a rate two to ten times greater than the general population, however, despite the high risk, reporting is often low. The majority of people with disabilities are sexually assaulted by someone they know, often a caregiver.

Testimonial Aids

On June 30, 1998, legislation was enacted which strengthened the rights of people with disabilities, and enhanced the means by which their evidence could be admitted at trial:

- The *Canada Evidence Act* permits those who have difficulty communicating by reason of a physical disability to give evidence by any means that enables the evidence to be intelligible (s. 6(1)).

¹⁷⁶ Ibid

¹⁷⁷ California Commission on Peace Officer Standards and Training. "POST Guidelines on Adult/Adolescent Sexual Assault Investigation." Last updated 2008. Available at: http://lib.post.ca.gov/Publications/sexual_assault.pdf

- The *Canada Evidence Act* also permits those who have difficulty communicating by reason of a mental disability, and who, under s. 16, have the capacity to give evidence, to give that evidence by any means that enables the evidence to be intelligible (s. 6(2)).
- A witness may give evidence as to the identity of an accused whom the witness is able to identify visually or in any other sensory manner (s. 6.1). (Note: it would appear that this provision is not limited to disabled witnesses.)
- If the victim or witness is able to communicate evidence but may have difficulty doing so by reason of a mental or physical disability, a videotape, made within a reasonable time, in which the victim or witness describes the offence, is admissible if the victim or witness adopts the contents of the videotape while testifying (s. 715.2 CC).
- Victim or witness may testify behind a courtroom screen which precludes them from seeing the accused (although the accused will see the victim or witness (s. 486(2.1) CC).
- Victim or witness may testify from outside the courtroom via closed-circuit television (s.486 (2.1), (2.2) CC).
- Victim or witness may have a support person close to him/her in the courtroom while testifying (s. 486(1.2) CC)

VICTIMS WITH MENTAL ILLNESS/PSYCHIATRIC SYMPTOMS¹⁷⁸

Do's

1. Focus on the victim as a complete person.
2. Be patient and allow enough time for the victim to communicate.
3. If the content of the victim's speech seems to be delusional, continue to respond without validating the delusions.

Don'ts

1. Do not laugh at or make fun of the delusional content, appear shocked, or try to dismiss or minimize the experience. Debating the reality of the delusions can increase agitation, defensiveness, and symptoms of trauma.
2. If the victim appears to be responding to internal stimuli/hallucinations, do not try to talk her or him out of it or say, "That is not real." The feelings are very real to them. These symptoms may be particularly pronounced after a recent sexual assault. A new trauma can exacerbate existing mental health symptoms.
3. If the victim has a support person accompanying him or her, resist the temptation to address questions to the support person rather than the victim, or to speak about the victim as if he or she is not there.
4. Do not disregard allegations of sexual assault because they are made by a victim with a mental illness. Although some of the victim's thoughts or experiences are not based in reality, this does not mean an assault did not occur. Perpetrators target people with mental illness because they are often not believed when they report.
5. Don't assume that people with a mental illness are "out of reality" most of the time. Most people with a mental illness only display symptoms when they are not medicated. Having symptoms of a mental illness is not the same thing as "making up stories" or "having a wild imagination." The delusions and hallucinations are symptoms of an illness. These symptoms do not make people with mental illness more prone to false reporting than the rest of the general population.
6. Know the difference between a mental illness/psychiatric diagnosis and developmental disability. An adult with a mental illness has the life experience and IQ of any other adult. Do not speak to them "like a child" or refer to them as if they are inexperienced. Phrases like "mentally challenged", "slow", or "mentally impaired" do not accurately describe people with mental illness or developmental delays.

¹⁷⁸ California Commission on Peace Officer Standards and Training. "POST Guidelines on Adult/Adolescent Sexual Assault Investigation." Last updated 2008. Available at: http://lib.post.ca.gov/Publications/sexual_assault.pdf

LANGUAGE BARRIERS, CULTURAL ISSUES AND IMMIGRATION STATUS

Immigrant victims of sexual assault need a great amount of support from service providers.¹⁷⁹ They may feel alone, have trouble talking with or relating to Canadians, or be overcome with fear. They may not have knowledge of Canadian law, their *Charter* rights, or the support services available to them.

Language difficulties make it difficult for an immigrant to navigate the legal system and to access services. In some cases, sexual assault victims who are sponsored by spouses who are legal residents of Canada may be reluctant to report the abuse because the abuser has threatened to withdraw sponsorship. Victims may also be reluctant to report abuse if they are domestic workers whose presence in this country is dependent upon their employment.¹⁸⁰

Many immigrants are fearful of police involvement. In most cases, this is because of past experiences with the police in their home countries, especially if the victim is from a country where the police are symbols of human rights violations. This is why it is very important for police to explain to victims what their role is. Many immigrants have an expectation that they will not be believed. This may result from negative experiences in their country of origin or experiences of racism and discrimination here in Canada. Not only racism, but the expectation of racism, operates as a barrier.

The victim's culture may encourage a woman's submission to her husband, even when there is sexual abuse. When the woman's community does not support her and may actively impede her efforts to obtain justice, this operates as a significant barrier. Victims may fear that reporting an assault will have negative repercussions such as shame or rejection for their family here or in their country of origin.

Women who are immigrants and refugees may also be afraid that their partners or other men from their community will be deported should they report a sexual assault. There are indications that women themselves may face the risk of deportation should they report an assault to police.

Inadequate or inappropriate translation services are also a significant barrier.

¹⁷⁹ Department of Justice Canada. Abuse is Wrong in any Language, 2003. Available at: http://www.justice.gc.ca/eng/pi/fv-vf/pub/abus/abus_lang/fe-fa/eng-eng.pdf

¹⁸⁰ Penwill, Kathryn. "Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims." Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

What Can Police Do?¹⁸¹

- Explain that the police respond to and investigate all complaints of sexual assault.
- Explain to victims what help is available in the community.
- If the victim does not know whether or not she/he is a Canadian citizen, tell them to call their local citizenship office. Look in the blue pages of the telephone book under “Citizenship and Immigration.”
- If the victim has been found to be a refugee, tell them that they can apply on their own to be a permanent resident.
- If language is a barrier, officers will use a translator when necessary. Children or family members should not be used as interpreters. As well, it is important that translation services have no ties to, or knowledge of, the perpetrator.
- Explain that being married or separated has no effect on their status.
- If a victim is a dependent of a refugee and she/he is in the process of applying for permanent residence for both of them, she/he can cancel the application. In this case, tell the victim to apply to be a refugee himself or herself, or tell them that they can apply to be a permanent resident on compassionate and humanitarian grounds. They would need to show why they should stay in Canada.
- Make sure to tell the victim that they should get legal advice.
- Call Citizenship and Immigration Canada at 1-888-242-2100, or visit their website at www.cic.gc.ca to get more information.

A sponsored immigrant would not be deported solely because their sponsorship has broken down. Furthermore, if the abuser is a citizen, he/she cannot be deported. If the abuser is a refugee or a permanent resident, he/she could be deported if a court convicts him/her of assault or another criminal offence, depending on the severity of the offence and the length of the sentence. The deportation process, however, could take a long time.

¹⁸¹ Department of Justice Canada. Abuse is Wrong in any Language, 2003. Available at: http://www.justice.gc.ca/eng/pi/fv-vf/pub/abus/abus_lang/fe-fa/eng-eng.pdf

RURAL COMMUNITIES

Rural communities often have problems dealing effectively with sexual assault because of distance from specialized services and lack of appropriate services.¹⁸² Rural communities also have special issues such as cultural values, norms, social structures, and community control that need to be considered when working with sexual assault victims.

In order to best address the needs of sexual assault victims, community professionals need information and access to services. Rural communities best handle sexual assault when there is a nucleus of concerned individuals and agencies working together to coordinate a system for victim protection. Most often, community-based teams are best equipped to handle reported cases of sexual assault. Confidentiality requires special precautions in rural communities since these centres are very small and most people know one another.

In some communities, sexual assault has been addressed by developing a coordinated response amongst professionals and service agencies. Many places have established an interagency protocol for investigation, support, intervention, and protection of sexual assault victims. Ideally this network might consist of a core group of professionals that might include: (1) those whose immediate responsibility is child protection; (2) law enforcement and criminal justice personnel; (3) agencies responsible for offender treatment and monitoring; and (4) support services such as doctors, counsellors, mental health workers, ministers and teachers. In developing a checklist of appropriate professionals, the following expertise might be included:

- Child protection workers/social workers;
- RCMP/municipal or First Nation police/special constables
- Crown prosecutors;
- Doctors/hospital and nursing staff/community health workers;
- Mental health workers/psychologists and psychiatrists;
- Local Victim Service Unit;
- School district personnel;
- Probation/corrections/court workers;
- Alcohol and drug counsellors;
- Women's centre;
- Teen counselling or youth workers;
- Band councils;
- Sexual assault centre; and
- Offender treatment centre.

¹⁸² RCMP. "An Investigative Guide to Sexual Offences."

SEX TRADE WORKERS/PROSTITUTES/SEXUALLY EXPLOITED VICTIMS

There is debate over the best terminology to use when describing sexually exploited victims of sexual assault. People who exchange sexual services for money or other material goods can be referred to as prostitutes, sex trade workers, or sexually exploited individuals. Some public health workers prefer the terms sex worker or sex trade worker, believing that words such as “prostitute” or “prostitution” unhelpfully focus on clients’ legal rather than health status. Others point out that, for many, prostitution is not a career or a choice.¹⁸³ Due to the imbalance of power inherent in such situations, some feel that the term “sexually exploited” victims is preferable.

Persons involved in prostitution are subjected to terrible violence and abuse, physical and mental illness, drug and alcohol addiction, criminal persecution, poverty and homelessness. The average age of entry into prostitution is sixteen, although children have been exploited as young as eleven. Many come from homes where there was emotional, physical or sexual abuse.¹⁸⁴

Human trafficking for prostitution and other degrading purposes is almost certainly an expanding reality. Selling sex is increasingly normalized, whether for money or other paybacks. Internet-based sexual exploitation is expanding to include the luring and procuring of young children. Cheap, highly addictive and readily accessible drugs trap many in a vicious cycle through whatever means, including prostitution. Organized crime involvement fuels the fire. Health risks are significant. Those working the streets are at highly elevated risk of injury, abuse, addiction and other dependencies; mental illness, communicable disease and other health issues; substandard nutrition and housing.¹⁸⁵

It is important for police and Crown prosecutors to remember:

- Most people involved in the sex trade have experienced many layers of harm, and may also have challenges related to mental health. This creates barriers and challenges to receiving help.
- Prosecution may not be the best way to curtail the harm caused by sexual exploitation.

¹⁸³ Safedmonton. “Working Together to Address Sexual Exploitation in Edmonton: A Snapshot of Initiatives and Insights.” Safedmonton’s Prostitution Working Group. October 2007. Available at: http://www.edmonton.ca/for_residents/SafeEdmontonProstitutionReport.pdf

¹⁸⁴ Crossroads Outreach. Available at: <http://www.e4calberta.org/crossroads.html>

¹⁸⁵ Safedmonton. “Working Together to Address Sexual Exploitation in Edmonton: A Snapshot of Initiatives and Insights.” Safedmonton’s Prostitution Working Group. October 2007. Available at: http://www.edmonton.ca/for_residents/SafeEdmontonProstitutionReport.pdf

- Prostitution-related crimes are hard to prosecute. The laws are complex and the victims involved are often less believable in court than those who've wronged them.
- Many of those who exit prostitution have criminal records. Their ability to secure jobs is severely hampered by widespread use of security clearance as the only risk assessment tool. They can apply for a pardon, but under Canada's bureaucratic pardon system an ancient outstanding fine sends them back to the beginning of the five-year wait period.
- Many of those involved in prostitution have warrants out for their arrest, and this can deter them from reporting a sexual assault. Police should be cautious about arresting prostitutes who report a sexual assault, as this could have an impact on future reporting, and may allow a more dangerous offender to roam the streets. It may be more appropriate, where circumstances permit, to deal with a warrant with a promise to appear.
- People selling sexual services through an escort agency may be reluctant to report a sexual assault out of fear they will be "blacklisted."
- Many sex trade workers would prefer to work indoors, but are prohibited from getting a license due to a criminal record.
- People selling sexual services through the Internet may be reluctant to report a sexual assault if they are unlicensed and afraid of receiving a significant fine.
- Communication between beat officers and sexual assault detectives is helpful, because beat officers are likely to see "bad vehicles" driven by sexual assault perpetrators, which only the sexual assault unit knows about.
- Victims of sexual assault involved in the sex trade may have difficulty applying for Financial Benefits if they have a criminal history, even though being in this type of work increases one's vulnerability while increasing one's likelihood of arrest.

Attitude barriers

- Lack of understanding regarding complexities of sexual exploitation.
- Stigma. Service professionals may refuse to serve clients involved in prostitution. Sex workers who are active (rather than trying to exit) are particularly unwanted and underserved.
- A prairie bootstrap "get a job" or "you made your mess, now swim in it" mentality.
- "Not in my backyard" (NIMBY) responses – seeking displacement rather than solutions.
- Gender inequality. Objectification of women from preschool onward; seeing women as objects to be bought and sold.
- Sex as an expression of power, reinforced in homes, society, mass media, advertising, Internet.
- Women's issues treated as "minority issues," even though 51 percent of Canadians are women.

- Silence and avoidance, even among families, in recovery groups.
- Many people routinely harass and judge those trying to exit, assuming they are still working the streets.¹⁸⁶

Additional Barriers

Victims working in these areas are often afraid of the police and the legal system. They fear negative attitudes, not being believed, and having charges laid against them if they report a sexual assault.¹⁸⁷

The case of women in Vancouver who went missing off the streets for 19 years was raised as an example of the way the legal system is less likely to respond to sexual assault against sex trade workers. Police neglected the cases of the Vancouver women and ignored evidence that a serial killer was at work.

The myth that sex trade workers cannot be assaulted is a common barrier.

One judge explicitly said that he was giving an abuser a lesser sentence because the victim was a dancer.

Sex trade workers may have definitions of assault that are different from the mainstream and specific to their work.

If a woman agrees to a particular kind of sexual act, and a different sexual act is demanded of her, they see this as a sexual assault: "I didn't agree to this kind of sex."¹⁸⁸

Prostitution and its Link to Childhood Sexual Abuse

Running away from home is considered the intervening variable that links sexual abuse with prostitution. Running away is often a survival or defence mechanism that follows sexual abuse, and sexual abuse is a factor commonly present among prostitutes. Prostitution being a long-

¹⁸⁶ Safedmonton. "Working Together to Address Sexual Exploitation in Edmonton: A Snapshot of Initiatives and Insights." Safedmonton's Prostitution Working Group. October 2007. Available at: http://www.edmonton.ca/for_residents/SafeEdmontonProstitutionReport.pdf

¹⁸⁷ Penwill, Kathryn. "Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims." Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

¹⁸⁸ Ibid

term effect of sexual abuse is a theory that has received support from numerous researchers. Research presented by the John Howard Society of Alberta¹⁸⁹ found that in a sample of 130 adult prostitutes, 57% had experienced childhood sexual abuse, with an average of 3 abusers each.¹⁹⁰ Additionally, 49% of this sample experienced physical abuse as children. In another study, it was found that 68% of female prostitutes in their sample experienced childhood sexual abuse.¹⁹¹ Finally, another study compared children who had and had not been sexually abused, and determined that the participants who were sexually abused as children were twice as likely to become prostitutes.¹⁹²

¹⁸⁹ John Howard Society of Alberta. "Prostitution." 2001. Available at:

<http://www.johnhoward.ab.ca/pub/pdf/prostitu.pdf>

¹⁹⁰ Farley, M. & Barkan, H. (1998). "Prostitution, violence against women, and post-traumatic stress disorder." *Women & Health* 27 (3), 37-49.

¹⁹¹ Nadon, S., Koverola, C. & Schudermann, E. (1998). "Antecedents to prostitution: Childhood victimization." *Journal of Interpersonal Violence* 13(2) 206-222.

¹⁹² Foti, S. (1994). "Sexual abuse as a precursor to prostitution." (Doctoral dissertation, Northwestern University). Dissertation Abstracts International, 3586, B5508. In Nadon, S., Koverola, C. & Schudermann, E. (1998). "Antecedents to prostitution: Childhood victimization." *Journal of Interpersonal Violence* 13(2) 206-222.

HUMAN TRAFFICKING FOR A SEXUAL PURPOSE

What is human trafficking?¹⁹³

The essential component of human trafficking is exploitation, rather than transportation. Human trafficking for a sexual purpose is not significantly different than other forms of prostitution and sex work – the term “human trafficking” puts a new lens on an old problem. Human trafficking involves a process, method and goal. According to the United Nations, human trafficking occurs when one of the activities in each of the following columns is met:

Process		Method		Goal
Recruitment Transportation Transferring Harbouring Receiving	[and]	Threat Coercion Abduction Fraud Deceit Deception Abuse of Power	[and]	Prostitution Pornography Sexual Exploitation Forced Labour Involuntary Servitude Debt Bondage Slavery/Similar Practices

Domestic vs. International Trafficking

Domestic trafficking involves the exploitation of residents of the country. In Canada, it is disproportionately Aboriginal youth and women who fall victim to human trafficking. Often, traffickers move victims across and into major urban centres in order to evade law enforcement and prevent victims from forming friendships or retaining family connections.

International trafficking involves the crossing of borders, where victims are brought into or sent from Canada from other countries to be exploited. Canadian women may end up in Las Vegas; much of the recruiting is done on social networking sites, with hundreds of Albertans caught up in this web each year.

How does human trafficking occur?

Traffickers may prey on vulnerable individuals and may use any combination of tactics to recruit a person, including deceit, coercion, control and abuse.

¹⁹³ Action Coalition on Human Trafficking (ACT Alberta). “About Human Trafficking.” Available at: <http://actalberta.org/about-human-trafficking>

Human Trafficking in Alberta¹⁹⁴

“It is very disturbing to realize slavery is still alive and well today. We need to do what we can to reduce it and hopefully eliminate it” – former Solicitor General and Minister of Public Safety, Fred Lindsay. Human Trafficking Awareness Workshop March 25, 2009, Edmonton.

In 2006, Canada strengthened victim protection by providing foreign trafficking victims with Temporary Residency Permit and immediate access to health benefits and services. Alberta now extends Income Support Benefits to trafficked persons with a Temporary Resident’s Permit. It is the first jurisdiction in Canada to provide this support.

According to the 2008 Provincial Report on Organized Crime from the Criminal Intelligence Service Alberta, human trafficking appears to manifest itself in two distinct scenarios. The first of these is the trafficking of foreign individuals into Alberta by criminal networks. Recent investigations have revealed that women and young girls from several Asian countries have been brought to Canada under the guise of visitor or work visas. Once these women arrive in Canada, they are circulated to urban centres within the country and forced to work in the sex trade to pay off the ‘fees’ they owe their traffickers for arranging their travel. Victims of this form of human trafficking can be found within bawdy houses and illegitimate massage parlours throughout the province.

The second form of human trafficking that has been reported in Alberta is the recruitment and movement of Canadian born women by organized crime groups. Young women are recruited unwittingly into the sex trade and then appear to be circulated throughout major centres within Canada and the United States. The movement of these women is believed to be orchestrated and controlled by multiple criminal networks operating in Alberta. Information indicates that the organized crime groups may cooperate with each other on occasion and are possibly associated to a larger organized crime networks which stretch across Canada.

The Alberta Protocol on Human Trafficking for service provision outlines the various stakeholders involved in the provision of services to human trafficking victims in Alberta. It was also designed to mitigate any gaps in services a victim may experience. In this model, the victim comes to the attention of law enforcement that would then refer the victim to the Victim Service Unit (VSU). The VSU are front line responders in the case and are often called in to provide immediate crisis response following an incident in which a victim is identified.

¹⁹⁴ Action Coalition on Human Trafficking (ACT Alberta). “About Human Trafficking.” Available at: <http://actalberta.org/about-human-trafficking>

In the protocol, the Victim Service Unit acts in consultation with the Action Coalition on human Trafficking (ACT Alberta), a non-profit agency that is experienced in identifying victim needs. They also make referrals to various ministries and community agencies to access shelter, legal services, mental health services, immigration services, health services, etc. In essence, the victim is "wrapped" in services to address their many needs, including those outside the criminal justice system. This model is reliant on the collaboration of all stakeholders who meet regularly.

Human Trafficking in Canada¹⁹⁵

Canada is a source, transit, and destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labour. Canada prohibits all forms of human trafficking through ss. 279.01-279.04 of the *Criminal Code*. Transnational human trafficking is specifically prohibited by s. 118 of Canada's *Immigration and Refugee Protection Act* (IRPA), which carries a maximum penalty of life imprisonment and a \$1 million fine. For more information on Canada's varied responses to human trafficking, please visit:

Action Coalition on human Trafficking (ACT Alberta)

<http://actalberta.org>

The BC Office to Combat Trafficking in Persons

<http://www.pssg.gov.bc.ca/octip/>

RCMP National Coordination Centre on Human Trafficking

<http://www.rcmp-grc.gc.ca/imm-passp/htncc-cnctp-eng.htm>

Interdepartmental Working Group on Human Trafficking

<http://www.justice.gc.ca/eng/fs-sv/tp/p4.html#one>

Citizenship, Multiculturalism and Immigration Canada

<http://www.cic.gc.ca/english/inFORMATION/applications/trp.asp>

In the fall of 2010, the Alberta Solicitor General Victim Service Program launched a modern, on line (e-Learning), 38 module training curriculum for Victim Service Advocates. This new

¹⁹⁵ Action Coalition on Human Trafficking (ACT Alberta). "About Human Trafficking." Available at: <http://actalberta.org/about-human-trafficking>

curriculum contains a component that provides up to date information for front line Advocates in the field of Human Trafficking. Contact person is Tanya Helton @ Tanya.helton@gov.ab.ca or by phone at 780 – 427 – 3416.

Implications

The human dimension – human trafficking is a profound human rights abuse. Trafficking affects the mental and physical health of individuals and communities.

The economic dimension – developed countries will continue to be affected by human trafficking as long as economic and social inequalities exist between them and developing countries, and within the developed countries themselves.

The security dimension – growing links to organized crime has increased the risks, challenges and costs for those aiming to combat trafficking. In addition, proceeds from human trafficking may be used to fund other criminal activities, such as drug trafficking.

THE MALE EXPERIENCE OF SEXUAL ASSAULT

Sexual assault has long been considered “a women’s issue,” and cultural ideas about sexual assault make it very difficult for male victims to disclose their experiences and reach out for support. While men and women face many of the same concerns about reporting sexual assault, some issues are specific to male victims. Barriers for men include:

- Limited or non-existent treatment programs
- Lack of societal recognition that abuse happens to boys and men
- Lack of resources for men who have experienced abuse
- Homophobia (thinking that men who are sexually assaulted must be gay and that being gay is wrong).

In order to gain an understanding of men and boys’ experiences of sexual assault and sexual abuse, it is essential to address some the misconceptions about male victims of sexual violence.

Myths About Male Sexual Assault¹⁹⁶

Myth: Sexual Assault of males is a rare occurrence.

Fact: A recent study in Canada (Sexual Offences Against Children) reports that an estimated one in three boys will be sexually assaulted before the age of 18. Also, in one study involving college men aged 19 to 24, 30% admitted to being victims of sexual assault.¹⁹⁷ Both males and females are vulnerable to sexual exploitation.

Myth: Males are less traumatized by sexual violence or do not suffer to the same extent as female victims do.

Fact: After sexual assault or sexual abuse, male victims are just as likely as female victims to experience effects from the experience. Just like female victims, male victims may experience Post-Traumatic Stress Disorder, depression, suicidal ideations, flashbacks, and difficulty trusting others. Victims of sexual assault all have very personal reactions to their experiences, but they are all impacted in some way.

Myth: Males are only assaulted and abused by gay men.

¹⁹⁶ University of Alberta Sexual Assault Centre. “The Male Experience of Sexual Violence.” Available at: <http://www.uofaweb.ualberta.ca/SAC/pdfs/The%20Male%20Experience%20of%20Sexual%20Violence%202009.pdf>

¹⁹⁷ Volunteer Training Manual, Sexual Assault Centre of Edmonton

- Fact:** The great majority of perpetrators against men and boys are heterosexual men. The motivation for sexual violence is to gain a sense of control and power over another person, not to achieve sexual satisfaction. Females also commit sexual assault against males.
- Myth:** Males assaulted by another male are, or become, gay as a result of the sexual assault.
- Fact:** A person's sexual orientation does not change as a result of a sexual assault experience. Some victims do feel confused about their sexual orientation after a sexual assault or sexual abuse, particularly if they experienced physical arousal during the assault. For example, if a straight man is sexually assaulted by another man and has an erection during the assault, he may worry that this must mean that he is gay or that he wanted the sexual assault to happen. Yet, it is very common to experience arousal during a sexual assault. This arousal can be a fear response, or it can be because a healthy body usually physically responds to sexual touch, even if the touch is not wanted.
- Myth:** Males can protect themselves from being sexually assaulted.
- Fact:** Males and females alike are vulnerable to sexual assault. Because men are often physically stronger than women, some people mistakenly believe that men should be able to defend themselves. Yet, there are many ways that perpetrators commit sexual assault, and most often, coercion is used. Any person of any size or physical strength can be coerced.
- Myth:** You can't sexually assault a man because men always want and are ready for sex.
- Fact:** Sexual assault is not sex. If a man wants sex, he wants to choose who it is with and what it consists of. Sexual assault is an act of violence that takes away any choice or control the person has. Our society's expectation that men always want sex can be very damaging to male victims who therefore feel that they "should have wanted" this experience and thus cannot be upset about it.
- Myth:** Men who had an erection while being sexually assaulted enjoyed what happened to them.
- Fact:** Our bodies are programmed to respond to touch in a certain way. Just as women who are sexually assaulted may lubricate or orgasm, men who are sexually assaulted may have an erection and ejaculate. This does not mean they enjoyed the touch. Instead, it means they have healthy, normal bodies that are responding in a healthy, normal way.

Reactions to Sexual Violence¹⁹⁸

All victims of sexual violence have individual reactions to sexual assault. Yet, there are some common thoughts and experiences that many victims have.

Confusion about Sexual Identity

Sexual identity is a very important and common issue that male sexual assault victims struggle with. Many victims of sexual assault find themselves asking whether they are straight, gay, or bisexual, and wondering if the assault has influenced their sexuality. Although no one is sure how sexual identity is determined, we do know that it is not determined by the sexual assault.¹⁹⁹

Males who have been sexually assaulted often grapple with a number of questions depending on whether the perpetrator was a male or female. If the perpetrator was male, it may be harder for a male victim to trust men or develop same-sex relationships after a same-sex assault. Also, in a same-sex assault, sometimes a male victim feels that he “must” be gay and that is why the perpetrator was “attracted” to him. Heterosexual male victims may fear being perceived as gay if others find out that the perpetrator was male. Homophobia is prevalent in our society, making it difficult for male victims to disclose about their abuse or to acquire support or information.

If the perpetrator was female, the victim may have difficulty defining his experience as sexual assault. It is not widely understood that females can commit sexual assault, and our society teaches men that they should consider themselves “lucky” for receiving sexual attention from a woman. Consequently, many males exploited by females often do not label their experiences as “sexual abuse” or “sexual assault”, and may find it especially difficult to disclose their experiences. Yet, even if these victims do not define their experiences as sexual assault, they will still experience the after effects of the assault.

Many males sexually assaulted by females are ashamed to disclose about their experiences because they fear they may be seen as weak or “unmanly,” and that they should have been able to protect themselves. Yet, a female can coerce a male into unwanted sexual activity just as a male could. In addition, it is important to be aware of society’s reluctance or inability to

¹⁹⁸ University of Alberta Sexual Assault Centre. “The Male Experience of Sexual Violence.” Available at: <http://www.uofaweb.ualberta.ca/SAC/pdfs/The%20Male%20Experience%20of%20Sexual%20Violence%202009.pdf>

¹⁹⁹ Napier-Hemy, John. *When Males Have Been Sexually Abused: A Guide for Adult Male Victims*, 1994.

acknowledge female perpetrators, and this may be a result of the socialized view that women are exclusively protectors and nurturers and are not capable of violence.²⁰⁰

When a man is sexually assaulted by his partner, feelings of confusion and disbelief may be intensified. It is often the case that a male victim may reframe this as a “bad sexual experience” rather than a sexual assault. The victim may even believe the myth that men “always want sex” and feel emasculated as a result of the sexual assault because he did not want sex at that time.²⁰¹

Difficulties with Physical Functioning

It is very common for male victims of sexual assault to experience problems with sexual functioning. Painful erections, difficulty maintaining erections, premature ejaculation, lack of desire, or an obsession with sex may all stem from the male’s sexual assault experience. These experiences are a result of learning to associate sex with sexual assault; sometimes even healthy sexual feelings and contact can become triggers. Working through the sexual assault can help a victim overcome these issues.²⁰²

In addition to the difficulties related to sexual functioning, it is very possible that a male victim may also experience a number of physical symptoms after sexual assault such as: irregular eating and sleeping patterns, frequent headaches, nausea, blurred vision, choking sensations, or pains in the genital area, buttocks or back. Of course, these symptoms may not be due to solely the experience of sexual assault; however, there may be an association.²⁰³

Difficulties with Intimacy

It is quite normal for men to have difficulties with trusting others after being sexual violated. This distrust might transfer to co-workers, friends, family, those in authority, and more generally to any intimate relationship. To be sexually assaulted is a violation of trust, especially if the perpetrator was known to the victim.

It should be noted that each individual’s reactions are different and might be experienced and manifested in many forms and to different extents. It is quite possible that a male victim of

²⁰⁰ Gartner, Richard B. “Betrayed as Boys,” 2001.

²⁰¹ Napier-Hemy, John. *When Males Have Been Sexually Abused: A Guide for Adult Male Victims*, 1994.

²⁰² University of Alberta Sexual Assault Centre. “The Male Experience of Sexual Violence.” Available at: <http://www.uofaweb.ualberta.ca/SAC/pdfs/The%20Male%20Experience%20of%20Sexual%20Violence%202009.pdf>

²⁰³ Ibid

sexual violence may demonstrate all or none of the above. Again it is necessary to keep in mind that individual victims have their own personal experience, which should not be judged or criticized.

Anger and Shame

As a result of societal misconceptions and beliefs, males are “restricted” to a certain array of emotions. In our society it is quite acceptable for males to express, and even act out, their anger. It may even seem “healthy” for a male victim to express his anger; however, if emotional responses are limited to only anger, this may result in the suppression of other relevant and valid feelings. Usually anger is an emotion that is covering another deeper emotion such as hurt, shame, or fear. It is important to be able to recognize and feel these underlying emotions. Yet, males are often socialized not to show or share their emotions, and they may be teased and criticized if they do so. It is extremely important that victims have a person to talk to who can accept their feelings and not judge their emotional expressions.

Shame is also an underlying emotion commonly experienced by male victims. In our society, males are socialized to be strong, tough, and courageous, and therefore a male victim may experience shame if he feels that he did not live up to society’s ideas of “manhood.” The victim may also feel shame if he blames himself for the assault, or if he feels that he could have stopped it. Also, having a physiological response to sexual stimulation and activity often leads to feelings of shame. As mentioned above, it is normal to experience physical arousal to stimulation; however, many male victims may interpret this as if they had enjoyed, and did not prevent, the assault.

SEXUAL ASSAULT OF OLDER VICTIMS

Points to remember:²⁰⁴

1. Older victims do not report sexual assault as often as other types of abuse (i.e., fiduciary, physical, verbal, medical neglect, and so forth).
2. When one type of abuse is reported, it is important to directly ask about sexual abuse.
3. Because sex, or anything related to it, is more taboo in older generations, even using the words might be very difficult. Give encouragement and time for the victim to communicate.
4. Older victims are often not believed, even by family members, due to being seen as no longer sexually attractive or active. Sexual assault of the elderly is typically about power and control.
5. Medical or psychological problems do not make it more likely that an older victim will make a false report.
6. Older victims may be threatened with (or already fear) many things that keep them silent, including:
 - a) Being dependent on a caregiver/family member for care, medication, basic assistance with housekeeping, and finances.
 - b) Potential loss of family support, living in their own home, or loss of independence.
 - c) Threat of being put in a nursing/convalescent home.
 - d) Fear of being seen as “crazy” or “losing one’s mind” because of disbelief when abuse is reported.
 - e) Over or under medicating the elderly victim to make them confused or very sleepy so they seem less mentally healthy or cannot report.
 - f) Caregivers may have very personal information about the victim and their family, do “private” things for them (toileting, bathing), or have access to finances which can be revealed to shame the victim.

²⁰⁴ California Commission on Peace Officer Standards and Training. “POST Guidelines on Adult/Adolescent Sexual Assault Investigation.” Last updated 2008. Available at: http://lib.post.ca.gov/Publications/sexual_assault.pdf

- g) The older victim may believe it is important to protect a family member at all costs, or that it would be shameful to report a family member.
- h) Fear that they will lose their place at a nursing home if they report staff.
- i) Overt threats to say that they are “crazy” or diagnose them with dementia if they tell anyone.

LESBIAN/GAY/BISEXUAL/TRANSGENDERED/QUEER (LGBTQ) VICTIMS²⁰⁵

Points to remember:²⁰⁶

1. Be aware that sexual assault and intimate partner violence occur in the lesbian, gay, transgender, and bisexual community.
2. Some communities may use terms such as “two-spirit,” “same-gender loving,” or “men who sleep with men,” as opposed to other terms. Echo the language used by the victim, if such labelling is necessary in the interview.
3. Avoid assuming heterosexuality. If a female victim refers to her “partner,” do not say, “How long have you been with your boyfriend?”
4. Allow a partner or significant other to be in the room as a support person, under the same guidelines as would be used for a heterosexual couple.
5. Assumptions about “masculine” and “feminine” roles and gender identity are often misguided stereotypes that will not improve communication or trust with the victim. They do not provide accurate information about behaviours.
6. Do not assume that every person identifies with a sexual orientation. There are people who occasionally try other kinds of sex partners and they may object to labelling.
7. Victims of sexual assault/abuse in intimate relationships may be facing elements of control not experienced by heterosexual victims of intimate partner assault such as:
 - a. Being ridiculed about their sexual orientation, while the batterer maintains that he or she is not really gay or a lesbian.
 - b. Being threatened with being “outed” to family, friends, a boss, co-workers, a landlord, religious leaders, et cetera — an effective way of keeping people silent as homophobic views could mean extremely negative consequences (i.e., loss of relationships, loss of work/financial stability, loss of home, shame in the community, and so forth).
 - c. Having either consensual sex or acts of sexual assault, with people of the same sex, videotaped or otherwise threatened to be exposed.
 - d. The victim may have been told by the perpetrator, as part of the emotional and psychological abuse, that police would never believe him or her because of sexual orientation.

²⁰⁵ Also now referred to as SMGV people (sexual minority – gender variant)

²⁰⁶ California Commission on Peace Officer Standards and Training. “POST Guidelines on Adult/Adolescent Sexual Assault Investigation.” Last updated 2008. Available at: http://lib.post.ca.gov/Publications/sexual_assault.pdf

LGBTQ victims face homophobia and discrimination when they report a sexual assault.²⁰⁷ Police may hold beliefs and attitudes about the GLBT community, such as: the GLBT community is sexy and kinky so you should have liked that.

LGBTQ victims risk rejection from their community if they report their partner. Due to homophobia and other forms of discrimination, the community may feel the need to protect itself from exposing such crimes.

An LGBTQ victim may not have access to support services, as the abuser may access the same services. LGBTQ victims may also fear being “outed” by their partner if they report a sexual assault that occurs within the relationship. Information regarding sexual orientation is not necessarily kept confidential in court.

²⁰⁷ Penwill, Kathryn. “Reality Check: How Rape Mythology in the Legal System Undermines the Equality Rights of Women who are Sexual Assault Victims.” Commissioned for Action ontarienne contre la violence faite aux femmes. 2008. Available at: http://aocvf.ca/documents/Reality_Check_VF_WEB.pdf

ACQUAINTANCE SEXUAL ASSAULT²⁰⁸

Sexual assault is any form of sexual contact without voluntary consent, and **acquaintance sexual assault** is sexual assault where the victim knows her/his perpetrator. The offending acquaintance may be someone the victim hardly knows (e.g. a friend of a friend) or someone the victim is close with (e.g. his or her partner.)

Acquaintance sexual assault is just as serious and harmful as all other forms of sexual assault, and it is similar to all other forms of sexual assault in that it is motivated by power and control, not sex. Unfortunately, because the media typically portrays sexual assault as being committed by strangers, victims who were assaulted by someone they know often find it difficult to define their experience as a sexual assault.

Whether the sexual assault was committed by a stranger or someone known to the victim there are varying methods by which perpetrators assert their power and control. In acquaintance sexual assault coercion is one of the primary tools used to force sexual contact. In fact, coercion was used in more than 50% of the sexual assaults that were reported to the University of Alberta Sexual Assault Centre in 2006; while physical violence was used in 35% of reported assaults. Because coercion is a less clear form of violence, many people dismiss it as less serious but it is not. Verbal and emotional threats are just as damaging and controlling as physical threats. The following are examples of the many different forms of coercion:

- ⇒ Constantly putting pressure on someone
- ⇒ Making someone feel guilty for not complying
- ⇒ Refusing to take “no” for an answer
- ⇒ Threatening to withhold something or to do something to make someone comply
- ⇒ Being emotionally manipulative
- ⇒ Using body position or physical size to imply threat

Reactions to acquaintance sexual assault vary for each individual yet there are some common reactions many victims have. For instance, many victims of acquaintance sexual assault blame themselves for their assault(s). This is especially true when the perpetrator is someone who the victim trusted, and thus, she/he may question why she/he trusted that person. In some cases the victim was under the influence of alcohol or drugs at the time of the assault, and this can make the victim feel that they are to blame because they chose to get drunk or stoned. Choosing to get drunk or stoned is not choosing to be sexually assaulted. No consent is

²⁰⁸ University of Alberta Sexual Assault Centre

obtained, for the purposes of sections 271, 272, 273 of the *Criminal Code*, where the complainant is incapable of consenting to the activity. Examples of a complainant not being able to consent include when the complainant is blacked out, significantly impaired by alcohol or narcotics, is unconscious, or in a sleeping state.

Other common reactions to sexual assault are changes in everyday behaviours such as eating or sleeping. Some people react by eating more than usual, and others decrease their food intake, even drastically. Some victims start sleeping a lot more than before, others are unable to sleep well at all, and still others find it difficult to sleep at certain times of the day or are not able to get out of bed in the morning. Instead of eating more or sleeping more, some use alcohol and drugs to numb the emotional pain now feel.

It is also very common for a victim to feel unsafe and afraid more often than before. This can affect how much they go out, whom they socialize with, if they go to work or school, and so on. The emotions many victims experience after a sexual assault can at times feel overwhelming. A heightened sense of anxiety is common and can lead to experiencing panicky feelings or panic attacks. For some victims it is not uncommon to feel depressed or even go into a depression.

Recovery from acquaintance sexual assault involves a complicated and multifaceted healing process. Some issues that a victim may deal with during her/his recovery include:

- ⇒ **Safety.** It is difficult to feel safe after the betrayal of an acquaintance sexual assault. If the assault was perpetrated by a stranger, the victim could just dismiss all strangers as dangerous, but when the perpetrator is an acquaintance victims can feel unsafe even with people close to them.
- ⇒ **Trust.** In an acquaintance sexual assault the perpetrator abused the trust of the victim and thus, it is normal for the victim to feel unsure about whom is worthy of their trust now or in the future. Thus, they may have a difficult time opening up to people or establishing new relationships, whether they are intimate ones or friendships.
- ⇒ **Sexual Intimacy.** Victims of sexual assault may experience problems with, or uneasiness about, sexual intimacy right after the assault or even years after. Two common adjustments that can be seen after an acquaintance sexual assault are:

- * **Abundant Sex**

- If sexuality has been devalued in the eyes of the victim, or if the victim tried to say “no” verbally or otherwise and it was not respected, they may have learned not to

say “no” in future sexual situations. The result may be an increase in number of sexual partners in the period of time following the assault. The victim may use future sexual experiences to regain a sense of control in her/his sex life.

* **Isolation**

The victim may withdraw from having any sexual relationships, and any opportunities toward establishing relationships. They may feel too frightened at the thought of an assault happening again. They may isolate themselves from social activities for fear of making a ‘wrong decision’. Victims may feel that they can no longer trust their own judgments.

⇒ **Defining the Experience.** Our culture and our media portray almost all sexual assaults as stranger sexual assaults. Because of this, people often think of sexual assault as forced intercourse from a stranger. Victims of sexual assault are not immune to this way of thinking, and thus, can sometimes neglect to define their own experience. The further their experience was from the stranger scenario, the harder it can be to define. For example, if the assault involved alcohol, was a partner or close friend, involved unwanted sexual touch and not forced intercourse, it could be more difficult to define the experience as acquaintance sexual assault, even though it definitely was. Not defining the sexual assault as such can cause further confusion in the victim’s life because it leads her/him to feel as though she/he is “going crazy.” By not defining the experience, victims often do not allow themselves the space they need to heal, and they get frustrated when they are “not over it.”

⇒ **Minimizing and Denial.** Some victims of sexual assault deny or minimize their experience by passing it off as “just a bad sexual experience.” Although this is a useful coping mechanism, in that it allows the victim’s life to return to some kind of normalcy, denying the experience often leads to frustration later on when establishing new relationships, as issues of trust and safety often resurface.

⇒ **Disclosing.** It is hard to know who to trust to tell about a sexual assault. Unfortunately, many people hold attitudes and beliefs about sexual assault that are misguided and potentially damaging to a victim, and there is no guarantee that the person the victim chooses to disclose to will be supportive. This is most often true when the person receiving the disclosure knows the person who committed the sexual assault. Many people are not willing to hear that people they know and trust could be dangerous so they may be less likely to believe a victim or may blame them for what happened. Since acquaintance sexual assault does not fit the stereotypical stranger sexual assault situation, many potential supporters have a difficult time seeing it as sexual assault.

SEXUAL ASSAULT IN THE CONTEXT OF DOMESTIC VIOLENCE/INTIMATE PARTNER VIOLENCE

Domestic violence is often referred to as: spousal violence, intimate partner violence, and relationship violence. Intimate partner relationships vary in duration and legal formality and include current or former dating relationships, common-law relationships, married relationships and persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time.

The primary motivation of an intimate partner abuser is to maintain control over the victim. Power and control over the victim is the prime objective of the abuser. When a victim leaves an abusive situation, he/she is at greatest risk of future violence as the abuser is losing control over the victim. Sexual assault in the context of a relationship is a red flag for escalating violence in future violent occurrences.

All police services in Alberta investigating intimate partner violence occurrences must complete the Family Violence Investigation Report (FVIR). The questions on the FVIR assist the investigator in establishing potential risk factors that could increase risk to the victim. The FVIR aids in gathering related domestic violence history, both reported and unreported.

Information gathered through the FVIR will illuminate the potential risks to the victim. Safety strategies must be discussed with the victim. Information gathered through the use of the FVIR must be utilized at Bail Hearings. This ensures the judge determining bail understands the circumstances of the offence and the background of the offender in order to decide whether the offender is likely to resort to further violence or intimidation if released.²⁰⁹ Information gathered on the FVIR should be included in the General Report of the investigation and form part of the Prosecutors Information Sheet. Information gathered on the FVIR should be considered when establishing conditions for police release, bail hearings and in emergency Protection Order applications.

Police must ensure the victim is made aware that choosing to leave an abusive relationship puts him/her at greater risk. The abuser is losing control of the victim and this raises the potential for escalation of violence. Safety strategies should address responses to potential scenarios that may unfold. See “Domestic Violence Handbook for Police and Crown in Alberta” for further information on Safety Planning: www.justice.gov.ab.ca/home/.

²⁰⁹ *R v Bleile* (2000), 257 AR 207, 31 CR (5th) 275 (QB).

If the victims states he/she was also strangled, immediate medical attention should be sought as injuries of strangulation are most often symptomatic versus obvious visual signs. Refer to the Domestic Violence Handbook for Police and Crown in Alberta: www.justice.gov.ab.ca/home/. Bear in mind, victims typically will use the terminology they were “choked.”

Investigators must take into consideration that the victim may return to or remain in the abusive relationship. This is for a variety of reasons, some of which could be rooted in cultural, financial, emotional, psychological reasons. Investigators must not allow this to cloud their judgment and must recognize this is a reality for many victims of domestic violence.

Investigators must consider the potential for risk to victims of domestic violence. Subject Matter Experts in the field of investigating domestic violence cases are available to provide guidance in these types of investigations. They include Domestic Violence Coordinators, Domestic Violence Units and the Integrated Threat and Risk Centre (ITRAC).

Points to Remember:²¹⁰

1. Victims who are sexually assaulted by their partner, lover, or spouse experience trauma just like other victims.
2. Domestic violence usually includes some form of sexual violence.
3. Sexual assault victims in an intimate relationship with, sharing a child with, living with, or married to the perpetrator will often experience multiple sexual assaults throughout the relationship. They may describe these very calmly as they have become commonplace.
4. Many victims of domestic violence will not use the term “rape” or even sexual assault. They may describe a time when they were violently beaten, dragged into the bedroom, then say “then we had sex” or “I just gave in to sex to try to calm him down,” and then continue to describe more physical, emotional, and verbal abuse. More examination will be needed to get information about the coercion and real threat of increased violence that made this a sexual assault, not consensual sex.

²¹⁰ California Commission on Peace Officer Standards and Training. “POST Guidelines on Adult/Adolescent Sexual Assault Investigation.” Last updated 2008. Available at: http://lib.post.ca.gov/Publications/sexual_assault.pdf

5. Many victims are sexually assaulted in front of their children or “give in to sex” because the perpetrator says that if they do not do it, they will get one of their children to do it. Be aware that the perpetrator may be sexually abusing the children as well.
6. Many victims of domestic violence will be ashamed, especially of the sexually abusive part of the relationship, and may leave information out while reporting. Perpetrators of sexual assault/abuse in relationships make it a point to force the victim to cross her or his own moral/ethical/physical codes for what is “right” or desirable to them sexually.

APPENDICES

APPENDIX 1 – ALBERTA SEXUAL ASSAULT INITIATIVES AND RESOURCES

The Association of Alberta Sexual Assault Services' website is a useful resource for victims, police officers, Crown prosecutors, medical professionals and all community members impacted by sexual assault. Their website can be found at: www.aasas.ca

Connect Family and Sexual Abuse Services offers a one stop service to victims of sexual assault or family violence. People can call them 24 hours a day to be connected with someone who will get them to the correct service provider. They can be reached at (403) 237-5888 in Calgary or toll free from anywhere in Alberta at 1-877-237-5888. Services they connect to include:

- Calgary Sexual Assault Response Team – the health examiners on call
- Calgary Communities against Sexual Abuse (CCASA) – counselling for sexual assault victims
- Home Front – family violence support for victims and offenders
- Calgary Police Services
- RCMP
- Tribal Services

In the Edmonton-area, the Sexual Assault Centre of Edmonton is another great resource. Their website can be found at: <http://www.sace.ab.ca>

In the Sherwood Park-area, the SAFFRON Centre Ltd. can provide crises support, therapy and education. Their website can be found at: <http://www.saffron-ssac.com>. The Strathcona Sexual Assault Centre is also available to crises response, counselling and education: <http://strathcona.aasac.ca/resources.php>

In the Hinton-area, the Hinton Friendship Centre Mamowichihitowin Program deals with the root causes of abuse and treats the entire family. For more information, please call: (780) 817-4000.

Police-based Victim Service Units (VSUs) are located throughout the province of Alberta and are usually co-located with local police services. Trained victim advocates are available to provide information, support and referrals to victims of sexual assault and other crimes from the time police respond to an incident until the end of the criminal justice process. Their services are available to victims on a 24 hour basis in the event of a crisis. Victim Service Units will advise the victim of their entitlements, including the option to prepare and present a Victim Impact Statement at sentencing, applying for restitution to recoup financial losses from the offender, as well as the option to apply for a one time financial award based on injuries sustained

through the Financial Benefits Program. A listing of Victim Service Units throughout Alberta and information for victims of crime can be found at: <http://www.victims.alberta.ca>.

