

# sexual assault

## Sexual Assault

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### VICTIM SERVICE WORKER HANDBOOK



INFORMATION + RESOURCES FOR VICTIM SERVICE WORKERS



Ministry of  
Public Safety  
and Solicitor General

Victim Services and Crime Prevention Division  
Ministry of Public Safety and Solicitor General

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## whom this handbook is for

This handbook is for people who work with women and men who have been sexually assaulted. These survivors may have been sexually assaulted as children or as adults, but are seeking services as adults. While some of the survivors you are assisting may still be legally considered children, the intent of this handbook is to address the needs of survivors of adult sexual assault rather than child sexual abuse.

For assistance in working with children who have been sexually assaulted or abused, see the Violence Against Children and Youth Handbook in this series.

As a service provider using this handbook, you may be:

- A victim service worker
- A worker in a sexual assault service
- A worker in an agency that serves a specific cultural community
- A worker at any other agency or institution that serves sexually assaulted women or men

## why this handbook was developed

This handbook was developed to assist those working with survivors of sexual assault.

Sexual assault survivors need information, emotional support, and practical assistance as they make their way through a difficult and emotional process. This process may be even more difficult for a survivor who is an immigrant or Aboriginal, has disabilities, or is a member of any other diversity group. A survivor's socioeconomic class, ability, or sexual orientation, for example, may have a strong impact on her experience of sexual assault and her needs.

When offering support to survivors of sexual assault, it is important that you understand and respect the diversity of cultures with which survivors identify. This handbook will assist you to provide the best service possible to all sexual assault survivors.

Your aim will be to help survivors make use of the justice and health care systems and community resources as they choose. Experience and research indicate that survivors need information, respectful treatment, support through the justice

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process, and a coordinated approach that addresses all of their needs. This handbook will help you to provide the kind of assistance that survivors of sexual assault need.

While this handbook addresses the full range of a victim service worker's role in assisting survivors, it is not intended that it be used alone to prepare a worker to fulfill that role. It is intended that this handbook be used in conjunction with specialized training.

## how this handbook is organized

This handbook is divided into two sections:

- *Part 1* (Sections 1 to 3) deals with the context of victim service workers' work with survivors of sexual assault.
- *Part 2* (Sections 4 to 7) deals with the work itself.

There are eight sections:

- *Section 1* explores the nature, dynamics, social context, extent, and impact of sexual assault.
- *Section 2* discusses the needs of diverse communities in seeking support after a sexual assault.
- *Section 3* describes the full range of societal responses to sexual assault, including legislation, policy, services, and community coordination.
- *Section 4* provides an introduction to and overview of the work of victim services, including a discussion of rape trauma syndrome and the role of the victim service worker.
- *Section 5* deals with the survivor's initial urgent need for safety and support.
- *Section 6* describes the process and the victim service worker's role at the hospital, for treatment of injuries and collection of medical forensic evidence.
- *Section 7* covers the criminal justice process from initial police report to post-sentencing issues, including the role of the victim service worker.
- *Section 8* lists resources for information, practical assistance, and support, and provides information on how to obtain them.

There are three other handbooks that have been developed to assist and support those who work with victims of crime:

- *Victims of Crime*
- *Violence Against Women in Relationships*
- *Violence Against Children and Youth*

## guide to using this handbook

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The following icons are used throughout each section of the handbook to help you navigate the material:



**key terms** This icon appears in the outside margin when a key term or phrase is used in the handbook.



**resources** This icon appears when a book, journal article, policy or other publication is referenced in the handbook.



**scales** This icon appears when a statute, act, or a case is noted in the handbook.



**mouse** This icon appears when a website is noted on the page.



**phone** This icon indicates a key phone number, like the toll-free, 24-hour VictimLINK.



**house** This icon appears when helpful organizations, programs, ministries are noted.



**push pin** This icon appears when there is a cross-reference to another section of the handbook.



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Part 1 (Sections 1 to 3) of this handbook deals with the context of victim service workers' work with people who have been sexually assaulted.

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# 1 PART



# 1 section

## ■ ■ sexual assault: nature, dynamics, and social context □

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## what is sexual assault?



*It cannot be forgotten that a sexual assault is very different from other assaults. It is true that it, like all the other forms of assault, is an act of violence. Yet it is something more than a simple act of violence. Sexual assault is in the vast majority of cases gender based. It is an assault upon human dignity and constitutes a denial of any concept of equality for women. The reality of the situation can be seen from the statistics which demonstrate that 99 per cent of the offenders in sexual assault cases are men and 90 per cent of victims are women.<sup>1</sup>*

Sexual assault, like other physical attacks, is an act of violence. In common with other forms of violence against women and children, the crime of sexual assault is an act of aggression committed by those who are more powerful against those who are less powerful.



Those who commit adult sexual offences — in the large majority of cases, males who commit sexual assault against females — are generally motivated by a desire to exercise control over their female victims.

Sexual violence exists on a continuum: at the low end of the continuum are acts of unwanted sexual touching; at the high end are acts of rape, physical mutilation, and murder. (See *Criminal Code of Canada* in Section 3.1 for a legal definition of the three levels of sexual assault.) Social tolerance of acts at the low end of the continuum have contributed to an environment in which many members of society do not view unwanted sexual touching, including unwanted kissing, as particularly serious or even, in many cases, as sexual assault.

Traditional criminal justice benchmarks that determine the seriousness of an offence — such as the degree or threat of violence, the extent of physical injury, or financial loss — are not always obvious in sexual assault cases. Sexual

### ■ ■ ■ footnote 1

<sup>1</sup> Mr. Justice Peter Cory, Supreme Court of Canada, writing in *R. v. Osolin* [1993], 4 S.C.R. 595.



assault may not cause physical injury, but will always cause psychological damage. A woman’s long-term ability to have relationships, feel safe in the world, and earn an income may be directly affected by the crime but this may not be obvious at the time of disclosure, nor may it be easy to prove at any time.

## who are survivors of sexual assault?

Most survivors of adult sexual assault are women. In this handbook, therefore, survivors of sexual assault are generally referred to as female. This usage is not intended to imply that men are not also sexually assaulted. The information in this handbook also applies when working with adult male survivors of sexual assault.

We also know that a large proportion of sexual assault survivors are children. A significant number of these child survivors are boys. The nature and dynamics of sexual violence against children is discussed in the *Violence Against Children and Youth Handbook* in this series.



Although the highest number of sexual assaults involve women in their teens and early twenties, young women are by no means the only targets. Medical and legal records and survivors’ personal stories indicate that people of all ages are sexually assaulted, from very young children to the elderly.

A wide range of people are sexually assaulted: heterosexual women, lesbians, heterosexual and gay men, people from all cultures, people with disabilities, and people from all socioeconomic levels.

Because sexual assault can also occur within the context of marriage, wives or gay spouses may also be survivors of sexual assault.

## a historical perspective

Historically, women have been treated as second-class citizens in Canadian society and have been denied equal access to social and economic opportunities. In the past, they were expected to behave in a submissive or passive manner and were discouraged from pursuing choices that would enable them to achieve equal status with men. These social values defined and influenced family life and family roles: men were expected to be the breadwinners and women were expected to be the homemakers and sexual “possessions” of their husbands. The social attitude that a woman is a man’s property and that it is a man’s right

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to control his wife's behaviour has been embedded in male-dominated societies for centuries. It is only since 1983 in Canada that sexual assault was legally possible within marriage. Before 1983, a husband's sexual access to his wife was guaranteed in law, whether or not she was a willing participant.

The recognition of violence against women in general, and of sexual assault in particular, as a serious social problem in Canada was a result of the work of the women's movement. From the late 1960s and early 1970s, women's movement activists fought to bring attention to the issue of sexual assault and its roots in gender inequality. Rape crisis centres and early health care initiatives to respond to sexual violence date from that time.

The history of sexual assault legislation in Canada provides an interesting view of the development of social attitudes towards sex, gender, and sexual offences in this country.

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



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

Beginning in 1983, important changes were made to criminal laws regarding sexual assault. Legal reforms reflected changing social values and increased understanding of the nature and dynamics of sexual violence and society's responses. These changes were intended to emphasize the violent as opposed to the sexual or "moral" nature of sex crimes, and to minimize harassment of survivors in court. One of the intents was to remove some of the impediments to sexual assault survivors' use of the justice system.

Questions about the survivor's past sexual history, for example, are now restricted. Questions about the survivor's sexual reputation are prohibited entirely. Unlike the old offence of **rape**, sexual assault does not require penetration. Sexual assault is defined as an assault that violates the survivor's sexual integrity. This change recognizes that both males and females can be victimized in this way and gives both women and men the right to equal treatment under the law.

See the *Violence Against Women in Relationships* handbook in this series for a list of some of the important events in the evolution of British Columbian and Canadian responses to violence against women.

## section 1

### societal beliefs and values

The social context of violence against women, and sexual violence in particular, provides the key to understanding the nature and prevalence of sexual assault in Canadian and other societies. The power imbalance between women and men continues to be a significant factor in male sexual violence against women. In addition, the impacts of age, lifestyle, class, ability, racism, homophobia, and poverty on women's vulnerability are becoming increasingly understood.

### sex role stereotyping

Like other forms of violence against women, sexual assault is directly linked to sex role stereotyping and women's lack of economic and social status. The issues of power and control in sexual assault arise out of sexist stereotypes about men's "right" to dominate women in all aspects of their lives and to use violence or coercion when their authority is challenged.

On the one hand, sex role stereotyping casts women in the role of "submissive" partners in social and sexual interactions, who "enjoy" being dominated, looked after, and "possessed" by their men, and being dependent upon them. On the other hand, sex role stereotyping casts women as having irresistible sexual power over men, who, as a natural and inevitable result of women's "teasing" and "temptation," have no control over their sexual behaviour.



These stereotypical views of women and men form the basis for traditional views of marriage and of husbands' rights of access to their wives' sexuality.

### male sexual access "rights"

Many men (and women) believe that during a sexual exchange, there is a point at which a woman is "morally" compelled to have sex whether she wants to or not. The assumption is that, under certain conditions, males have a right to sexual access to women. Examples of such conditions are:

- if a man spends money on a woman in a commercial transaction (for example, prostitution) or a social situation (for example, a date);
- if a man is sexually aroused after a woman has "led him on;"
- if a woman has granted sexual access rights to someone else;
- if a woman has granted sexual access to that person on a previous occasion;

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

Nowhere is this belief in male entitlement to women's sexuality more prevalent than in the traditional concept of marriage. While laws regarding husbands' absolute sexual access to their wives have been changed, the belief persists that men are entitled to full sexual access to their wives and that women have a duty to provide sexual access when their husbands want it.

### victim blaming

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

- being in the wrong place at the wrong time;
- dressing provocatively;
- wearing a lot of makeup;
- being out late at night;
- exercising poor judgement;
- being "bad" (flirting, accepting a ride from someone she has just met, hitchhiking, drinking);
- consenting to sex with that person on a previous occasion; or
- going out on a date without permission from her parents.



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

Victim blaming has influenced many of our attitudes towards sexual assault. Until very recently, the misconceptions surrounding the supposed guilt of the survivor were reflected in our investigations, laws, and court practices. For example, as a result of legal changes, the law now defines **consent** more specifically (see *Criminal Code of Canada* in Section 3.1) and restricts defence questioning about a survivor's past sexual history.

A survivor of sexual assault may feel guilt, shame, or embarrassment as a result of internalizing feelings of self-blame. These feelings may prevent her from disclosing the assault or coming forward for help.

Belief in the guilt of a survivor may also cause a survivor's family or community to isolate her or reject her calls for assistance and support after an assault. This isolation or rejection may be more extreme in some communities where the



shame of sexual assault has far-reaching implications for the honour of the family and for the social standing or marriageability of the woman.

## widespread diversity within each community

It is the intent of this handbook to describe the most significant social and cultural factors in a range of diversity groups that may be relevant to the experience of a survivor of sexual assault. In considering these factors, however, it is important not to form a new set of stereotypes. While there are shared values, beliefs, and experiences within each of the cultural or other diversity groups, there is also widespread diversity within each community or group. Social class, religion, education, urban or rural origin, and work experience are just a few examples of sources of diversity within each group.

There are also individual differences. For example, one woman's experience within her extended family or community after a sexual assault may be one of support and protection, whereas another woman's experience may be one of isolation and denial. Family or community reactions may vary depending on, for example, when the family immigrated, how long they have been in Canada, their experiences in their home country, the circumstances of the assault, or whether or not the suspect is a member of their own community.

## some Canadian facts

Many of the following statistics are based on police statistics. Police statistics represent only a small portion of all sexual offences and offenders. Victimization surveys suggest that as many as 90% of all sexual offences are not reported to the police. In addition, police statistics under-represent even reported sexual offences because only the most serious offence (MSO) in a particular incident is reported to Statistics Canada. For example, if a sexual assault (with a maximum penalty of 10 years) is committed in the context of a robbery with a weapon or a forcible confinement (both with maximum penalties of 25 years), even if the motivating factor for the crime was the sexual assault, the crime reported to Statistics Canada is likely to be the non-sexual crime.

When reviewing these statistics, it is also important to keep in mind that a large majority of victims of sexual assault reported to police are children. Six out of every 10 victims (61%) of sexual offences reported to police in 2002 were under 18 years old (*The Daily*, Statistics Canada, July 2003).

## incidence

- In 2002, a total of 27,100 sexual offences were reported to police in Canada, representing a rate of 86 incidents for every 100,000 people (*The Daily*, Statistics Canada, July 2003).



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- Thirty-nine percent of Canadian women have been sexually assaulted since the age of 16. (*Dangerous Domains: Violence Against Women in Canada*, Holly Johnson, 1996)
- Victims of sexual offences knew the accused in 80% of cases. About 10% were assaulted by a “friend,” while 41% were assaulted by an acquaintance. Twenty-eight percent were assaulted by a family member, while the remaining 20% were victimized by a stranger. (*The Daily*, Statistics Canada, July 2003)

### classification of sexual offences

- In 2002, sexual assault Level 1 offences (the least serious of the three levels of sexual assault) accounted for 88% of all sexual assault incidents in Canada. “Other sexual offences,” which are primarily offences against children, accounted for 10%, and sexual assaults Level 2 (sexual assault with a weapon) and Level 3 (aggravated sexual assault) accounted for the remaining 2%. (*The Daily*, Statistics Canada, July 2003)
- In 2003, of a total of 3,700 sexual assaults and other sexual offences reported in British Columbia, 90% were classified as Level 1 sexual assaults, and 2% were Level 2 and Level 3 sexual assaults. The remaining 8% were other types of sexual offences, such as sexual touching or interference, sexual exploitation, and incest. (Ministry of Public Safety and Solicitor General, Police Services Division, 2004)



See *Criminal Code of Canada* in Section 3.1 for a discussion of the legal definitions of sexual offences.

### sexual offenders

- Of the 1,342 people charged with sexual offences in British Columbia in 2003, 85% were male adults, 1% were female adults, almost 14% were male youths, and less than 1% were female youths. These percentages have remained stable over time. (Ministry of Public Safety and Solicitor General, Police Services Division, 2004)
- In adult court, individuals charged with sexual offences are less likely to be found guilty than those charged with other violent offences. Once convicted, however, sexual offenders in adult court are more likely than other violent offenders to receive a prison sentence. (*The Daily*, Statistics Canada, July 2003)

## women with disabilities

- Current statistics that specifically address sexual violence against women with disabilities in Canada are difficult to find. A number of factors, however, such as communication difficulties, fear of not being believed, or fear of losing the services of a caregiver, likely result in even lower reporting rates for people with disabilities.
- What research has been done indicates high levels of abuse of women with disabilities. For example, in one study, 53% of women with disabilities from birth had been raped, abused, or assaulted (Lynn & O’Neill, 1995).
- It is estimated that women with disabilities are 1.5 to 10 times more likely to be abused than non-disabled women, depending on whether they live in institutions or the community (National Clearinghouse on Family Violence, 1992).

## immigrant women

Current Canadian statistics are similarly lacking with respect to immigrant women. Factors such as inability to speak fluent English, lack of interpreters to assist in a crisis situation, lack of understanding of Canadian laws and services, distrust of police authorities, fear of deportation, fear of racism, and loyalty to their family or cultural community may prevent many immigrant women from reporting sexual assault.



This problem is made worse by the fact that Canadian victimization surveys generally have been done by telephone, which restricts respondents to those who are comfortable speaking English or French on the telephone.

## sex trade workers

- A survey of street-involved women in Vancouver’s Downtown Eastside revealed that 62% had been sexually assaulted on the job during the previous six months. Three-quarters of these had sought help following their victimization; 49% had reported to police and 42% had gone to hospital. (Currie, Lalibertie, Bird, Rosa, & Spring, 1995)
- A study of sexual assault survivors presenting to local hospital emergency departments and police between 1993 and 1997 found that one in five was a sex trade worker. These survivors were also more likely to be severely injured and younger than other sexual assault survivors. (Dumont & McGregor, 2004)

## older adults

- Although research is lacking in this area, all indications are that most violence against older adults is not reported to police. According to Statistics

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Canada, older adults are significantly less likely than other age groups to be victims of violent crime reported to police, and the rate declines with increasing age. Reasons for non-reporting may include higher levels of cognitive impairment and institutional living with increasing age.

- A 2002 study of 94 police departments representing 56% of national reported crime showed that:
  - the oldest seniors (85-89-year-olds) had the lowest rates of family violence reported to police (8 victims per 100,000 females; 4 per 100,000 males);
  - older females were more likely than males to be victims of family violence (65% of 1,100 older adult victims were female); and
  - very few of those who were victims of either family or non-family violence reported to police were reported to have been sexually assaulted.

(*Family Violence in Canada: A Statistical Profile 2004*, Statistics Canada)

### Aboriginal women

Aboriginal women were more likely than other Canadian women to report violence from a spouse: 25% of Aboriginal women were assaulted by a current or former partner during a five-year period, which was three times the rate for non-Aboriginal women (*Family Violence in Canada: A Statistical Profile 2001*, Statistics Canada). Although sexual violence was included as one of the forms of spousal violence, it was not analyzed separately.



## the impact of sexual assault

### impact on women

Sexual assault is primarily a gender-based crime, impacting women's lives far more than it does the lives of men. Sexual violence has a detrimental impact on women's ability to participate equally in society. The threat of sexual assault restricts the freedom of movement and economic opportunity available to all women. Women report that fear of sexual assault affects their social activities, the way they dress, their relationships with men, their choice of home, and the way they use public space and community facilities.

The *1999 General Social Survey on Spousal Violence* found that 65% of women worried about their safety after dark while using or waiting for public transportation, compared with 29% of men. Significantly more women than men felt unsafe walking alone at night or being at home alone at night.

## impact on survivors

The impact of sexual assault on a survivor will vary based on individual circumstances, including her culture, her family ties, her support system, her age, the response of the people with whom she comes in contact after the assault, and, of course, the nature of the assault itself.

In general, however, the impact of sexual assault on its survivors is far-reaching, affecting their physical and emotional health; their self-esteem; their relationships with family, friends, and the rest of the world; and their ability to work and carry on the normal activities of everyday life. (See Section 4.7 for a discussion of how a survivor can inform the court about the impact of the crime on her and her life, through the use of a victim impact statement.)

## impact on the survivor’s family and friends

Sexual assault affects not only the survivor but also those closest to her, frequently touching on their own fears and misconceptions. Family members, including partners, may experience reactions similar to those of the survivor: feelings of anger, helplessness, shock, disbelief, guilt, fear, or shame.

They may feel angry with themselves (“If only I had gone with her!”), or with the woman (“Why did she go there alone?”), or with the offender (“If I get my hands on that bastard, I’ll kill him!”). They may feel that they or the family are tainted by the shame associated with sexual assault in some families or some cultural communities.

It is often difficult for a partner, other family member, or close friend to witness the pain of the sexually assaulted woman. It can be agonizing to allow the woman to experience her pain fully without trying to “make it better.”



## financial impact on society

The economic costs to society of violence against women are difficult to determine but what studies have been done concur that the costs are huge. Two Canadian studies have estimated the costs to be \$1.5 billion for annual measurable costs with respect to health and well-being (Day, 1995) and \$4.2 billion for partial costs for social services, education, criminal justice, labour/employment, and medical/health services (Greaves et al., 1995).

A study undertaken in BC estimated the partial annual costs of violence against women to be \$385 million, and approximately \$1 billion annually if health care, child services, court costs, and the effect of intergenerational violence are considered (Kerr & McLean, 1996).

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The trickle-down effects of the impact of violence against women on already overloaded health and social services are significant for all users of those systems as well as for the overall economy.

### dynamics of sexual assault

#### power and control

Sexual assault is more about power and control than it is about sex. The dynamics of sexual assault are the dynamics of a more powerful person controlling a less powerful person, dominating that person, and taking what he wants without regard for the feelings or wishes of the less powerful person.

Typically, the sexual assaulter uses fear, intimidation, violence, threats, or other forms of coercion to get what he wants. He may use a victim's behaviour (for example, "flirtation," "provocative" dress, or the fact that she is in a bar alone) to justify his actions. He may invoke the myth of "the natural order of things" to justify male domination of a female's sexuality. If the abuser and the survivor are in a relationship, the abuser may use a sense of "ownership" over her to justify his behaviour. Or, he may take advantage of a woman's inability to exercise any control over the situation because of sleep, drugs, or intoxication. In any case, the typical pattern is that the sexually assaultive person overpowers the sexual assault survivor in one way or another.



#### power-based crimes

Sexual assault is a **power-based** crime. Typically, power-based crimes occur in situations where there is some form of power imbalance, when the perpetrator has a need to impose power or to abuse the power that he or she already holds over the victim and the victim feels powerless to stop the abuse. Most often, perpetrators have a sense of entitlement or ownership over their victims that enables them to justify their controlling and abusive behaviour. This sense of entitlement may be based on gender, on age, on social position, or on the role one partner plays in a relationship.

Issues related to gender, age, race, culture, poverty, ability, and/or sexual orientation combine with the abuse of power to produce power-based crimes. In sexual assault, gender most often (but not always) plays the primary role as the source of power. In these situations of abuse of power, men feel that they have a right or a sense of entitlement to women's sexuality.

Victims of all crimes feel that as a result of the experience, their ability to act or make a free choice has been denied. Victims of power-based crimes often feel that their ability to act and make choices in every aspect of their lives has been

undermined. Because of the ongoing nature of the abuse, this is particularly true where the abuse occurs in the context of an intimate relationship. It may also apply, however, when a stranger or acquaintance assaults a person sexually, as the act of sexual assault undermines a victim's sense of herself and her personal boundaries, trust in others, and ability to control what happens to her.

### most victims and offenders know each other

Contrary to the myth of the sexual assaulter as a stranger who attacks his victim in the street, most victims of sexual assault know the person who assaulted them. Estimates vary, but all statistics confirm that in the significant majority of cases, sexual assault victims and offenders know each other. This was the case in 80% of cases in Canada in 2002 (see “Incidence” in Section 1.5). In over 50% of sexual assault cases in 2002, victims were assaulted by friends or acquaintances, and 28% were assaulted by a family member.

The fact that so many victims know their assailants emphasizes the reality of sexual assault as a power-based crime in which assailants use dynamics of power and control to manipulate, coerce, and ultimately assault their victims.

### sexual assault within an intimate relationship

Sexual assault often occurs in an intimate relationship, as part of a continuum of abuse. The continuum of violence can range from emotional abuse and bullying to the occasional slap to rough sex to physical assault, rape, and even murder. The sexual abuse may form part of a complex dynamic of power, control, and abuse that increases in intensity as time goes on.



Often, when a woman finally tells medical staff about the abuse or reports the assaults to police, she may report only the physical abuse, feeling too much embarrassment or shame to report the sexual assaults. Injuries resulting from sexual assault can often be more easily hidden than those resulting from physical assaults. Even when a person does report sexual assault within an intimate relationship, the police may decide to proceed with the physical rather than the sexual assault, as it may be easier to prove. For these reasons, sexual assault within a relationship is significantly under-reported in police statistics.

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### sexual assault, family dynamics, and friendships<sup>2</sup>

Family members, including the survivor’s partner and children, and close friends may feel a range of emotions similar to those felt by the survivor, including sadness, grief, loss, fear, and anger. Feelings of anger and blame may be directed towards themselves, the survivor, or the suspect.

It is important for family members and friends to be able to voice these reactions to the sexual assault in a safe way, rather than internalizing them or blaming the survivor. They may need to clarify their feelings and perhaps break down some of their personal misconceptions about sexual assault. Refusal to discuss the sexual assault or pretending that it didn’t happen because of a belief that an assault brings shame on the family is a reaction that the survivor may have to deal with in some families or communities.

While it is perfectly natural to feel angry, family members may need some assistance in directing anger at the appropriate person – the offender. People often distance themselves from their own feelings of anger, shock, or powerlessness by judging or blaming the woman who has been assaulted. This tendency to blame is reinforced by the widely held misconception that somehow the woman asked or deserved to be assaulted. If family members blame the woman in any way, it will only hinder her recovery.



Family members may want to protect the survivor after the assault. Initially, the woman may ask for and appreciate this protection. Eventually, however, her family may be overprotecting her, making sure she is never alone, always escorted, or never out at night. This can be isolating and stifling for the survivor, who needs to feel that she is working towards normalizing her life.

Difficult though it may be to witness a loved one suffering, it is nevertheless essential that both family and friends give the woman room to experience her pain without constantly intervening to “make things better.”

A partner, in particular, may feel obliged to be patient, supportive, and available 24 hours a day. This sense of obligation, particularly in intimate relationships, can lead to feelings of resentment if the disruption arising from the sexual assault continues over a long period of time.

The sexual assault will inevitably introduce changes into a woman’s sexual relationships. Sexual assault leads to an extremely stressful situation around

#### ■ ■ ■ footnote 2

<sup>2</sup> Parts of this list are adapted from *Let’s Talk About Sexual Assault* (Victoria Women’s Sexual Assault Centre, 1989).



intimate relationships, and a woman's partner may find that personal issues are intensified, particularly because of the sexual nature of their relationship.

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

- **Disgust.** He may feel that his partner has been "soiled" or "damaged" and is now sexually undesirable. This reaction will interfere with a survivor's ability to regain a feeling of self-worth and will damage the relationship.
- **Mistrust.** Regardless of the survivor's non-compliance with the assault, her partner may feel that she was deliberately unfaithful and thus reject her, or become sexually coercive with her.
- **Blame.** He may assume that she allowed the assault by not resisting enough. This accusation questions her judgement and promotes her self-doubt.
- **Lack of interest.** He may feel that she has overreacted, leaving her feeling isolated by his lack of understanding or blamed for her reactions.

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



## secondary victimization

Secondary victimization results from inadequate responses to victimization on the part of family, friends, service providers, or the criminal justice system.

The survivor may feel a sense of injustice resulting from lack of information; lack of safety measures; perceived lack of interest by the police, courts, or corrections; delays in the court process; lack of contact or response from the appropriate players in the system; or loss of income or job resulting from the impact of the assault.

She may feel a sense of indignity because of having to undergo a sexual assault medical or medical-forensic examination or a police investigation that involves questioning about very private matters. She may have been treated disrespectfully by hospital or justice personnel, or she may have lacked support from a victim service worker, interpreter, or special needs support worker during these procedures.

She may feel isolated by family, friends, or others who may blame her for the

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assault or may exclude her because of their own fears, suspicions, insecurities, or feelings of vulnerability. Her isolation may be heightened by the discomfort others feel in talking with her about the incident or by being excluded by people who believe that the incident has made the survivor or her family “different” in some way, and less socially desirable.

### common misconceptions<sup>3</sup> about sexual assault

Sexual assault is a crime of violence, the imposition of power over another person, whether male or female, against that person’s will. It is usually an expression of angry, hostile emotions. It can happen to anyone.

For a number of reasons, however, the crime of sexual assault is shrouded in secrecy and misconceptions. The sexual nature of the crime; the complex roles that sex, gender, and power and control play in our society; the fact that sexual assault is usually committed in private; and the fact that survivors often feel high levels of shame and embarrassment are all factors that contribute to misconceptions surrounding this crime.

#### ***"It could never happen to me."***



There is a potential for any woman to be sexually assaulted. Females of every age, race, social class, religion, sexual orientation, occupation, educational level, and physical description are assaulted. Males — men or boys, heterosexual or gay — are also assaulted.

#### ***"Most sexual assaults occur as a “spur of the moment” act, in a dark alley, at the hands of a stranger."***

Most sexual assaults occur in a home and most are committed by someone known to the survivor — a relative, friend, neighbour, or other acquaintance of the woman.

#### ***"Sexual assault is primarily a sexual crime."***

Sexual assault is a physical assault that is acted out sexually. It is a crime of violence that is primarily about power and control rather than about sex. Sex is used to dominate and control the victim.

### ■ ■ ■ footnote 3

<sup>3</sup> Parts of this list are adapted from *Let’s Talk About Sexual Assault* (Victoria Women’s Sexual Assault Centre, 1989).

***"Women secretly want to be raped."***

Women do not want to be raped. Women who fantasize about sexual assault usually think of it only as aggressive sex. Their fantasies do not reflect the reality of rape: a violent, terrorizing, and humiliating assault.

***"Sexual assault happens only to young women."***

Although young women are the most vulnerable to sexual assault, females of all ages from infancy to old age are survivors of sexual assault. Men and boys are also sexually assaulted.

***"Once men are "turned on" sexually, they have no control over their actions. Therefore, women who dress or act provocatively have only themselves to blame if they are raped."***

No woman is ever responsible for her own sexual assault. Men who commit sexual assault are not out of control; they are making a choice. Gender stereotyping and social acceptance of men's sexual entitlement contribute to a culture where abusers think they can get away with sexual assault.

***"No" does not really mean "no."***

"No" does mean "no." In law, a man must take reasonable steps to determine whether a woman is giving her consent to sex. If she does not consent, and the man goes ahead anyway, that is sexual assault.

***Women with disabilities are less likely to be assaulted.***

Women with disabilities are particularly vulnerable and are therefore more easily accessible to assailants. They may be less able to disclose and/or less likely to be believed.

***"Men in some cultures are more sexual and therefore more likely to commit sexual assault."***

This misconception is based on racist stereotyping. Gender stereotyping, gender inequality, and a belief in men's entitlement to sex from women are common in all cultures, but sexual assault is not acceptable in any culture.

***Sexual assault is not possible within marriage.***

Until January 1983, it was true that husbands could not be charged with the rape of their wives. Now, however, it is against the law for one spouse to force the other to engage in sexual activity.

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*Sexual assault doesn't happen in same-sex relationships because: a woman cannot rape another woman; lesbian and gay relationships are always more equal and less prone to sexual violence; without a penis, it isn't rape; women are not violent; it's not really violence when two men fight — it's just boys being boys or a fight between equals.*

Power and control dynamics, abuse of power, and violence occur in same-sex relationships just as they do in heterosexual relationships. Sexual violence occurs in same-sex relationships just as it does in opposite-sex relationships, and when it does, it is just as serious. Sexual assault can take many forms and does not depend either on a penis or on penetration.

■ ■ diversity as a factor in disclosing assault, seeking help, and making choices

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# 2 section



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### introduction



During the past 20 years, there has been growing recognition of the many diverse and varied experiences and perspectives that make up Canadian culture. Many values and beliefs are the same across cultures, but the way in which these are expressed may be culturally determined.

We often make assumptions about what women from cultures other than our own believe and value. We all have a responsibility to ask questions and clarify assumptions before presuming to know how a particular woman feels or will react to a particular situation.

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



Nevertheless, there are certain characteristics or reactions that may be shared among members of certain diversity groups. Being aware of these, while carefully guarding against stereotyping, may assist you in providing the best possible service to all survivors. For example, in some cultures, emotional reactions may be carefully controlled in public. This controlled response can be misinterpreted as evidence that the assault did not really affect the woman or even that it did not occur. Understanding that such a controlled response may be a cultural response to trauma may prevent such a misinterpretation.

See Section 8 for resources that will provide more information about some of the issues facing members of the diversity groups discussed in this Section.

### understanding privilege

An important step in understanding and respecting the diversity of cultures and lifestyles of the survivors with whom you work is understanding how the dominant culture grants privilege to certain groups above others. The term **dominant culture** is used to refer to the culture created in a particular area by the group that controls key institutions, including politics, religion, education, and media. These institutions all play major roles in shaping culture.

The dominant culture in Canada has generally considered white, Christian,



heterosexual, able-bodied males as the norm by which to judge all others. This is the group of people that still holds most of the power in Canada — and that therefore continues to be the most privileged.

No matter what a woman’s cultural context is, her experiences of assault will be directly influenced by her experiences of discrimination, oppression, and exclusion. For example, a sex trade worker may reject your suggestion to report to the police because of her past experiences with the justice system. An Aboriginal woman who has been assaulted may experience her assault in a particular way because of her parents’ experiences of residential schools.

Victim service workers are challenged to create an environment where everyone feels welcome, included, and accepted. In order to provide support to women from diverse cultures, you need to be aware of the visible and invisible barriers that these survivors face, including your own biases.

In order to enhance your effectiveness with survivors from all groups in society, you need to seek a better understanding of how your attitudes and feelings have been influenced by sexism, racism, heterosexism, homophobia, classism, ageism, and ableism.

In working with women from diverse communities or with unique needs, it is also important to be familiar with appropriate community resources (see Section 8).



## being sensitive to diverse communities’ unique needs

### Aboriginal women

As a group, Aboriginal people have experienced and continue to experience the effects of discrimination and racism. It is critical, however, to approach each Aboriginal survivor as an individual who has a unique set of cultural traditions and practices. Some Aboriginal women will want to access and use traditional approaches and culturally specific strategies as part of their support and healing process, while others will not. While some Aboriginal women may welcome alternatives to the mainstream legal system, such as healing or sentencing circles, others may consider that such alternatives minimize the seriousness of the crime that has been committed against them.

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Many Aboriginal survivors are wary of accessing services because they have experienced discrimination and racism by social and legal institutions. If their assailant is Aboriginal, they may be reluctant to report him to a system that has historically discriminated against him. As a result, Aboriginal women may not want to discuss the assault with a mainstream service provider.

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

- Stereotypical attitudes towards Aboriginal people
- The impact of residential schools on Aboriginal communities
- Distrust of “white institutions,” including the civil and criminal justice systems
- Family or community denial of the violence
- History of multiple forms of abuse (child sexual abuse, violence against women in relationships, sexual assault)
- Multiple barriers such as substance abuse, mental health issues, or use of violence towards peers or children arising out of their own victimization
- The victim’s involvement in the sex trade
- The victim’s fear or history of apprehension of her children
- Fear of being isolated or shamed by her community for reporting the assault
- Lack of confidentiality within the community
- Lack of services and support in remote communities
- Lack of phones and other forms of communication
- Illiteracy

The needs of Aboriginal women who have been sexually assaulted are the same as those of other women: to be heard, to be respected, and to be safe. Some Aboriginal women prefer to obtain services from an Aboriginal organization or agency, while other Aboriginal women have indicated that they prefer to access mainstream services for reasons of confidentiality.

Some Aboriginal women may prefer “one-stop shopping” rather than being referred to different organizations and agencies, each with unique boundaries and mandates. Some may prefer to receive services in their homes rather than having to set up an appointment in the community. The extended family or elders may also play an important role in providing assistance and support, a role that may be particularly significant in the woman’s safety strategies and planning.



Of interest is the *Gladue*<sup>1</sup> case in the Supreme Court of Canada, which reflected a consideration of the special circumstances of Aboriginal offenders (see “Aboriginal offenders” in Section 7.10).

## immigrant and refugee women

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Isolation is a factor for all women who experience violence. For immigrant and refugee women, the isolation may be compounded by language and cultural barriers, racism, distance from families and friends, lack of knowledge about the justice and social service systems, fear of authorities, and reluctance to speak publicly about intimate subjects such as sexual assault. Immigrant and refugee women may also be dealing with the impact of changes in status and occupation when they arrived in Canada, the aftermath of trauma experienced in their country of origin, intergenerational conflict, culture shock, lack of supportive relationships, challenges to traditional family roles, and the ongoing process of adaptation.

Immigrant and refugee women will likely have many fears about the consequences of disclosing sexual assault, especially if the assaulter is a spouse, a family member, or a member of the same cultural community. Fear of bringing shame to herself, her family, or her community, and fear of isolation and economic hardship, may prevent her from disclosing the assault or seeking help. Many women fear that they will be disowned by their family if anyone finds out about the sexual assault. In some cultures, virginity is such a virtue that if a woman is raped, she is thought to be of less value.



For many women from developing countries, just being able to immigrate to North America is a major achievement. If the woman’s status changes and she is no longer acceptable in her community, she may experience great shame and humiliation.

Extended family members may experience divided loyalties or fear that the woman’s actions will put the rest of the family in jeopardy. Even in families where the sexual violence is condemned, seeking assistance from outside the family may not be supported. Many immigrant and refugee women come from cultures where there is a belief that there is no place for the law in such intimate matters or where the legal system is not to be trusted.

### footnote 1

<sup>1</sup> R. v. Gladue (1999), 133 C.C.C.(3d) 385; [1999] 1 S.C.R. 688 (S.C.C.)

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If the sexual assault is occurring within a marriage, the threat of sending a woman back to her country of origin can give an abuser a powerful weapon to use against her. If she also has a fear of her children being taken away, her compliance and fear of reporting the abuse may become even greater.

Refugee women, picture or mail-order brides, visiting students, temporary workers, tourists, and women sponsored for entry into Canada are particularly vulnerable, as they have no permanent status until their immigrant applications are processed and approved.

For immigrant and refugee survivors of sexual assault, practical barriers to seeking assistance may include:

- Lack of English-language skills
- Lack of knowledge about their options and options for their family members
- Lack of knowledge about immigration and refugee laws and rights
- Lack of culturally appropriate services in their own language and professional, confidential interpreter services
- Lack of immigrant or refugee status
- Systemic discrimination and racism
- Difficulty in obtaining employment that will maintain their dignity and support them and their children
- Dependence on their sponsors for financial and emotional support
- Lack of childcare services

### women of colour

It is important to differentiate between women of colour who were born and/or educated in Canada and immigrant and refugee women of colour who are relatively new to Canada. Be careful not to make the assumption that all women of colour are recent immigrants to Canada or that all immigrant women are women of colour. Also, women of colour represent many different cultures and religions; it is important not to assume, for example, that all black women are immigrants from the West Indies or from Africa.

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

## women from faith communities

For many women from faith communities, spirituality is an important part of life. Practising their faith creates hope and helps them to maintain a belief that life has meaning and purpose. For women in these communities who are sexually assaulted, their faith or spirituality may be the constant that enables them to remain optimistic and feel supported and comforted. For such women, churches, temples, and mosques may offer valuable support.

Acceptance of one's fate is a common aspect of many faiths, and this perspective can stop women from disclosing what has happened and seeking help. Women from faith communities that discourage divorce may be ostracized by their communities if they leave their partner, even if sexual assault is part of that relationship.

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

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

## women with disabilities

Some disabilities are visible; others are not. Disabilities can be physical or mental, and can include learning disabilities that may not be immediately noticeable but may, for example, impact a woman's ability to absorb information you are giving her.

In the case of some women with disabilities who are being sexually assaulted by their husbands, the abuse began before they became disabled. The same dynamics of power and control may have been operating in the relationship long before they became physically dependent on their partners. Their physical dependence may have made matters worse, however, in terms of both the abuse itself and their ability to get out of the relationship.

Where women with disabilities have to rely on others to help them with mobility, toileting, eating, bathing, or other daily tasks, this dependence increases their chances of being sexually assaulted.

A woman's dependence upon a person who is sexually assaulting her — for care and for the opportunity to stay in a home that may have been specially

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adapted — makes leaving very difficult. The woman will need information about alternative sources of housing and care, if they exist, as well as other options that may be available to her.

Many women with disabilities have been isolated from sources of social support and assistance. These women may be unaware of what is available to them and, in some cases, may not be able to make the necessary phone calls. Many women fear being dependent on anyone outside the family and may believe that staying in an abusive relationship is a better option. Some women may feel that a non-disabled person would not understand or empathize with them.

Access to services, including physical access and information materials that are accessible to those who are sight-impaired or hearing-impaired, is often incomplete or non-existent. While many facilities are wheelchair-accessible, some are not, and many organizations do not have the necessary equipment or adaptations to meet the needs of women who are visually or hearing-impaired, developmentally disabled, or non-verbal. This severely limits the options available to these women.

See “Other relevant legislation” in Section 3.1 for legislation intended to protect people with disabilities.



### women from the deaf community

Deaf women may identify being deaf as belonging to a specific culture and speaking a specific language, and not as having a disability.

Specific needs of deaf women who have been sexually assaulted may include:

- Availability of sign language interpreters for interviews and court appearances
- TTY and TRS systems to enable them to make and receive calls (see Section 8 for details of these services)
- Information materials and forms written in plain language
- Referrals to services that have experience working with deaf women
- Respect for how they define themselves and their deafness

### lesbian, gay, and bisexual survivors

Most people in same-sex relationships identify as lesbian, gay, bisexual, two-spirited, or queer, but some people may not identify with any of these terms. Here, for simplicity, we refer to people in same-sex relationships as **LGB**.

LGB survivors of same-sex sexual assault experience the same traumatic effects as do survivors of opposite-sex sexual assault. Stereotyping of LGB people

and their relationships, however, combined with myths about violence in LGB relationships, creates an atmosphere of disbelief, denial, shame, and minimizing about same-sex sexual assault. Homophobia denies the reality of LGB people's lives, including the seriousness of sexual assault.

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Very limited services exist specifically for sexually assaulted LGB people. While some women's anti-violence programs will provide services to lesbian or female bisexual survivors of sexual assault (although often without an understanding of the unique issues they face, such as homophobia), there are few or no services for sexually assaulted gay or bisexual men.

In disclosing sexual assault and seeking services, some LGB people may face a choice between lying about their sexual orientation or **coming out**, which is a major life decision. LGB people may fear that if they reveal their sexual orientation to service providers, they may run the risk of their families finding out or of losing their homes, jobs, reputations, or custody of their children. Older people, in particular, may never have "come out" and may find it very difficult to be open about their lives with health, social service, or justice system personnel. Heterosexual friends, family, and service providers may blame survivors, their sexual orientation, or their sexual practices for the assault.

LGB survivors of same-sex sexual assault often feel an enormous amount of shame and self-blame for being sexually assaulted by someone of the same gender. Myths about LGB people as pedophiles, child abusers, psycho-killers, and unhealthy people all combine to influence the LGB experience of same-sex sexual assault. LGB people are inundated with messages that imply overtly or covertly that they are abnormal and shameful.



LGB survivors of same-sex sexual assault may not speak about the experience for fear of being accused of betraying the LGB community. They may feel internal and external pressure to present a strong, healthy, non-violent picture of their community to counter homophobic and heterosexist images. Denial and disbelief from within the LGB community on the one hand, combined with homophobia and heterosexism in the larger society on the other hand, leave many LGB survivors even further isolated from crucial support.

An LGB person may be dependent on her or his partner for financial assistance and support. A same-sex couple may have pooled their earnings and assets but without the necessary legal protection. In disclosing sexual assault within a same-sex relationship, an LGB survivor may have an additional fear of losing the relationship that confirms her or his sexual orientation.

In addition, many lesbian or female bisexual survivors of sexual assault in their same-sex relationship have indicated that they did not necessarily think of

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using the language of **sexual assault**, **rape**, or **sexual abuse** to describe their experience because they associated this language with male violence against heterosexual women and penetration by a penis.

For all these reasons, most LGBT survivors are unlikely to disclose experiences of same-sex sexual assault or coercion. Those who do often feel intense shame for discussing such a forbidden subject.

### transgendered survivors

One of the first tasks in providing services to **trans** victims is to understand terms used by the trans community.

**Trans** refers to people who break away from society's basic expectations about sex and gender, including the expectation that everyone is either a man or a woman, that gender is fixed, that gender is rooted in physiological sex, and that our behaviours are linked to gender. An example of a trans person would be someone who is biologically male but who thinks of himself as a woman.

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

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



People who are visibly trans often experience abuse or abandonment by family, friends, and communities of origin. Out of fear of discrimination and internalized stigma, many trans people remain **closeted**, choosing not to publicly reveal their gender identity. The intense pressures and pain associated with passing as non-trans and the systemic abuse and discrimination resulting from not passing cannot be overemphasized for trans survivors. Trans prisoners and sex trade workers are particularly vulnerable to discrimination and sexual assault.

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

- Emotional barriers, such as their own denial, minimization of the incident, embarrassment, or shame
- Social factors such as assumptions that they won't be believed, fear of state intervention such as removal of children, or past negative experiences with systems
- Disproportionately high incidence of depression, HIV infection, poverty, alcohol and drug abuse, suicide, high school dropouts, and street-involved people
- Fear of being ridiculed by police, a belief that there is nothing police can do

to protect them, or fear that if they report a crime to police their status as trans will be made public by the perpetrator or through the legal process

- Discomfort with using a service that has no history of being open or supportive to trans people or that does not appear to be inclusive

A significant barrier to trans survivors' accessing anti-violence and related services is the services' adherence to conventional definitions of gender. Survivors who fall outside of these definitions are routinely denied access to even the most basic care and support that these systems may offer. Some anti-violence organizations may require outing oneself or presenting as the "acceptable" gender in order to obtain services.

In the aftermath of a sexual assault, trans survivors often experience emotional pain and humiliation beyond that experienced by non-trans survivors:

- Describing the sexual violation that took place is painful for all survivors. For someone who has gender dysphoria (an emotional state characterized by anxiety, depression, or unease) or other discomfort relating to body parts that were violated, it can be even more traumatic.
- Trans people may be very distressed by having to reveal their genitals for a medical exam or rape kit. A trans survivor of sexual assault may need intensive support at this time. Every effort should be made to allow a trans survivor to choose the gender of the person conducting the examination.
- A female-to-male (FTM) who has a uterus and one or more ovaries may be able to conceive. For those taking hormones, if the dosage of testosterone is too low to act as a failsafe contraceptive, other options should be explored, preferably with assistance from an endocrinologist or other medical professional with experience in hormone treatment. It can be extremely humiliating for someone who lives as a man to discuss concerns relating to potential pregnancy, and this topic needs to be handled with great caution and sensitivity.
- Involuntary physiological reactions such as erection, ejaculation, or orgasm are not evidence of consent, nor do they indicate that the survivor found the traumatic experience pleasurable. Trans people who have dysphoria relating to their genitals may find involuntary reactions such as these particularly confusing and/or distressing.
- One of the enduring myths about sexual assault is that the survivor "asked for it." Many survivors experience confusion, self-doubt, and shame about being assaulted. This can be particularly agonizing for trans persons who were assaulted following disclosure of their gender identity to assailants. It can be helpful to acknowledge the confusion and remind the survivor that retaining autonomy over decisions about whom, when, and how to tell is

an important right, that it is not “deception” to choose a moment that feels right, and that in any case there is no justification for sexual assault.

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### older women

Violence against women is frequently viewed as affecting only women of childbearing or child-rearing age. Violence, including sexual assault, can and does affect older women, however.

Although what little gendered research has been done on elder abuse shows high rates of violence against older women (and low reporting rates), most research on abuse of older women is still viewed through a gender-neutral lens, as part of **elder abuse**.

The reality of the power and control dynamics of abusive relationships does not change for women as they age. Some women may have been with the same abusive partner for over 30 years. The abuse, including sexual assault, may have started when they were dating, when they were first married, during their first pregnancy, or when the children left home.

Older women may not think of themselves as victims of sexual assault, partly because of generational norms and views of marriage. The terms **domestic violence**, **violence against women**, or **sexual assault** may not have existed when they entered into abusive relationships (Stiegel, Heisler, Brandl, & Judy, 2000).



Many older women grew up in a generation where women stayed with their spouses despite hardships or unhappiness. Some older women have never lived on their own. Many went straight from their parents’ home to their husband’s home.

Some older women start new relationships after the end of their first marriage. Some of these women have gone from one sexually abusive relationship to another, while others were in relationships with non-abusive partners and are experiencing abuse or violence for the first time.

Some older women caregivers are abused by other family members for whom they are caring, such as husbands with dementia or children with other illnesses or disabilities.

Barriers to service for older women include the following:

- Many of the same challenges that younger women face in seeking help or in dealing with sexual assault, with even more financial vulnerability than younger women
- If the sexual assault is by a spouse, fear of the loss of jointly owned assets that have been accumulated over a lifetime; the loss of health care benefits;



difficulty in obtaining pension benefits; and difficulty finding employment or otherwise replacing lost income

- Difficulty in obtaining medical care and assistance because of chronic conditions or functional limitations, including transportation problems
- Reluctance to access services that they think are meant for younger women
- The stigma attached to identifying herself as an “abused woman,” which would likely be even greater for an older woman than for a younger one
- Fear of not being believed when they speak about their experiences of sexual violence, especially if they have been living with the same partner for many years; sometimes a disclosure is attributed to confusion or the onset of dementia.
- A belief that because they have coped with the abuse for so long, it is not worth making such difficult changes at this point in their lives
- Embarrassment about having put up with the abuse or violence for so long, resulting in women minimizing or trivializing what is happening to them
- Lack of awareness of the dynamics of abuse and violence on the part of many organizations and agencies that work with older women and men (they may come up with “solutions” for the woman that either put her at greater risk or give the abuser even more control)
- A high degree of dependence on their abusers, whether a spouse or a caregiver, as a result of physical impairments, disabilities, or deteriorating health; disclosing the abuse may leave them without needed supports
- Discomfort with the language used to describe what has happened to them, especially in a situation where they are expected to talk about a sexual matter with a younger person; workers will need to use words to describe the abuse that are consistent with the words used by the particular woman



Fifty Community Response Networks (CRNs) have been established in BC to create coordinated responses to adult abuse, neglect, and self-neglect, including sexual abuse of older women. CRNs have two interrelated goals:

- Develop protocols to help ensure that adults in need of assistance get it
- Work towards prevention by undertaking educational initiatives to build the community’s capacity to recognize abuse and neglect, to know where to go for help, and to ensure that as many people as possible know their rights and how to protect themselves so they won’t be at risk

CRNs do not replace but rather incorporate agencies and processes already in place to address the concerns of older women who are abused. For more information about CRNs, contact either the BC Foundation to Support Community Response to Adult Abuse and Neglect, or the Public Guardian and Trustee of British Columbia (see Section 8).

## section 2 ■ ■ ■

### sex trade workers

Sex trade workers are often victimized because of poverty, lack of safe housing, the isolated nature of their work, and/or drug and alcohol use. They may be considered easy targets by sexual predators, who think that they will not go to the police. Like many women, they may have histories of sexual, physical, or emotional abuse and of witnessing violence in their homes that causes them to normalize violence in their lives and in their communities.

Young people are particularly vulnerable to sexual exploitation, to having their bodies and their sexuality used for someone else's gain. This might involve a person in a position of power or authority forcing or coercing the young person to exchange sex for money, drugs, food, or shelter. Both young women and young men are vulnerable to this kind of sexual exploitation, but it is still a crime most commonly perpetrated against young women.

See "*Child, Family and Community Service Act*" in Section 3.1 for legislation intended to protect young people from sexual exploitation. See the Violence Against Children and Youth Handbook in this series for a more detailed discussion of federal and provincial legislation and policy designed to protect young people.



Because sex trade work is illegal and because of the nature of life on the street, sex trade workers are often criminalized. They may use drugs, steal, and physically fight in order to survive. They may have an outstanding warrant for their arrest. Their friends may be involved in illegal activities. They may have had few positive interactions with police. For these reasons, many sex trade workers will be very reluctant to involve authorities.

Studies show, however, that a significant number of sexually assaulted women coming to hospital emergency departments are sex trade workers and that even higher percentages of sexually assaulted sex trade workers seek help from authorities. Studies also show that sexual assault of sex trade workers is more likely to involve physical violence requiring hospitalization and more likely to involve more than one assailant (Silbert, 1982; Miller and Schwartz, 1995).

Service barriers for sex trade workers include:

- Mistrust of police or feeling that reporting a crime would be pointless or dangerous
- Not feeling heard, or feeling that police won't respond
- Feeling that sexual assault is part of the risk of the sex trade and therefore that they are to blame
- Feeling judged or that people will try to persuade them to leave the street

(you should help sex trade workers exit the work only if they want to)

Lack of confidence in support systems

- Fear of being labelled a “rat” by peers
- Pressure to divulge too much personal information
- Feeling that “he will get off easy” so it’s not worth reporting it
- Fearing they will be charged for prostitution, drugs, or outstanding warrants

## □ ■ ■ section 2

Victim service workers need to be aware that they may be considered part of “the system” and therefore mistrusted. Some work may need be done in your community to develop protocols to encourage sex trade workers to come forward for support. You may want to work together with local police, Crown counsel, hospitals, clinics, and community-based services to initiate this work.



■ ■ society's response to sexual assault: legislation,  
□ policy, and services

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# 3 section



## section ■ ■ ■

### legislation



Both federal and provincial legislation apply to sexual assault and to victims of crime in general, and provide a legal framework for your work with survivors.

Details of applicable documents and websites are provided in Section 8.

#### *Canadian Charter of Rights and Freedoms*

The *Charter* establishes fundamental legal rights and freedoms. It is part of the Canadian Constitution and applies equally to everyone, including the victim and the accused. Federal and provincial laws must not violate *Charter* guarantees. Also, the actions of justice system personnel and the policies they apply must be consistent with *Charter* principles.

Although all *Charter* rights are important, the following have a direct impact on victims' rights in criminal cases:



- **Section 7** – The right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. (*Security of the person has been interpreted to include protection of the victims' privacy in court cases.*)



- **Section 15** – The right to equality before and under the law and equal protection and benefit of law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (*Laws must be interpreted and applied in a way that does not show bias.*)



- **Section 28** – All rights and freedoms are guaranteed equally to men and women. (*Laws must be interpreted and applied in a way that does not reflect bias based on gender.*)

#### *Criminal Code of Canada*

Since 1983, important changes have been made to the way in which the *Criminal Code* addresses sexual assault. These changes include the definitions of sexual assault as well as the way in which sexual assault is handled in the courts.

In addition to these *Criminal Code* provisions on sexual assault, see the *Victims of Crime Handbook* in this series for other *Criminal Code* provisions important to victims.

## definitions of sexual assault

As 1983 changes to the *Criminal Code* emphasize, sexual assault is not a crime against morality but a crime of violence. The definition of sexual assault now involves three levels of seriousness that parallel the three levels of physical assault. The degree of personal injury to the survivor is the key factor in deciding which level applies, similar to any other physical assault.

The *Criminal Code* defines **assault** as the intentional application of force to another person without their consent. **Sexual assault** is not defined, but it has been interpreted by Canadian courts to mean an assault committed in sexual circumstances. A sexual assault is an assault that violates the individual's sexual integrity.

Sexual assault can include any form of sexual activity. Kissing, touching, oral sex, and vaginal or anal penetration are all examples of sexual assault if these acts are done without consent. For adults, it is the lack of consent, not the type of sexual activity, that is the major factor in determining whether a sexual assault has occurred.

Canada's *Criminal Code* sets out three levels of sexual assault, from the least serious (Level 1) to the most serious (Level 3):

### Level 1 Sexual Assault [s. 271]:

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

### Level 2 Sexual Assault with a Weapon, Threats to a Third Party, or Causing Bodily Harm [s. 272]:

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



## section 3 ■ ■ ■

### Level 3 Aggravated Sexual Assault [s. 273]:

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

### sexual assault with other criminal acts

Acts of sexual violence often include other criminal acts besides the sexual assault itself. In these cases, the accused may be charged with several crimes. For instance, if the survivor was locked in someone's apartment where she was sexually assaulted, the accused could be charged with both forcible confinement and sexual assault.

In terms of statistical reporting, the fact that only the most serious offence (MSO) gets reported by police to Statistics Canada can skew statistics about occurrence rates for sexual assault in Canada. For example, if an offender is charged with both forcible confinement and a Level 1 sexual assault, under the MSO rule, the forcible confinement, with a maximum penalty of 25 years, would be reported to Statistics Canada and there would be no statistical record of the sexual assault, which has a maximum penalty of only 10 years. Unless this is manually changed by a reviewer, this would be the case even if the sole purpose of the forcible confinement was the sexual assault.



### legal definition of consent

Sexual assault is sexual touching without the other's consent. Consent means that the woman affirmatively communicated – by her actions or words – her agreement to engage in sexual activity. She does not need to fight back in order for a lack of consent to be established. In some cases, the survivor will appear to consent based on fear or coercion. She may agree because the perpetrator threatens to harm her child, for example. The *Criminal Code* now lists a series of situations in which the law will deem an absence of consent even though the survivor appeared to agree to the sexual activity.

In *Criminal Code* ss. 265(3) and 273.1:

- No consent is obtained if the complainant submits because of:
  - Physical force or threats made against her or someone else
  - Fraud, or
  - The exercise of authority or the abuse of a position of trust, power, or authority



- No consent is obtained if:
  - Someone else agrees on behalf of the complainant
  - The complainant is mentally incapable of consenting (for example, she was drugged or otherwise lacked the mental capacity to consent)
  - The complainant shows lack of agreement by either her words or conduct
  - The complainant consents but then shows lack of agreement to continue

The woman can withdraw her consent at any time. For example, she may consent to certain sexual acts and then say no to further sexual activity. If the man continues against her wishes, this constitutes lack of consent.

Consent is not a defence to sexual assault causing bodily harm. In law, a victim cannot consent to the infliction of bodily harm unless the perpetrator is acting for a generally approved social purpose. **Consensual** acts of violence are not in this category. The consent of an individual cannot detract from the inherently degrading and dehumanizing nature of violence.

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



### particularly vulnerable victims

The *Criminal Code* also contains specific sections meant to address sexual exploitation of young people and people with disabilities. For example, s. 153 provides that everyone who is in a position of trust or authority towards someone between the ages of 14 and 18 or with whom the young person is in a relationship of dependency, and who touches the young person or counsels the young person to touch another person for a sexual purpose, is guilty of the offence of sexual exploitation. Bill C-2 expands this section to include anyone who is in a relationship that is exploitive of the young person.

Section 153.1 sets out a similar offence where the sexual exploitation involves a victim with a disability. (See the *Violence Against Children and Youth* handbook in this series for other *Criminal Code* sections relating to sexual offences against children and youth.)

## section ■ ■ ■

### bill C-2

Bill C-2 amended the *Criminal Code* and *Canada Evidence Act* in 2005, which has resulted in important changes for witnesses in sexual assault trials. Testimonial aids such as screens and video links for testifying outside the courtroom are now available upon application by the prosecutor or witness. Different considerations apply to those under 18, those 18 and over and those with physical or mental disabilities. Amendments also include new offences designed to provide better protection for vulnerable victims and witnesses. For example, a new sexual exploitation offence was created to include situations where the relationship between victim and offender is deemed to be exploitive. Also included in the amendments are broader restrictions on cross-examination of the victim/witness by the accused and greater privacy protections. You should become familiar with these laws and their implications for survivors.

### publication ban

If a sexual assault survivor wants a ban on the publication of any information that would reveal her identity, the Crown will ask for that and the judge must grant such a ban.



In certain cases, the survivor may want details of the case publicized. She may, for example, feel that this will help remove the stigma attached to sexual assault survivors and encourage others to come forward. In this case, she needs to inform the police that she does not want a publication ban.

### using the survivor's personal records in the court case

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

In recent years, in a number of high-profile sexual offence cases, record holders, including victim service workers and counsellors, have been required to release records about a sexual assault survivor even if they are unrelated to the investigation of the crime. Personal information contained in the records has sometimes been used to question the survivor's credibility in court.

In 1997, the *Criminal Code* was amended to restrict the accused's access to private records about the complainant or witness in sexual offence cases. Before the records are released, a strict procedure must be followed and the accused must establish that they are relevant.

## questions about the survivor’s sexual activity

In the past, a woman’s sexual history was often used to attack her credibility in rape cases. In 1992, new *Criminal Code* **rape shield** provisions were enacted. They now restrict irrelevant questions about a woman’s sexual life.

These changes do not guarantee that evidence regarding the woman’s sexual history will not be used against her, but the current requirement that the evidence must relate to specific instances of sexual activity that are relevant to an issue at trial will restrict the use of more general character evidence to discredit the woman.

## protection of the survivor’s privacy

Following is a summary of some of the main legal issues regarding protection of the privacy of sexual assault survivors.

### *Will the survivor’s name be made public?*

- Generally Crown counsel will apply for a publication ban; if so, the judge must order it.
- The ban prohibits the publication or broadcast of the complainant’s name or of any information or details that would have the effect of revealing her identity.
- A decision to “go public” and not request a ban has serious implications for the complainant and her family. It should be discussed with a victim service worker.



### *Will the accused get access to the survivor’s personal records?*

- The *Criminal Code* restricts the accused’s access to the personal records of the complainant or witness. The accused cannot obtain these records without a court order.
- To obtain the order, the accused must first show that the records are relevant to the case, and a strict procedure must be followed.
- If the accused applies for access to the records of the complainant or witness, Crown counsel will inform her and suggest that she retain her own lawyer.
- Under BC’s *Victims of Crime Act*, a victim has the right to legal representation to protect her privacy rights if her circumstances meet the criteria set by Legal Services Society. The record holder (the agency that creates and maintains the records) should also consult with a lawyer.
- Eligible agencies may also be able to obtain legal aid.

### *Will the survivor be questioned about her sexual activities?*

- Such questions are restricted by the *Criminal Code*. The fact that the complainant may have engaged in other sexual activity, either with the accused or with someone else, cannot be used in court to show that the complainant is more likely to have consented to the sexual activity in question or is a less credible witness.
- Before any such questions are asked, the accused must make a formal application. Crown counsel will inform the complainant if this happens and let her know whether the Crown will object to the questions. A special hearing will be held, with the jury and members of the public excluded.
- Criminal Code provisions dealing with publication bans and exclusion of the public from the courtroom were amended in 2005. (See Criminal Code sections 276.3 and 486(1) for details.)

### the doctrine of recent complaint

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



In 1983, the doctrine of recent complaint was eliminated by the *Criminal Code*. The law now recognizes that often the survivor does not call the police right away. She may be in a state of shock after the incident and may be too frightened, confused, or overwhelmed to go to the police immediately, or may blame herself for the situation and feel too ashamed or embarrassed to report to the police what happened.

### sexual assault of a spouse

Changes to the *Criminal Code* in 1983 have made it a crime for one spouse to force the other into sexual activity. The sexual assault laws now apply equally, whether or not the survivor and the accused are married.

### historical sexual assault cases in criminal court

In some cases there may be a delay of several or many years before a survivor reports a sexual assault. For example, an adult may report sexual abuse she suffered as a child. The survivor may always have remembered the abuse but lacked the emotional support to enable her to come forward.

On its own, this delay will not prevent the case from being investigated and prosecuted. There is a six-month limitation period for summary conviction offences under the *Criminal Code*, but there is no limitation period for indictable (more serious) offences. These would include the more serious sexual assaults. This means that in more serious cases, even if the sexual assault is not reported right away, the police can still investigate and recommend charges. There will be practical difficulties to consider, however. Key witnesses may be hard to find. If they are found, they may have trouble remembering what happened, which may affect the progress of the case.

In other historical cases, the survivor may have delayed reporting because she only recently recovered memories of the sexual assault. There is a great deal of controversy about the validity of recovered memories. Recent court decisions have recognized its legitimacy. Legally, the survivor’s testimony is sufficient to convict, but without supporting evidence it would likely be difficult to bring a case to court, or for a court to convict an accused, on the basis of recovered memory evidence alone.

The survivor of historical sexual assault also has the option of suing in civil court.

### corroboration

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

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

### criminal harassment

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

Criminal harassment is not new, but recognition of it as a distinct criminal



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behaviour is recent. The offence of criminal harassment was added to the *Criminal Code* in 1993 (s. 264). It was introduced as a specific response to violence against women, particularly violence against women in relationships. The *Criminal Code* was amended again in 1997 to strengthen the stalking provisions. Section 8 lists a number of useful resources that provide more information about the crime of criminal harassment.

### alternative measures

In 1996, the *Criminal Code* was amended to include alternative measures to sentencing. In the past, this was sometimes called **diversion**. Alternative measures are measures other than judicial proceedings used to deal with someone who is alleged to have committed an offence. In these cases, the accused will accept responsibility for his offence and there will be enough evidence to proceed, but the matter will not be taken to court. Instead, Crown counsel will refer the accused to an alternative measures program, where he may be required to complete a program of community service or undergo treatment.

If an accused is referred for alternative measures, charges are not laid and he will have no criminal record. If he does not complete the requirements of the program, he can still be prosecuted in court for the original offence. The court must dismiss these charges if the accused has complied with the terms and conditions of the alternative measures imposed. The court may also decide to dismiss charges where there is only partial compliance.



The *Criminal Code* provides that alternative measures may be used only if it is not inconsistent with the protection of society and where certain conditions are met.

### *Victims of Crime Act*

The British Columbia *Victims of Crime Act* (VOCA) provides significant rights to all victims of crime. Under VOCA, the spouse, sibling, child, or parent of the person against whom the offence was committed are also considered victims.

Rights granted under VOCA include:

- The right to be treated with courtesy and respect and without discrimination by all justice personnel
- The right to receive information on the justice system, victim services, and related legislation
- The right to receive certain case-specific information on the investigation, prosecution, sentencing, and release
- The right to be given a reasonable opportunity to provide victim impact

information for presentation to the court before sentencing

- The right to receive independent legal representation, provided free of charge where they cannot afford it, regarding the disclosure of their personal records

VOCA directs that the following information will be made available to victims on request:

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



### *Child, Family and Community Service Act*

The *Child, Family and Community Service Act* is BC’s child protection legislation and includes a duty to report where a person has reason to believe that a child needs protection. Under s. 14 of the act, anyone who has reason to believe that a child needs protection must report the circumstances to a child protection worker at the Ministry of Children and Family Development (MCFD). Section 13 of the act lists specific situations where protection is needed. These include (refer to the act for a complete list):

- Cases where the child has been, or is likely to be, sexually abused or exploited by the child’s parent
- Cases where the child has been, or is likely to be, physically harmed, sexually abused, or sexually exploited by someone else and the child’s parent does not protect the child
- Cases where the child is emotionally harmed by the parent’s conduct

For reporting purposes, in BC a child is anyone who is under 19.

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This handbook is written for victim service workers dealing with adult women and men who have been sexually assaulted. Despite the focus on assaulted adults, reporting requirements may still apply; for example, where a young woman of 17 or 18 comes to your agency and discloses that she has been sexually abused, or where an adult woman comes to your agency reporting that she has been sexually assaulted by her husband in front of her child, resulting in demonstrated emotional harm to the child.

### freedom of information and protection of privacy legislation

Three acts specifically address information and privacy issues and set out rules for collection, protection, and disclosure of personal information:

- The federal *Privacy Act* regulates federal government agencies. It covers all federal departments and agencies, such as the RCMP.
- The BC *Freedom of Information and Protection of Privacy Act* (FOIPPA) regulates access to information held by provincial government ministries, agencies, boards, commissions, Crown corporations, municipalities, school boards, and hospitals. Under this act, individuals are entitled to request information in records held by these public bodies. The act also prevents public bodies from inappropriately using or releasing personal information.
- The *Personal Information Protection Act* (PIPA) contains safeguards to protect the privacy of personal information that is collected by private businesses and non-profit organizations in BC.



Whether your program is covered by FOIPPA or PIPA will depend on the wording of your contract with the funding ministry. If the contract wording suggests that your records are under the custody or control of your agency or program, then PIPA rules apply.

See Section 4.5 for a discussion of issues related to confidentiality and information sharing. See Section 8 for additional resources regarding information management and privacy issues.

### civil cases of historical sexual assault

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

### other relevant legislation

The mandate of victim service workers is to support and assist victims involved



in the criminal justice process. When you are providing support and practical assistance to women who have been sexually assaulted, other legislation will also be relevant.

- When you are working with older women, you may need to know about the provincial adult guardianship legislation. For an introduction to this legislation, visit the website of the Office of the Public Guardian and Trustee at [www.trustee.bc.ca](http://www.trustee.bc.ca).
- When you are working with members of the lesbian, gay, bisexual, and transgendered (LGBT) community, you may need to know about federal and provincial human rights legislation and hate crimes legislation. A good place to start is the website of the BC Human Rights Coalition: [www.bchrcoalition.org](http://www.bchrcoalition.org). Other resources can be accessed through The Centre, an LGBT community centre in Vancouver: [www.lgtbcentrevancouver.com](http://www.lgtbcentrevancouver.com); and through the Trans Alliance Society: [www.transalliancesociety.org](http://www.transalliancesociety.org).
- When you are working with women who are on pensions or welfare, you may need to know about the legislation that governs these benefits. A good place to start is with the plain language publications *When I'm 64 and Your Welfare Rights*, by the Legal Services Society. See the Legal Services Society website for details: [www.lss.bc.ca](http://www.lss.bc.ca). For links to provincial welfare legislation, go to the PovNet site at [www.povnet.org](http://www.povnet.org).
- When you are working with women who are separating or divorcing, you may need to know about the provincial *Family Relations Act* and the federal Divorce Act. A good place to start is the family law website of the Legal Services Society: [www.familylaw.lss.bc.ca](http://www.familylaw.lss.bc.ca). The Family Law Manual for Community Based Advocates produced by the BC Association of Specialized Victim Assistance and Counselling Programs (BCASVACP) can be found at [www.endingviolence.org](http://www.endingviolence.org).
- If you are working with Aboriginal women, you may need to know the Indian Act and about the policies of Indian and Northern Affairs Canada (INAC). For INAC, see the website [www.inac.gc.ca](http://www.inac.gc.ca).
- If you are working with women with disabilities, you may need to know about the BC Ministry of Employment and Income Assistance legislation as it affects persons with disabilities. The BC Coalition of People with Disabilities may also be able to assist you: [www.bccpd.bc.ca](http://www.bccpd.bc.ca).
- If you are working with immigrant women, you may need to know about the Immigration and *Refugee Protection Act* and about what happens when the woman has been sponsored by her abuser. The BC Institute Against Family Violence website has useful resources: [www.bcifv.org](http://www.bcifv.org).

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Note that even if you become familiar with these acts, only a lawyer can give legal advice. Contact one of the above organizations or a lawyer if your client requires specific legal information or advice.

### provincial policies and protocols

Justice system personnel operate within an overarching framework of federal and provincial laws. More detailed, day-to-day practice is guided by policy or protocols.

In the area of sexual assault, a number of policies apply. Some of these apply to all parts of the justice system. They are often referred to as umbrella policies. The provincial *Violence Against Women in Relationships Policy* is one example of an umbrella policy.

Other policies apply to only one arm of the justice system, such as police, Crown counsel, or corrections. They are sometimes called operational policies. The RCMP “E” Division *Violence in Relationships/Violence Against Women in Relationships Policy* is an example of an operational policy.

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



Following is an overview of some of the major policies related to sexual assault. Details of applicable documents and websites are provided in Section 8.

#### *Violence Against Women in Relationships Policy*

The *Violence Against Women in Relationships (VAWIR) Policy* is an umbrella policy that applies to all justice system personnel except Crown counsel. It deals with violence against women in relationships. It applies to a sexual assault case if the victim was assaulted by someone with whom she had an ongoing or intimate relationship, such as a boyfriend or spouse.

This policy:

- Directs the justice system to emphasize the criminality of violence in relationships and to take necessary measures to protect women and children at risk
- Requires police, where there are grounds to believe an offence has occurred, to arrest when it is in the public interest
- Requires police to conduct a complete investigation in every case, including cases that may not proceed to prosecution

- Calls on police to inform victims about any specialized community-based victim services and refer them to those services
- Recognizes the special needs of women from diverse cultures and women with disabilities, as well as victims in same-sex relationships
- Acknowledges that where abuse occurs, there is usually a power imbalance between the partners
- Addresses violence against males in homosexual relationships and against vulnerable males in heterosexual relationships

## RCMP “E” Division (British Columbia) operational policies

### *Criminal Code Investigations on Sexual Assault*

This policy applies to RCMP throughout BC. The policy currently focuses primarily on children and is very brief as it pertains to adults, but there are plans to revise this policy in the near future.

Highlights of the RCMP “E” Division sexual assault policy include the following:

- The policy refers to sexual assault centres as programs that respond to sexual assault and provide counselling and victim support. The policy encourages members to make use of these programs and to include them in community policing initiatives.
- The policy states that third-party reports are possible if there is reluctance on the part of the victim to report directly to the police.



### **Specialized Techniques: Polygraph**

This policy outlines for the police their policy on the use of polygraphs. Of interest here is that this policy lays out that “victims of crime will not normally be polygraphed.”

### *Criminal Code Investigations on Violence in Relationships (VIR)/ Violence Against Women in Relationships (VAWIR)/Criminal Harassment*

This policy is consistent with BC’s umbrella VAWIR policy. It confirms that in places where they exist, specialized community-based victim services are the primary service provider in VAWIR cases.

### **municipal police policy**

In VAWIR cases, municipal police in BC are directed to follow the provincial VAWIR policy. They may also have individual operational policies dealing specifically with VAWIR or sexual assault cases. Contact your local municipal police department for further information.

## Crown counsel policy

A number of different Crown policies relate to sexual assault cases.

**Charge Approval Guidelines CHA 1** applies to all cases, including sexual assault. Before charges are approved, Crown counsel must determine whether there is a substantial likelihood of conviction and, if so, whether a prosecution is in the public interest.

**Sexual Assault SEX 1** applies to sexual assault cases and historical sexual offences that occurred during childhood but are reported when the survivor is an adult. Highlights of the current policy include:

- A direction to Crown that in cases where there is a substantial likelihood of conviction, it will generally be in the public interest to prosecute
- Restrictions on the use of alternative measures
- A direction to Crown to advise all victims of sexual offences of victim services, including available Community-based victim service programs
- The recognition that a criminal trial is very challenging for sexual assault survivors and a direction to Crown to make known to survivors any victim service programs or other agencies know to Crown counsel which may be able to assist the survivor
- A direction to Crown to apply for an order at the first instance directing that the identity of the survivor and any information which could identify the survivor not be published or broadcast in any way
- A direction to Crown to inform the survivor about the testimonial accommodations available under section 486 of the Criminal Code



**Spouse Assault SPO 1** replaces the Crown section of the overarching VAWIR policy. It would apply where sexual assault is committed in the context of an intimate relationship. Changes contained in this new policy include the following:

- Increased use of Crown counsel discretion in the laying of charges
- Increased use of alternative measures and *Criminal Code* s. 810 peace bonds rather than the laying of charges
- Addressing the issue of survivor **reluctance**

**Criminal Harassment CRI 1** establishes guidelines for **stalking** cases.

**High-Risk Violent Offenders HIG 1** sets out Crown requirements in high-risk cases.

**Recognizances to Keep the Peace** — Section 810 *Criminal Code* REC 1 establishes guidelines for the use of peace bonds.

**Alternative Measures for Adult Offenders ALT 1** establishes guidelines for the use of alternative measures in cases involving adult offenders. Specific considerations apply in sexual assault and spousal assault cases:

- In sexual assault cases, alternative measures will be approved by Crown prosecutors only in rare or exceptional circumstances.
- In spouse assault cases, alternative measures may be approved in low-risk cases after careful consideration of risk factors.

**Native Justice — Aboriginal Alternative Measures Programs NAT1.1** establishes guidelines for the use of alternative measures in cases involving Aboriginal defendants. Different considerations may come into play in sexual assault cases involving an Aboriginal accused. According to Criminal Justice Branch policy, this approach reflects concerns about the over-representation of Aboriginal people in the criminal justice system.

**Victims of Crime Legislation VIC 1** outlines Crown responsibilities under the BC *Victims of Crime Act*.

Crown policies are operational policies that are revised periodically. Check with Criminal Justice Branch to confirm you have the most up-to-date version.



## corrections policy

The *Community Corrections Division Policy Manual* contains policy specific to the supervision of spousal assault and sexual offenders. Specific policy also applies to the administration of alternative measures referrals in sexual assault and spousal assault cases.

Of particular interest are Community Corrections screening policies on alternative measures in cases of sexual offence allegations. These policies set out the screening requirements that Community Corrections staff assess when determining whether an alternative measures referral from Crown counsel will be recommended as suitable. They include the following:

- Entire Report to Crown counsel, including the Police Narrative and all victim statements, is provided to Community Corrections and reviewed by the Probation Officer.
- Accused indicates unequivocal agreement with circumstances outlined in the Report to Crown counsel and has taken responsibility for actions by full disclosure of the offence. Details are corroborated independently by the victim, when appropriate.

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- No history of violence, injury or bodily harm, aggravated assault, involvement of a weapon, breach of trust, or a child victim or other vulnerable person as a victim.
- Matter being considered for alternative measures does not involve violence, injury, bodily harm, aggravated assault, involvement of a weapon, threats to harm the victim, vulnerable person or child as a victim.
- Victim and/or parent/guardian are consulted and the victim's views regarding the use of alternative measures are weighed in formulating a recommendation.
- Victim does not indicate that there has been intimidation or coercion and there is no appearance of same.
- Victim does not express directly or indirectly concerns for personal safety or the safety of other persons.
- Victim does not wish to have protective conditions imposed on the accused.
- Victim is referred (noted on file) to victim services, where available.
- Psychological/psychiatric assessment confirms that the offender does not require sex offender treatment or programming and supports the application of alternative measures.
- Offence was not sufficiently serious to threaten the safety or tolerance of the community.



Sex offences committed against a spouse may reflect an escalation of an abusive relationship rather than a sexual disorder or cycle of sexual assault behaviour. If it is determined that an alleged offender falls into this category, screening would be undertaken consistent with Corrections policy for alternative measures in cases of spousal assault.

(See Section 8 for information on obtaining copies of applicable Corrections policies.)

### policy for victim service programs

Policy for victim services is included in BC's *VAWIR* policy. In addition, victim service programs will be guided by the policies of the agencies or police departments/detachments within which they work. Policy and protocols guide information sharing, protection of privacy, referral, and coordination with other victim service programs. Victim service contracts direct that programs have protocols with other victim services in their community with respect to keeping victims informed about the progress of the case.

BC Victim Services and Crime Prevention Division *Guidelines on Priority Response Partnerships for Women at High Risk of Violence in Relationships Cellular Phone Initiative* is available from the Victim Safety Unit (see Section 8).

It is also important to familiarize yourself with your agency/program's policies or guidelines dealing with confidentiality and information management. Most community-based programs use the *Records Management Guidelines and the Personal Information Protection Act: An Overview for BC Association's Member Programs (PIPA Overview)* produced by the BC Association of Specialized Victim Assistance and Counselling Programs. Used together, these two policy documents help ensure compliance with provincial information and privacy legislation and basic ethical requirements. Police-based programs should follow standards applicable to their programs. (See also "Exceptions to the basic principle of confidentiality" in Section 4.5.)

### collection and storage of medical forensic evidence

Medical forensic evidence should be collected, stored, and passed on to police in a manner consistent with guidelines included in sexual assault evidence kits and in *A Guide for Sexual Assault Care in a Medical Setting*, developed by the BC Women's Hospital Sexual Assault Service.

If the police request the medical forensic evidence and medical legal report within 90 days of the evidence being collected by the physician or nurse examiner, compensation for the professional service is paid by the police, in the normal manner. If after 90 days the police have not requested the medical forensic evidence and report, the physician or nurse examiner will be compensated for professional services by the Ministry of Public Safety and Solicitor General according to the terms of the *Protocol for Compensation for Medical Forensic Evidence and Medical Legal Reports in Sexual Assault Cases Where Police Are Not Involved*.



### child protection policy

The Ministry of Children and Family Development now has a specific policy to guide intervention in cases where both mother and child are at risk: *Best Practice Approaches: Child Protection and Violence Against Women*.

Refer also to *Developing a Dialogue: A Preliminary Discussion Paper on Child Protection Issues in Cases Involving Violence Against Women and Children* (Ruebsaat, 2000) for a more detailed discussion of approaches to child protection in cases of violence against women in relationships (see Section 8).

## legislation and policies evolve

Legislation and policies related to violence against women continues to evolve. Always ensure that your program has the most up-to-date hard copies of relevant legislation and policies.

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To locate federal and provincial legislation, go to the website of the Canadian Legal Information Institute and follow the links: [www.canlii.org](http://www.canlii.org). Note that electronic versions of legislation are not official versions.

It is important to periodically check with the Ministry of Public Safety and Solicitor General, the Ministry of Attorney General, RCMP “E” Division, or your local police department to find out whether the policies you have are up-to-date.

### services for victims

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

The Victim Services and Crime Prevention Division (VSCPD) of the BC Ministry of Public Safety and Solicitor General funds services to sexual assault survivors through victim service programs province-wide. Other services for survivors are provided or funded through other ministries, such as the Ministry of Community, Aboriginal and Women’s Services, and through hospitals. See Section 8 for contact details for government and community agencies providing services and information to survivors of sexual assault.



### victim service programs

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

VSCPD funds two types of victim service programs: **community-based** and **police-based**. In communities where both exist, it is the community-based victim service program that is mandated to provide the response to sexual assault unless the local coordination protocol says otherwise.

**Community-based victim service programs** address the unique needs of survivors of family and sexual violence, including survivors of violence against women in relationships, survivors of sexual assault, child and youth survivors of violence, and male survivors of sexual abuse. There are also community-based victim service programs that have been designed to respond to the needs of Aboriginal peoples and victims from culturally diverse communities. In communities with a population of 20,000 or more, the specialized community-based victim service programs are the primary service provider for survivors of sexual assault.



**Police-based victim service programs** serve victims of all types of crime and assist the police and community in situations where there are multiple injuries and deaths. In communities where the population is under 20,000, police-based victim service programs provide services to survivors of sexual assault.

VSCPD also funds two provincial associations: the BC Association of Specialized Victim Assistance and Counselling Programs and Police Victim Services of BC. Both associations work closely with VSCPD to address the issues and concerns identified by staff and volunteers of the victim service programs.

## VictimLINK

VictimLINK (1-800-563-0808), a 24-hour, toll-free, multilingual, province-wide telephone service provides support and information to all victims of crime. VictimLINK provides information and referral services to all victims, and immediate crisis support to survivors of family and sexual violence. It also provides information to victims about the status of their protection orders. With the victims' consent, VictimLINK does follow-up on selected files to determine whether victims accessed and were appropriately served by the organizations to which they were referred.

## Victim Safety Unit

The Victim Safety Unit (VSU) in VSCPD provides a coordinated and enhanced response to high-risk victims. The mandate of the VSU is to promote victim safety by:

- Working with local victim service programs to ensure that victims are aware of and have access to services for their safety
- Representing victims' perspectives and concerns at the provincial High Risk Recognizance Advisory Committee (HRRAC)
- Administering the Priority Response Partnership – Cell Phone/Home Alarm Program
- Administering the Victim Travel Fund to provide funds for victim travel for justice-related proceedings in BC
- Notifying protected parties (victims of criminal offences, including victims of designated High Risk Offenders, and parties protected by civil restraining orders) regarding the provincial custody status of their offenders
- Working with the BC Vital Statistics Agency and the Vancouver Police Department's Provincial Protective Measures Unit to provide assistance when there are requests for confidential name change
- Providing funds for independent legal services to victims of crime who are subject to disclosure applications, particularly in relation to sexual offences



In cases where the victim is still considered to be at an extremely high risk after all possible protective measures have been taken, and a name change and/or relocation is being considered, the VSU will refer the case to the Vancouver Police Department's Provincial Protective Measures Unit.

### Protection Order Registry

The Protection Order Registry (POR) was first established as an initiative under the VAWIR policy. It was designed to enable police to access information on registered protection orders 24 hours a day, seven days a week through a dedicated 1-800 number. Originally only civil restraining orders and criminal peace bonds were entered in the registry.

The registry has since expanded to include all orders containing a condition that affords safety and security to a specific (named) person. In addition to peace bonds and civil restraining orders, POR now includes judicial interim release (bail) orders, conditional sentence orders, psychiatric assessment orders, disposition orders, and officer-in-charge releases.

### Crime Victim Assistance Program



The Crime Victim Assistance Program (CVAP) replaces the Criminal Injury Compensation Program previously administered by the Workers' Compensation Board of BC. The program is governed by the *Crime Victim Assistance Act* and its regulations.



The program was developed in response to the changing needs of victims, who may require both financial support and various services and supports to aid in their recovery from the physical and psychological effects of their victimization. The benefits offered through CVAP are intended to help victims, their immediate family members and some witnesses recover from the effects of violent crime so that they may participate fully and safely in their communities.

**Benefits** provided by CVAP may include:

- Counselling
- Replacement or repair of damaged personal property that the victim was wearing during the incident, such as clothing, dentures, prescription glasses, or hearing aids
- Maintenance of a child born as a result of sexual assault
- Income support where a victim is rendered unemployable as a result of the offence
- Expenses relating to medical, surgical, hospital, nursing, and other care or treatment; transportation; medicines, crutches, prostheses, and other

rehabilitative measures to victims of crime if these expenditures are not covered by other means

- Loss of support or guidance incurred by dependents as a result of a victim's death
- Funeral expenses, counselling and related out-of-pocket expenses for immediate family members who survive a victim's death

**Eligibility criteria** for CVAP include:

- The criminal offence must have occurred after July 1, 1972 (no exceptions).
- The crime must have taken place in BC (regardless of where the victim resides).
- A police report is not required; however, other supporting documentation must be available to support the claim. Victims are still eligible to apply if the accused is never identified or found, if the police report does not result in charges, or if the accused is acquitted.
- Benefits are available only in relation to violent offences as opposed to property offences and must be one of the offences contained in the Regulation.

If a person is criminally injured while on the job and is eligible for benefits through WCB or if the injuries arise as a result of the operation of a motor vehicle they will not be eligible for benefits under the *Crime Victim Assistance Act*.



### services providing enhanced support in life-threatening cases

A number of programs provide enhanced support for women in life-threatening situations. These include:

- Priority response partnerships that provide women with pre-programmed cell phones or alarm systems
- The Provincial Protective Measures Unit of the Vancouver Police Department
- Services supporting a change of name, location, or identity

### priority response partnerships

These are partnerships among community-based service providers, the private sector, and the provincial government to respond to the priority safety needs of high-risk women who are victims of violence in their relationships by providing cell phones or alarm systems. Priority response partnerships involve:

- Victim-serving organizations
- Transition houses

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- ADT Security Services Canada, Inc. or other home security alarms
- Telus Mobility
- Police, 9-1-1 operators, and first responders
- BC government ministries

These partnerships provide the following services:

- **Cellular phone program for high-risk women.** In partnership with Telus, the provincial government provides cell phones to women at high risk of relationship violence. These phones are pre-programmed to dial 9 1-1.
- **Domestic Violence Emergency Response System (DVERS).** The provincial government works in partnership with ADT Security Services Canada and local police to contribute in-kind support to the DVERS program, which provides home alarm systems for women who are at high risk of relationship violence.

The priority response partnerships ensure that a full safety plan is completed with all women at high risk of relationship violence. It maintains monthly contact with the women in the cellular phone program.

For more information about the above programs, contact the Victim Safety Unit (see Section 8).



### the Provincial Protective Measures Unit

The PPMU was established by the Vancouver Police Department's Domestic Violence and Criminal Harassment Unit in partnership with the Ministry of Public Safety and Solicitor General. It provides provincial support to victims, victim service workers, and police in life-threatening cases of spousal abuse. The unit has a dedicated police officer and victim service worker, funded by VSCPD.

### services supporting a change of name, location, or identity

These services are provided at the federal and provincial levels:

- The federal government has developed a process for confidential change of identity for women in life-threatening situations. The process is called New Identities for Victims of Abuse (NIVA).
- In BC, the PPMU is the main coordinator for NIVA. The PPMU provides liaison with the Federal NIVA Program in Ottawa and the BC Vital Statistics Confidential Name Change Process, and provides confidential support with victim relocation. The BC Vital Statistics Agency of the Ministry of Health is responsible for managing the Confidential Name Change Process. Vital Statistics is responsible for assessing, processing, and restricting access to information on new documentation.

## safe shelters

There are transition houses throughout BC that offer emergency shelter, generally for up to 30 days, for women and their children who are victims of violence or at risk of violence and who must leave their homes. Transition houses provide 24-hour service. There is no charge. Counselling and resource information are often available, as well as telephone counselling, outreach services, and programs for children who witness abuse.

Safe homes, usually private homes that offer shelter to abused or at-risk women and their children, exist in many communities where there are no transition houses. There are also a small number of second-stage houses where women and their children can generally stay up to six months while they are looking for permanent housing.

In order to maintain safety for residents, the locations of these shelters are confidential. Victim services or the police can make referrals or ensure women's safe transport to these shelters.

## stopping the violence counsellors

There are 80 Stopping the Violence (STV) Counselling programs in BC. These programs provide counselling and support (including information, referrals, and, in some cases, system liaison services) for women who have experienced violence in relationships, sexual assault, and/or childhood abuse. These programs may be housed in transition houses, other women-serving agencies, multicultural agencies, or multi-service agencies.



## services for children and their mothers

It is important to be familiar with services for children of women who are victims of violence. These include Children Who Witness Abuse Programs, child protection services, parenting programs, family places, mental health programs, and school-based child support programs. While any situation where children are in need of protection must be reported to the child protection ministry, it is important to also be aware that wherever possible and appropriate, it is preferable to protect the mother and the children together as a unit if it is safe to do so (see also *Child, Family and Community Service Act* in Section 3.1 and "Child protection policy" in Section 3.2).

## other services for survivors of sexual assault

Many other services for survivors of sexual assault may not be specifically referred to as victim services. It is important that you not only know about these services and what they do but also develop working relationships with them, in order to assist survivors in accessing them.

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These services include:

- Women's centres
- Health services
- Services for Aboriginal women, such as friendship centres or Aboriginal health programs
- Services for immigrant and refugee women, including translation and interpretation services
- Services specifically for lesbians or trans people
- Services for people with disabilities
- Services for male survivors

### coordination in sexual assault cases

While there is no integrated criminal justice policy on sexual assault, a coordinated approach is the most effective way to address survivors' needs for safety and security. A coordinated approach involves all relevant players working together to ensure that a survivor's needs are met as effectively as possible.



Community coordinating committees on violence against women now often incorporate sexual assault into their work and usually include representatives of the criminal justice system, frontline women's groups, and social and health services, as well as people from the school district, other government departments (such as employment assistance workers), churches, band councils, and diverse community groups.

Many, but not all, communities have a Sexual Assault Response Team (SART). Most SARTs focus specifically on coordination of health care, victim services, and, often, justice system responses at the local level. The goal is to reduce trauma for the survivor by ensuring a timely, coordinated, sensitive response by specially trained practitioners, including victim services.

The SART model varies widely across communities. In some communities, SARTs consist of community-based victim services, sexual assault nurse examiners, and police; police-based victim services may also form part of the team. In other communities, the team consists of a roster of specially trained doctors working with community-based victim services; in still other communities, the physician teams work relatively independently.

### goals of coordination in sexual assault cases

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

- To work towards a shared definition of safety for assaulted women in the community
- To change or recommend changes to structures, systems, procedures, and practices to reflect this definition of safety so that sexually assaulted women receive a consistent and sensitive response
- To ensure that all policies, procedures, and practices are developed through this lens of safety

## supporting coordinated responses

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

The Community Coordination for Women’s Safety (CCWS) project of BCASVACP focuses on supporting community coordination in rural and isolated communities in BC. The project maintains a directory of community coordinating committees and shares this directory with government and the community.

VSCPD and the CCWS project have developed resources to support community coordination:

- The VSCPD framework document *Community Coordination to Stop Violence Against Women in Relationships* describes the purpose of community coordination and gives examples of activities that can be adopted at a local level to improve working relationships and enhance coordination of services for women’s safety.
- VSCPD’s *Moving Coordination Forward Kit* contains steps for setting up a committee, practical strategies, sample protocols, policies, resources, sample brochures, websites, research, and useful contacts for information sharing.
- The CCWS document *Building Partnerships to End Violence Against Women: A Practical Guide for Rural and Isolated Communities* provides strategies, guidelines, and practical tools for developing and maintaining inter-agency partnerships. Such partnerships can be a crucial way to help build trust between agencies and ensure that survivors do not fall through the cracks.

See Section 8 for details of these and other resources to support coordination initiatives. The CCWS link on the BCASVACP website is a particularly valuable resource for community coordination.



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### examples of coordination in action

There are more than 40 violence against women community coordinating committees in BC. Some receive limited one-time grants to undertake specific projects, as well as training and in-kind support, from the CCWS project, VSCPD, and other government departments.

SARTs exist in many BC communities, offering sexual assault survivors who come to hospital a coordinated, cross-disciplinary response by specially trained practitioners. You can check with your local hospital about whether a SART exists in your community.

In recent years, two BC communities, New Westminster and Vancouver, have established specialized police/community domestic violence units to respond to violence against women cases. The primary goal of the units is to adopt an interdisciplinary approach towards increasing the safety of women and children and reducing the harmful impact of violence against women, goals similar to those of the community coordinating committees.

### written coordination protocols

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

A written protocol:

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



between participating agencies

- Establishes initiatives and implements strategies that will enhance the delivery of services in the region

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### critical analysis and systemic change

A Solutions Management and Tracking Process was developed to assist communities in identifying and analyzing issues of local concern and those of a systemic nature that require action at a provincial level. A Local Tracking Log was designed for use by coordinating committees to document issues, provide a brief analysis, and record solutions generated at a local level to address any given problem. Issues that cannot be solved at a local level are to be forwarded to the appropriate government body or provincial organization responsible for addressing the concern. The Solutions Management Tool is available from BCASVACP. Contact CCWS for further information (see Section 8).

Community Leadership Training, developed by the Justice Institute of BC Centre for Leadership and Community Learning for VSCPD and CCWS, is a skills-based training curriculum to support community collaboration. The CCWS project continues to further develop and deliver the training.



### benefits of community coordination

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

- Identifies key players in the community's safety/anti-violence-against-women network
- Acknowledges the existing work in a community and brings players together, thus breaking isolation and providing support to workers
- Maximizes the effective use of resources, which is important at all times, and particularly important when communities are struggling to provide services in the face of limited resources
- Has the potential to assist players to:
  - Analyze their practice from the point of view of women's safety, including developing new, broader definitions of safety
  - Develop best practices that include new processes, agreements, or protocols for more consistent and supportive responses to sexually assaulted women and for increased offender accountability
  - Analyze and improve (or make recommendations for improvement of) systemic processes such as information links and flow, policy implementation, and legislation
  - Empowers members of a professional community to make substantive



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changes that can enhance safety for assaulted women in their communities and in the province

- Connects work to end violence against women across the province and provides the potential for a unified voice regarding issues affecting assaulted women everywhere



Part 2 (Sections 4 to 8) of this handbook deals with the victim service workers' work with people who are sexual assault victims.

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# 2 PART



## ■ ■ the work — introduction + overview □

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# 4 section



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### what sexual assault survivors need

Research undertaken on empowerment of women who are victims of violence (Russell, 2002) identified four pervasive themes describing what women found to be empowering. These were:

- An integrated approach
- To be treated as deserving of the best response possible
- A proactive response
- A sense that their voices were being heard

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

The following list summarizes what women who are victims of violence need:

- **Safety.** Survivor safety is paramount. In cases of power-based crimes, safety planning and ongoing threat assessments of the offender should be undertaken. Safety planning must take into account the realities of each woman's environment.
- **Inclusion in the decision-making process.** Survivors' views should be actively solicited and their comments incorporated.
- **Respectful treatment.** Validation of the survivor's experience and ability to cope with her life are crucial aspects of empowering her to keep herself safe. Maintaining confidentiality is also part of respectful treatment.
- **Practical, accurate, and comprehensive information.** Timely information, presented in easily understood terms, is one of the most basic needs of victims of crime. Survivors need information about the justice and other systems that they will have to navigate, the progress of their case through the system, what to expect both in terms of "normal" reactions to being victimized and in terms of a system response, and resources they can access to help keep themselves safe and to get on with their lives.
- **Timely responses.** Timeliness of police response, the charging and court process, and provision of support services and referrals are all crucial to a survivor's safety and her successful use of the justice system.
- **Access to a range of resources.** Workers should be aware of services in their communities for sexual assault survivors and what they provide.
- **Support throughout the legal process.** Survivors need emotional and



practical support from pre-trial to post-trial, including accompaniment where appropriate.

- **Advocacy.** A survivor may need an advocate if she is not able to access the services she needs or if the system is not working as it should for her.
- **Culturally appropriate services.** Survivors from different cultural backgrounds need services that are not only accessible in terms of language but also sensitive to various cultural pressures and conflicts.
- Services that meet their special needs. Women with disabilities, very young women, older women, street-involved women, lesbians, gay men, trans people, and rural and isolated women all have specific needs that must be addressed. A basic need of all people who have been victimized is sensitivity to their particular circumstances.
- **A sense of security.** As much as possible, survivors of sexual assault need to have their sense of security restored. Workers need to be aware of community resources that can meet this need, such as women’s centres, Stopping the Violence Counselling, self-defence courses and assertiveness training, home security checks and crime prevention programs, and specialized initiatives such as the DVERS and cell phone programs (see “Priority response partnerships” in Section 3.4).
- **Closure.** It is important to keep the survivor informed of the final case outcome and to debrief with her on the outcome and the process.
- **Follow-up.** It is important for victim service workers to check in regularly with survivors to see how things are going, to let them know what is happening with the offender and if, when, and under what conditions the offender is being released.



## values and beliefs of the victim service worker

Even a victim service worker can fall into the trap of blaming the victim, especially if efforts to assist her have not been successful and the worker is feeling frustrated. Assaulted women, like all other people, are not perfect. You may find some of them unlikable. It may be tempting at times to believe that a woman’s choices are at least partly responsible for the assault.

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

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

### rape trauma syndrome



Observation and research have shown that a set of reactions, referred to as **rape trauma syndrome**, are common to most survivors of sexual assault. It is important to look at these reactions as normal behaviour in response to an extraordinary series of events, something most people who go through some form of trauma will experience.

In a major US study, Burgess and Holmstrom (1974) interviewed more than 600 survivors of sexual assault. The following material is adapted from their study and provides a useful guide to understanding women's reaction to violence. While many survivors go through these phases, not all women will.

The authors divided responses to sexual assault into two main phases. The acute phase, which occurs immediately after the assault and lasts for several weeks, results in the complete disruption of the survivor's life. The reorganization phase, which may overlap with the acute phase and continue for months or years, encompasses the survivor's process of reorganizing her disrupted life. The reorganization phase includes the pseudo-resolution phase, the working-through phase, and the termination phase, which may not be distinct from one another.

#### acute phase

In the **acute phase**, the survivor will react to the trauma of the assault with feelings of fear, helplessness, and loss of control, and will likely experience some



or all of the following reactions:

- **Emotional reactions.** A survivor’s immediate response to sexual assault is characterized by disbelief, shock, and a wide range of emotions. Although fear of physical injury, mutilation, and/or death is common, she may also experience intense feelings of anger, humiliation, degradation, shame, embarrassment, self-blame, and guilt.

The woman’s feelings of anger, fear, and anxiety can express themselves in crying, sobbing, shaking, restlessness, and tenseness, or she may hide her feelings and appear to be calm, composed, or subdued.

A survivor’s emotional reactions to a sexual assault may include:

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



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

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- **Physical reactions.** A survivor's physical reactions include soreness and bruising to specific areas where she may have been injured (throat, neck, breasts, thighs, arms, legs, or genitals); headaches, fatigue, and sleep disturbances; loss of appetite and nausea; vaginal discharge, infection, and pain associated with gynecological symptoms; and side effects from anti-pregnancy medication and from medication to prevent sexually transmitted diseases, such as nausea or temporary disruptions of her menstrual cycle.
- **Behavioural reactions.** A survivor's behavioural reactions may include disturbances in sleeping patterns because of nightmares; in eating patterns because of a decrease or increase in appetite, nausea, or complaints of food not tasting right; and in her ability to concentrate because she cannot block out thoughts about the sexual assault.

The severity of the trauma during the acute phase may be intensified by:

- What happened during the assault, such as the degree of violence, the extent of injuries, and the woman's prior relationship with the assailant
- A woman's inability to communicate with hospital, police, and victim service workers for linguistic or cultural reasons
- Lack of resources if the woman has special needs
- Inappropriate or unhelpful responses of service providers, family, or friends
- The circumstances of the survivor's life prior to the assault, such as previous assault, a death, or a crisis in an important relationship



During this phase, it is important to allow the woman to fully experience her emotions. Expressing feelings physiologically by crying or shaking can relieve tension and restore her ability to think rationally and make decisions.

Letting her set the emotional tone and talk about the assault in her own way, and following her lead as much as possible, can help counteract her feelings of helplessness. Support her existing defence mechanisms as normal and useful. Blind spots, repression, and rationalization may help her cope with the initial crisis at her own pace. Emphasizing that it was the assault, not she, that was unacceptable, may help to alleviate any feelings of shame and guilt as well as fears that she might be rejected.

A worker can help a survivor re-establish confidence in her decision-making ability by respecting her ability to deal with the assault and working with her to identify what decisions she needs to make at this time, what she needs to do, and what steps she needs to take towards these goals.

## reorganization phase

A survivor's long-term response to sexual assault includes striving to come to terms with the assault and reframe it as something that she can understand. A woman who has been assaulted may experience:

- **Lifestyle changes.** This may involve general upheaval in her living patterns, such as curtailing normal activities or not going to work or school. She may change her place of residence or her employment in order to avoid being constantly reminded of the assault, and she may change her phone number to give herself a feeling of safety. She may reach out in new directions for support.
- **Nightmares.** Survivors report two main types of nightmares: flashback dreams of the actual assault in which the woman wakes up screaming or fighting, and mastery dreams in which she gains power over the assailant or obtains revenge.
- **Phobias.** A survivor may develop fears in reaction to the circumstances of the assault. She may be afraid of being alone, of leaving the house, or of people who remind her of the assailant. If these are not acknowledged and validated, they can develop into paranoia, global anxiety, or phobias.
- **Sexual dysfunction.** A survivor may experience a range of reactions such as physical pain, loss of pleasure or interest in sex, or dread of sex. Sexual activity may trigger flashbacks and feelings of vulnerability and disgust.
- **Compound reactions.** Sometimes a survivor's reactions are compounded by problems with family, money, school, work, or substance abuse.



## pseudo-resolution phase

About four to six weeks after the assault, the survivor may want to “pull away” from the sexual assault experience. The acute pain of the initial assault may have subsided, and she gradually returns to her normal daily activities. Denial, repression, and rationalization become prominent defence mechanisms.

During this phase, the woman may talk about how the experience is “behind her.” She may want to resume her life and may no longer wish to focus on the assault. Some women may choose to withdraw from counselling at this time in an effort to forget the experience. Many, not wanting to be reminded of the assault, want police charges to be dropped.

Friends and family may see this behaviour as a sign of adjustment because of their own need to deny that the assault has serious consequences. This behaviour, however, suggests a “pseudo-resolution” rather than a true resolution of the woman's problems arising from the assault.

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During this period, the victim service worker can help by respecting the woman's decision to withdraw in order to avoid intensifying her resistance to dealing with the assault or undermining her sense of control. You can let the woman know that her distress may resurface. Common reasons for recurrence are her case coming to trial, the beginning of a new love relationship, or the start of a new job. Assure her that she may come back for help in the future if she chooses to discontinue contact with you now. It may be useful to make arrangements to call her in a month or so to check on how she is doing.

### working-through phase

The survivor may continue to contact or meet with a worker during this stage, or she may leave and then return for more support when she realizes that she is still in need of services. During this "working-through phase," she may continue to need support to address issues that have arisen from the assault.

The victim service worker can help her work through and come to terms with the emotional pain associated with the assault by helping her define the impact of the assault on her life and explore her emotional reactions in depth. You can help her identify her own strengths and existing coping mechanisms and draw on her responses to previous stressful situations.

### termination phase

In the final "termination" phase, which is often not distinct from the working-through phase, the survivor is getting to the point where she will be able to terminate the relationship with the worker and handle the healing process on her own. The effects of the assault on her self-image, relationships, and expectations of the world begin to be integrated into her life. She typically evaluates her progress, prepares to end counselling, and anticipates the future.

During this stage, the woman may mourn the former image of herself and her environment. She has been forced to give up the belief that she is inviolable or that others are unquestionably trustworthy.

She may regress to earlier stages of the crisis as she is now able to work through the intense emotions of the assault, one step removed from its initial impact. The victim service worker can reinforce the idea that the woman is reworking her feelings about the assault from a position of greater strength, and reassure her that this is not a step backward but a positive and natural part of the healing process.

As she approaches the end of her relationship with the victim service worker, the survivor may have to address some issues of loss. After sharing so much of herself with you in your role as victim service worker, the survivor may

find it difficult to end the helping relationship. She may worry that she will lose the gains she has made when you are no longer available. She may feel abandoned and may express anger towards you. In order to delay the end of this relationship, she may bring up a new set of concerns or emphasize what a difficult time she is having.

There are a number of strategies that you can employ to make this time easier for the survivor (see Section 7.14).

## the victim service worker's role in responding to sexual assault

### overview of victim service worker's role

Victim service workers, in collaboration with justice partners and community agencies throughout the province, ensure the provision of information and support services to women who have been sexually assaulted. Victim service workers provide this information and support to survivors before, throughout, and after their involvement with the criminal justice system. Sexual assault is an under-reported crime and survivors may need information and support in order to make a decision to go to police or to hospital.

If the survivor is Aboriginal, an immigrant, a woman of colour, a woman with disabilities, lesbian, gay, or trans, the survivor may have to deal with additional stress in the form of discrimination or racism. Your task in these situations is to provide acknowledgement, respect, support, advocacy, information, and referral where appropriate. (See Section 2 for more on diversity as a factor when working with survivors of sexual assault.)



In all phases of the support process, one of the most important things you can do is to give the woman an opportunity to express her own feelings and to respect those feelings. For many survivors, the lack of an opportunity to talk about the assault has significantly damaged their lives. Responding to a woman with empathy and respect may be the first step in enabling her to rebuild her faith in others and, most importantly, in herself.

While some immigrant women may prefer to receive service from someone outside their own cultural community, others may prefer to speak with someone who shares their language. This may be especially true when they are speaking of deeply emotional issues. Sensitivity to this need and making appropriate referrals will be very helpful to survivors in this situation.

As a victim service worker, you have an important role to play in making a survivor's experience with the justice, medical, and other systems as positive as

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possible. The information and emotional and practical support you can provide to help her cope with both the victimization and the systems she must navigate will help reduce her feelings of injustice, indignity, and isolation.

It is important that you establish relationships of trust and respect with people working in the legal, medical, and social service systems and within agencies and groups in your community. Learn as much as possible about their roles and ensure that they are familiar with yours. Your ability to provide effective support to survivors depends on good relationships with these groups.

At all stages of her recovery, it is important to ask her directly what it is that she needs, and what you can do that would be most helpful to her.

It is important that the person counselling the survivor have training in the area of long-term response to sexual assault, because the issues that come up will be complex. Victim service workers with no training in this area should refer the survivor to more experienced counsellors.

Where they exist, specialized community-based victim service programs are the primary service provider in sexual assault cases. Police-based programs provide service where there are no community-based victim service programs or where mandated by local protocol. In communities where both programs exist, a close cooperative working relationship between programs is important in order to provide the best possible service to survivors.

In sexual assault cases, victim service workers:

- Keep survivors informed about the criminal justice process
- Provide information, emotional support, and practical assistance throughout the process
- Provide information and support with respect to related services, such as medical examinations
- Assist with the development of safety plans and prevention strategies
- Prepare survivors for the court experience
- Assist survivors with crime victim assistance program applications and victim impact statements
- Provide accompaniment to appointments and to court wherever possible and appropriate
- Address the particular needs of diverse survivors, such as language interpretation, other culturally specific services, and access and communication assistance for survivors with disabilities
- Wherever possible, provide additional assistance to victims who require it, such as transportation or childcare

- Communicate and liaise with other community-based and system-based service providers, as necessary and appropriate
- Refer survivors and family members to other services that may help them to move through the justice system, to address any special needs that victim service workers are not able to assist with, and to deal with the emotional and physical aftermath of sexual assault
- Wherever possible and appropriate, provide follow-up after the formal process is complete

A primary goal of victim service work is to facilitate a survivor’s empowerment so that she can keep herself safe and move on with her life. Victim service workers must always keep in mind that their actions should not jeopardize the safety of the survivor or violate confidentiality requirements. A basic principle of all work with survivors is to do no harm.

### recognizing a survivor’s realities

It is important that you be realistic about your expectations for the women you work with and what you can accomplish as a victim service worker. You are there to assist and support the survivor, but it is her life and she must make the decisions and take her own steps. You will not be doing a sexual assault survivor any favours if you push her or raise her expectations too high. Furthermore, being unrealistic about what you or she can achieve can result in feelings of discouragement and disempowerment on your part.

One of the harshest realities is how a shortage of resources makes it difficult for sexual assault survivors to get the assistance they may need to heal, to keep themselves safe, or to make necessary changes in their lives: counselling, financial support, transition and low-cost housing, and services for women with special needs, such as immigrant women or women with disabilities, and services for male survivors. These realities make it especially important for you to be aware of and cultivate close working relationships with every service, resource group, agency, and sympathetic professional in your area.

Do not underestimate the danger the woman may be in. If she was sexually assaulted within a relationship or by someone else she knows, the steps she is taking may be met with increasing hostility by the offender, his family, or his friends. The woman is often the best judge of her situation. Validate rather than minimize her fears. In some cases, however, she may minimize the danger she is in. In such cases, try to help her understand the danger of her situation and refer her to police or Crown counsel to reinforce your message.

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### support and communication strategies

The victim service worker needs to have the ability to listen, understand, and comfort another person, and the ability to convey appropriate medical and legal information. More specifically, a worker must:

- Be able to create a relationship of trust and respect with the sexual assault survivor
- Be able to listen effectively and to reflect and respond with empathy
- Be sensitive to cultural differences that may affect how the survivor responds to you and to the assault
- Be sensitive to special needs that a survivor with a disability might have
- Allow the survivor to assume responsibility for herself by making her own decisions
- Maintain a working knowledge of the medical and legal systems related to sexual assault
- Maintain a personal commitment to speaking up for the rights of sexual assault survivors

The following are some basic support skills for victim service workers.



**Attending** includes the ability to pay attention and focus on what the woman is communicating and feeling. Attending skills include paying attention to the survivor’s face, body posture, and positioning, and knowing how to use your face and body posture to convey that you are listening to her. Attending also means that you are aware of blocks to communication and how to avoid them.

**Active listening** includes trying to understand the woman’s ideas, values, and feelings by listening to the woman and then responding in a way that conveys your understanding. It means listening for cues that indicate the woman’s feelings (voice tone, choice of words, speech patterns, sighs), acknowledging the feelings you hear, and verifying what you think you understand (your perceptions). Active listening also helps you to keep focused on the woman’s concerns and feelings rather than your own.

**Permission giving** involves “allowing” the woman to express her emotions freely. It involves your understanding of the difficulty she may have in expressing emotion. Many people were punished or humiliated as children for crying, being afraid, or expressing anger. Most adults will suppress feelings seen as negative because of such conditioning. It is important to acknowledge her feeling that she should control her emotional responses, and at the same time give her information about the importance of expressing her pain so that she can heal.



Let her know that it is all right to cry and to express the shame, grief, or anger that she feels.

**Empowering** involves conveying respect for the woman's choices and actions, helping a woman feel heard, providing tools that she can use for her own healing, and facilitating but not taking over her own process for keeping herself safe and moving forward in her life. In some cases, this may also involve helping her family find positive ways to express their concern and support her without overprotecting her or projecting onto her their own fears. By empowering the survivor, you foster the development of her self-respect and her ability to act (see Russell, 2002 for a full discussion of empowering women who are victims of violence).

**Questioning** is a skill that enables you to help the woman explore her emotions, needs, and decisions. Open-ended questions that can be answered with more than a "yes" or "no" encourage the woman to respond in any way she chooses. Closed questions restrict the woman to a limited number of responses and often focus on your curiosity to know the answer. While you may need to ask a certain number of closed questions, especially during the initial crisis stage of contact, open-ended questions will be most useful during your ongoing relationship with the woman.

"How" and "what" questions are usually open-ended and allow the woman to express herself more fully. "Why" questions tend to imply wrongdoing or guilt on the part of the survivor.

Information should be relevant and provided to the woman in as clear a manner as possible, using words that she understands. Avoid legal jargon that is unfamiliar to her. If you don't understand something yourself, learn about it before trying to explain it to her.

Respect the woman's timing and pace. Try to give her information as she needs it or asks for it. It is difficult for anyone to absorb new information when under emotional stress. Allow time for her to say how she feels and what she understands about the information she is hearing. You may find that you have to explain something several times or review information provided on a previous occasion. Printed information for her to take away can be useful in these situations.

Encouraging her to be concrete and specific will help the woman explore her feelings and concerns more fully. Help her focus on important feelings and identify issues in as concrete a manner as possible. You can do this by asking for clarification or by reflecting what you hear the woman say and asking her to confirm your understanding. This not only verifies your understanding of

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what she is telling you but also encourages her to focus on her feelings more specifically.

When you are providing her with information or feedback, it will also be most helpful to her if you are as concrete and specific as possible.

**Summarizing** involves pulling together the feelings and information given to you by the woman who has been sexually assaulted. This enables you to make sure you have understood everything accurately and helps the woman focus on the important elements of her situation from her point of view. It also provides a way of moving on from exploration of feelings to problem solving and making required decisions.

### safety planning

Your role in assisting a survivor in her safety planning is to help her identify the risks and to present her with possible strategies or options for reducing or eliminating these risks. It is important to understand that safety is a relative term and that women's lives are complex and variable. A woman's safety needs may change from day to day and from situation to situation.



If she has been sexually assaulted within a relationship or by someone else she knows, her safety planning will have a different focus than if she was assaulted by a stranger. In either case, however, safety planning around sexual assault should take into consideration protection from both offenders who are known to the woman and those who are not. In addition, safety planning should take into consideration the safety of any children.

It is important to look at risk factors that arise from the offender, as well as risk factors that arise because of the individual woman's personal circumstances, which make accessing services and trusting the system more challenging. Racism, poverty, lack of education, language barriers, mental and physical disabilities, sexual orientation, and geography all place barriers in the way of effective safety planning. Many women from marginalized populations have experienced systemic discrimination as well as mistreatment at the hands of various government systems (for example, child apprehension), which may make them skeptical about your offers of assistance.

### prevention

The role of the victim service worker with respect to sexual assault prevention is twofold: working at the community level and working with individual survivors. While the victim service worker has an important role to play in providing leadership to mobilize sexual assault prevention initiatives at the community level, this handbook focuses on the role of the worker in helping survivors undertake prevention initiatives at the personal level.

**Prevention strategies** should be considered from two perspectives: how to reduce the risk of sexual assault by strangers and how to reduce the risk of sexual assault by someone the woman knows. Some useful strategies for every woman include:

- Being assertive
- Being outspoken and honest about her wants, needs, and limits
- Determining her own sexual limits in advance
- Trusting her sense of what is happening (many women look back and realize that “alarm bells” were ringing but at the time they ignored these, thinking that they were overreacting)
- Not being afraid to cause a scene
- Using skills learned at a self-defence course
- Always locking home and car doors
- Not allowing service people to enter her home unless she is sure of their authenticity

Overcoming fear is an integral component of keeping oneself safe.

*A profound fear of sexual assault has been handed down from mother to daughter for generations. Our fear is not imaginary; it reflects a real situation that is intolerable. Women over the ages have been subject to unprovoked and unpredictable sexual assault. This terror is the most important advantage a rapist has when he confronts his intended victim.<sup>1</sup>*



Our history of rape, the notions we have grown up with about the strength of men and the relative frailty of women, confusion and lack of information about sexual assault — all these combine to support that terror. Control of that intense fear reaction so common in rape survivors is the key to self-protection.

Research indicates that women who have avoided being sexually assaulted demonstrated anger and a determination not to let the sexual assault happen. Such a response requires a level of assertiveness; commitment to one’s own defence; ability to accurately assess a situation, including the nature of the

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<sup>1</sup> Rudner et al., 1981, p. 90.

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assault and the assaulter; and knowledge of and a comfort level with self-defence strategies.

While fear can clearly be a risk factor in terms of women's vulnerability to sexual assault, it can also be a healthy response to a dangerous situation. Similarly, while physical self-defence can be an effective protective response in some situations, in other situations, such as where weapons are being used or threatened, it may increase risk.

Self-protection involves not only physical self-defence skills but attitude. Fostering emotional self-defence involves helping women develop their ability to stand up for their rights and to express their feelings directly and honestly. There are a number of books available on assertiveness, as well as a variety of training courses where assertiveness skills can be learned and practised.

Learning skills that increase a woman's feelings of power, competence, and ability to resist a sexual assault can be useful. A course on self-defence is a good place to get the skills to increase physical strength and resist attacks. Developing these skills can also be therapeutic and an outlet for anger.

In most communities, a variety of traditional martial arts classes are available, such as aikido or karate as well as Wen-Do, a self-defence course designed specifically for women. As a victim service worker, you should know which courses are available in your area. Information can be obtained from your local community recreation centre, community college, YWCA, police, or local sexual assault centre.

### providing advocacy

In providing support to a survivor of sexual assault, you may also be providing advocacy. Advocacy in this sense means helping the woman deal with a system or agency to get the results she needs. Other community members may also act as advocates. A friend or relative, a volunteer or staff member at the local women's centre or transition house, or someone from a multicultural or Aboriginal service agency may provide advocacy.

As a victim service worker, you can utilize positive working relationships with other service providers responding to the needs of sexual assault survivors, to help a survivor obtain the kind of assistance she needs. Close working relationships, built on shared goals and mutual trust, can be of immeasurable benefit when advocating for survivors, particularly in situations where a survivor may be encountering difficulties with a service or system.

In certain cases, a survivor may not wish to make a formal complaint but may simply want more information about a particular decision or action taken by a

service provider. Most often, when the survivor or her advocate requests that information, it is forthcoming.

When a survivor is unable to get the kind of response she wants from a service or system despite her best efforts and assistance from an advocate, she may want to make a formal complaint. You can refer her to the complaints process specific to that service. System-based services such as medical practitioners, hospitals, police, and Crown have formal processes in place for addressing complaints. Community-based services such as victim services, counselling programs, and transition houses should also have a structure in place for handling complaints. Such a structure may be specific to the particular agency or may apply to the funded service as a whole.

Assisting a survivor in a complaints process in a manner that is both supportive of the survivor and constructive in terms of your working relationships will require skill, sensitivity, and diplomacy on your part.

Advocacy Access, a program of the BC Association of People with Disabilities, has useful information about approaches to advocacy. PovNet, an online service for poverty advocates, also has useful information about advocacy (see Section 8 for contact information).

## making effective referrals

A large part of your job as a victim service worker involves helping survivors obtain the information and services they need. Making effective referrals (and helping other service providers in your community to make effective referrals to victim services) is a crucial skill for victim service workers. To be effective you must:

- Be knowledgeable about the range of services available in your community, such as other victim services; government agencies (justice, health, social service systems); community agencies (counselling services, self-help groups, advocacy groups, children's services); multicultural agencies; agencies serving people with disabilities; agencies serving others with special needs; and commercial services (cleaning services, locksmiths) (see Section 8 for links to relevant services and resources.)
- Establish relationships of trust and mutual respect with people working in these systems and agencies
- Learn as much as possible about the roles, responsibilities, and practical details of these agencies and service providers, and ensure that they are familiar with yours
- Provide the information to the woman in a variety of ways, offer to proactively make the contact for her or to accompany her to the service, and

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follow up with the woman or the service to make sure that the referral was effective

- Know when to make appropriate referrals when you are unable to work with a survivor or she has special needs your agency cannot meet

Remember that the victim service organizations may vary in their procedures for making or receiving a referral. Check your program's policy and procedures in this area. The contracts from Victim Services and Crime Prevention Division mandate that where they exist, community-based victim service programs are the primary service providers in sexual assault cases unless your local coordination protocol says otherwise.

### when to make a referral

You should make a referral whenever someone else could be of more help than you. You will likely make a referral in the following circumstances:

- ***The survivor has problems that fall within the mandate of another victim service program.*** Do not begin service with a survivor if it would be more appropriate to refer her to another victim service program specifically mandated to provide the service; for example, community-based victim service programs where they exist.
- ***The survivor requires expert professional help.*** Some of the professionals whose services might be needed include lawyers, psychologists, psychiatrists, social workers, and marriage counsellors. Some indicators that a survivor may need professional help are:
  - She talks about committing suicide.
  - She is regularly confused about time, place, and events.
  - She experiences debilitating depression or anxiety for a prolonged period of time.
  - She appears to be dangerous and not just angry.
- ***The survivor has other needs beyond your training, ability, or agency mandate.*** You might find that a survivor has special needs or problems unrelated to victimization. For example, she may require an interpreter, or need special assistance because of a hearing or speech impairment, or need information on financial assistance.
- ***You are not able to work effectively with the survivor for some other reason.*** You might find the woman too shy, too hostile, or too different from you, or you may be unable to work with her for some other reason. Be aware of any personal biases you have and make sure that you make referrals if those biases interfere with your ability to give effective support.

## how to make a referral

If you are confident that a survivor will accept a direct referral, give her the name of the agency or individual. Tell her how to make contact and what to expect, including cost, kind of service, waiting periods, hours of operation, and intake procedure.

If a survivor seems slightly hesitant, talk about any concerns or suggest that you arrange the contact and have her follow up. If a survivor is very hesitant, suggest that you make the appointment and go with her. Check this procedure first with the staff or agency to which you are referring.

Unfortunately, many people believe that needing professional counselling or therapy is a sign of failure. It may help to remind survivors that the experience they have suffered is beyond the coping capability of most people. Help the woman reframe negative perceptions by explaining that professional counselling or therapy is a positive approach to regaining good health and attitudes, and that everyone deserves extra care and support in recovery.

Encourage a survivor's involvement as much as possible. Your goal is to empower her rather than to facilitate feelings of powerlessness or dependency.

If a survivor refuses to be referred, do not attempt to force the referral. Respect her ability to make choices affecting her life. Explain your limitations and remain available to provide whatever assistance you can.



If necessary, you can insist on the limitations of your agency's mandate and decline to work with a survivor. Discuss this situation with your coordinator or manager before taking such action. This happens very seldom, but the situation can arise.

## information, privacy, and confidentiality

### information and notification of the status of the case

One of the most important roles that you as a victim service worker can play is to provide a woman with the information she needs or to facilitate the provision of such information by others. In providing this information, you can make use of a wide range of resource materials listed in Section 8. Women also need to receive some of this information orally, to highlight important points that are most relevant to where they are in the system. When providing this information, it is important not to overload her, but to give her information as she needs it, in chunks that she can digest. Use straightforward, simple language. Avoid jargon and language that is legalistic or ideological in nature.

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Victim Services and Crime Prevention Division mandates that all victim service programs in a community have written coordination protocols in place. These protocols should provide that victim services coordinate with police, Crown counsel, and court services to ensure that sexual assault survivors are notified as appropriate of any pertinent facts relating to charges as they proceed through the criminal justice system. Information that must be provided on request covers arrest of an accused, obtaining a peace bond, status of charges, and disposition of charges. Either probation or victim services must advise the survivor of any conditions of bail or probation.

In all cases, it is important to be aware of who is responsible for notifying the survivor about the status of the case. At some stages, the police or a bail supervisor will notify her. At other stages, local protocols dictate who notifies her. From first appearance to sentencing, victim service programs need to rely on local protocols. Under the BC *Victims of Crime Act* (VOCA), survivors have rights to notification on request at any point in the process.

Victim service workers can provide survivors with information about their rights with respect to VOCA, the *Crime Victim Assistance Act*, the *Criminal Code of Canada*, the Protection Order Registry, and the Victim Safety Unit. Victim service workers can also act as a liaison between the survivor and police or Crown counsel to share information and help monitor the survivor's safety.



### privacy and confidentiality

The need to protect the privacy of survivors of sexual assault is a fundamental concern for community-based advocates and service providers. Another serious concern is the need to guard against further violence. Balancing these two needs can be a challenge.

It is always important to get permission from the survivor if you are going to talk with anyone else about her situation (for example, police, Crown counsel, other support workers, or your supervisor). This will ensure that trust between the survivor and you is not violated.

It is also critical that other people within your agency or service maintain a high degree of confidentiality within the agency. For instance, workers should not talk about the survivor or her case where anyone else might overhear. This helps to uphold the credibility of the agency and to ensure that the trust between you and the survivor is maintained.

Legislation, policy, and ethical standards provide direction in handling confidentiality issues. Which information and privacy act applies to your agency will depend on a number of factors, including the nature of your funding contract and who has custody or control over agency records. In the case of



community-based victim services, the funding ministry's Information and Privacy Branch should be able to answer questions about which act applies. Police-based victim services should direct questions to their local municipal police department or RCMP detachment. (See Section 3.1 for an overview of relevant legislation.)

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You should familiarize yourself with legislation that applies to your program, and with your agency/program policies or guidelines regarding information management and confidentiality. Most community-based programs use *Records Management Guidelines and the Personal Information Protection Act: An Overview for BC Association's Member Programs (PIPA Overview)* (see Section 8). Used together, these two policy documents help ensure compliance with provincial legislation and basic ethical requirements.

**basic confidentiality principles<sup>2</sup>**

- The safety and well-being of clients is the primary obligation of agency staff and board members.
- Agencies are primarily accountable to the people they serve.
- Clients have the right to be informed regarding the nature of the service they receive and the contents of any documentation of that service. They have the right to request corrections of errors or omissions contained in the personal information they have provided.
- Agency staff should inform clients of the general limits to confidentiality at the time the person requests service.
- Agencies will protect the confidentiality of all professionally acquired information. Such information will be disclosed only with the client's consent or where there is a clear legal obligation to release it.
- Agency staff may disclose client information to other staff who, by virtue of their responsibilities, have a need for it.
- Client information should be disclosed to board members only in exceptional circumstances, where there is a critical need for them to know.
- Information should be collected from the individual concerned (i.e., the client), unless she authorizes collection from another source.



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<sup>2</sup> Ruebsaat and Porteous, 1998.

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### exceptions to the basic principle of confidentiality

There are important exceptions to the basic principle of confidentiality. You must explain to the woman under what circumstances the information she gives you may not be confidential. If you are subpoenaed to testify in court, you may have to reveal to the court the information she has told you. If you are given information about a child who may be at risk of abuse, you are required to report the matter. Other exceptions relate to her dangerousness — to herself or others.

#### child protection – the duty to report

A person who has reason to believe that a child needs protection must report the circumstances to a child protection worker at the Ministry of Children and Family Development. This may be done by calling the **Helpline for Children 310-1234** (no area code required) or the local MCFD office (for legislation, see *Child, Family and Community Service Act* in Section 3.1; for assistance in this process, see the *Violence Against Children and Youth* handbook in this series).



#### suicide

In cases where a survivor is suicidal, failure to report or to take appropriate steps to intervene may leave the agency vulnerable to civil liability if the woman does commit suicide and her relatives launch a civil suit.

#### if you have reason to believe that the survivor is dangerous

Both ethical and legal considerations come into play here. If you are a member of a professional body that has a code of ethics, you should consult the ethical guidelines and follow them. If you are a professional subject to the Health Professions Act, different considerations come into play.

Both the provincial *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act* permit the sharing of personal information for health or safety reasons, so if you decide to share information about the danger your client poses to others, you will not be in breach of provincial privacy laws.

Apart from ethical considerations, in Canada there is no positive legal requirement to warn others about or to protect them from the risk your client poses. If you make a decision not to disclose such information, however, you may leave yourself or your agency open to a civil suit alleging negligence or a failure to exercise due care.

## the accused's access to third-party records

The *Criminal Code* restricts access to third-party records in sexual offence cases. This includes client records held by a victim services agency (see *Criminal Code of Canada* in Section 3.1).

Despite the restriction, there will be situations where the records are subpoenaed and, if the court orders it, the records must be released to the accused's lawyer. In certain cases, the victim service worker may also be subpoenaed to appear as a witness and must then answer questions about the records or about information provided by the survivor.

For further information on the *Criminal Code* and access to third-party records, community-based victim assistance programs can refer to Records Management Guidelines (see Section 8). Police-based programs should refer to any internal policies that address this issue.

## release of personal information

To obtain specific direction about when it is appropriate to share client information with third parties and how the release should be handled, refer to applicable information and privacy laws and agency/program policies. As a general principle, subject to limited exceptions, the survivor's consent should be obtained before information is shared with other agencies or professionals.

If you work in a police-based program and your client records also form part of the police file, you should inform the survivor of this practice, including any steps that are taken to protect a survivor's privacy.

## discussion with others about the case

To maintain your credibility and the trust of the survivor, you and other workers must not discuss any case outside your work environment. That is, you should discuss the case only within the confines of your office, or in other private areas such as a witness room, victim services office, police office, or Crown counsel office. It is not appropriate to have a friend with you in the victim services office or while on a case in the community.

## rules of confidentiality

Following strict rules of confidentiality will protect the survivor and reduce the possibility of jeopardizing the prosecution of the accused.

### In the office

- Keep all files locked.
- Do not allow client files out of the victim services office.



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- Do not leave client files on your desk when conducting client interviews.
- Ensure clients' privacy while they are in your office.

### outside the office

- Do not wear your ID badge or other identifying insignia in public.
- If your program's vehicle is marked, do not park in the survivor's driveway (for police--based programs, remove the magnetic shield).
- Do not discuss your cases with family or friends.

### when telephoning a survivor

- Do not identify yourself to anyone other than the survivor.
- Ask for the survivor by full name to avoid confusion with other family members.
- Once you are speaking with the survivor, clearly identify yourself and your affiliation, and clarify your role. Ask whether it is convenient to talk; if it is not, find out the appropriate time to call again. Do not contact a survivor at work or school unless you have her permission to do so.
- Do not leave a message on an answering machine unless the survivor has given permission first.



### discussion of evidence

In your role as a victim service worker, you must be aware of what you can and cannot discuss with your clients. A case can easily be jeopardized by discussing evidence with a witness. A witness is anyone who testifies in court, including the survivor of a sexual assault. Evidence is the information in the witness statement to the police, or any information in the police Report to Crown counsel. (See "What a victim service worker can and cannot discuss with the survivor" in Section 7.3.)

### keeping records

Community-based victim services will use their *Records Management Guidelines* and the *PIPA Overview* to inform their day-to-day recordkeeping practices (see Section 8). Police-based programs will use standards that apply to them. In general, the following guidelines are recommended:

- Record any action taken on a case file, including telephone calls or meetings with clients, Crown counsel, police, social workers, doctors, witnesses, family, or teachers. Also make a record of court accompaniment, court orientation, court observation, transportation assistance, and assistance with Crime Victim Assistance applications.

- Include forms and victim impact statements in the file.
- Record dates and times of phone calls made or received. Indicate busy signals, no answer, and messages left.
- Record dates and times of meetings with clients.
- Record names of persons you have called or met.
- Keep a case file updated with phone numbers and addresses of survivors. (It is not uncommon for survivors to move frequently.)
- Keep a case file updated on court appearance dates, adjournments, and other court dates.

It is very important to keep your records as simple and as clear as possible – something that is more difficult than it sounds. It is also important to keep the information free of personal opinions.

Records should be written in such a way that other staff members within the victim services office can provide continuity of service to the survivor based on the information recorded in the file.

## Crime Victim Assistance Program applications

Those who have been victimized by crime in BC may be eligible for assistance under the Crime Victim Assistance Program (CVAP). (See Section 3.4 for details of benefits and eligibility criteria.)



### benefits

CVAP may pay for:

- Counselling
- Replacement or repair of damaged personal property that the victim was wearing during the incident, such as clothing, dentures, prescription glasses, or hearing aids
- Maintenance of a child born as a result of sexual assault
- Income support where a victim is rendered unemployable as a result of the offence
- Expenses relating to medical, surgical, hospital, nursing, and other care or treatment; transportation; medicines, crutches, prostheses, and other rehabilitative measures to victims of crime if these expenditures are not covered by other means
- Loss of support or guidance incurred by dependents as a result of a victim's death
- Funeral expenses, counselling and related out-of-pocket expenses for immediate family members who survive a victim's death

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### the process

If you physically assist a survivor in filling out a CVAP application, you do not need to indicate this on the form. Only those completing applications on behalf of an applicant in the capacity of a legal guardian or legal representative need to complete section 6 of the form.

Remember not to make any guarantees to the survivor about assistance or length of time to process the claim.

Once the survivor has sent her application to CVAP, she will receive a letter of acknowledgement. Before the claim can be adjudicated, more information is gathered by CVAP staff based on the information in the application.

Reports to Crown counsel are obtained from the police office where the report of the crime was made. Depending on the injuries and losses suffered by the claimant, reports may also be collected from doctors, counsellors, and/or therapists. All of this takes time but is in the best interest of the claimant in order to ensure that adjudicators have sufficient information to make an appropriate decision.

### victim impact statements



A survivor may be asked to complete a written statement describing the effects of the crime in terms of emotional, physical, psychological, and financial impacts. Generally, it will be the victim service worker's role to assist and support a survivor in this process. This **victim impact statement (VIS)** may then be considered when a judge is deciding on an appropriate sentence for a convicted person.

A VIS does not describe the circumstances of the offence, which is information that has already been recorded in the survivor's statement to the police, or present new evidence. A VIS focuses on what has happened to the survivor since and as a result of the offence.

### who sees the VIS

When assisting with a VIS, be sure to tell the survivor who will see the statement. Explain that a VIS is not confidential, and may be seen by Crown counsel, the accused, defence counsel, the judge, a probation officer, and parole board officials.

Crown counsel may read out parts or all of the VIS in court or may call the survivor to testify about the effects of the crime. The judge may read excerpts aloud in court during sentencing. Crown counsel may show the VIS to defence counsel. If the defence disputes the information in the VIS, the survivor may be

asked to testify about the VIS at trial or at the sentencing hearing. This is fairly uncommon. If the survivor is unwilling to testify, Crown counsel may choose not to use the VIS and the defence will not refer to it.

Crown counsel will decide whether or not to submit the VIS to the sentencing judge, who may consider the information when sentencing the accused.

Some survivors may choose not to submit a VIS when they learn who will see it and how it may be used.

## who prepares a VIS

A **Request for Victim Impact Information** form will be given or sent to survivors in most sexual assaults. Crown counsel will determine whether a VIS should be obtained through an interview or by having the survivor complete a form. A Request for Victim Impact Information form is not usually sent in cases involving a fatality or very serious injury. In such cases, Crown counsel will usually collect VIS information in a personal interview with family members.

Both primary and secondary victims can submit a VIS. For example, the parents of a young survivor are entitled to submit a statement on their child's behalf as well as on their own.

## how to prepare a VIS



To help a sexual assault survivor complete a Request for Victim Impact Information, begin by determining the impact of the crime on her life. Ask the survivor to think about life before the sexual assault and life after the assault. Ask her to note any significant changes in physical, emotional, or mental states, and any changes in relationships, residences, occupations, or pastimes. Any changes that came about as a result of the sexual assault may be included in the statement.

Consider the following guidelines when helping a survivor complete a Request for Victim Impact Information form:

- Review the questions on the form to make sure the survivor understands them. Discuss whether and how she wishes to respond.
- Help make a list of the points the survivor thinks are the most important.
- Remind the survivor to write in the first person (for example, "Since the assault, I have ...").
- Encourage the survivor to write clearly and concisely and to speak directly to the issue.
- Help the survivor avoid highly emotional or prejudicial comments about an offender. These are not appropriate. It is also not appropriate for the survivor to suggest a particular sentence.

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- Have the survivor write in the appropriate section of the form, or on a blank sheet of paper if the survivor is more comfortable with this. Many people are intimidated by forms.
- Write the information for the survivor if she is unable to do so. Make sure you put everything in the woman's own words and that you sign the back of the form to indicate that you have helped prepare the statement.
- Go over the completed form with the survivor ensure that it says what the survivor wants.
- Remind the survivor to sign the form.

### when to prepare the VIS

The VIS should be prepared early in the criminal justice process because an accused may plead guilty at any time during the justice process and the Crown will then need the VIS for sentencing. A survivor can also usually write a clearer VIS immediately after the crime. Preparing a VIS is a cathartic experience for many people, often enhancing the healing process and helping them assess the impact of the assault on their lives.

As survivors go through the recovery stages, the impact of the crime may alter. Survivors may submit an updated statement to indicate this added impact to the court.

### taking care of yourself

#### worker safety

All responsible agencies that provide support services to survivors of violence will place a high priority on the safety and protection of their workers. Agencies should have safety guidelines for working both within and outside the office.

Be familiar with and always follow your agency's policies and procedures on safety. Keep the following general safety guidelines in mind:

- Go in pairs if at all possible.
- Never attend a crime scene without the police. Call for a police officer to accompany you to a crisis call if you are concerned about safety.
- If your agency provides on-the-scene response, always advise your office of the address and telephone number of your destination and your expected return time. If you work in a police--based agency, notify the radio room/ dispatch of this information and let them know of any change in plans.
- Use a taxi if you are going to a survivor's home to pick her up. If you are going with her to pick up belongings, have the taxi wait while the two of you



go into the home. Always call for police accompaniment if you are going to a home where the assailant also resides.

- Always trust your instincts: if something does not seem right, leave immediately. Your personal safety is the first concern.

## setting limits

You may be reluctant to set limits on your services to survivors of sexual assault, but you must do so. By setting personal boundaries, you can show survivors how to do the same in their own lives. Respect for the limits of the worker's role increases the survivor's sense of autonomy and control.

To define your role, begin by familiarizing yourself with the formal job description provided by your organization, and then consider the following questions:

- What work will you do?
- Is there a time limit for sessions with clients? If so, what is it?
- Do you have a limit on the number of meetings you will have with a client? If so, what is it?
- What types of clients should you refer to other services (suicidal and psychotic clients, drug or alcohol abusers)?
- Are there specialized or community victim services (wife assault, adult sexual assault, child sexual abuse) in the local community or nearby that you should refer the survivor to?
- Do you have a policy about giving out your home telephone number and accepting calls at home?
- Do you attach any other conditions to your services to clients?

If a survivor makes inappropriate demands on you, such as dropping by your office frequently without an appointment or phoning you at home, you can discontinue service. In this way, you let clients know that they must be willing to take more responsibility for themselves. If you handle such people in a firm but gentle manner, they may return to you for help in other situations.

## self-care

Dealing with sexual assault — an act of violence and aggression — provokes strong reactions. You may experience rage, shock, anger, fear, and powerlessness. It is important that you have a support system of friends and colleagues so that you can express your feelings to others in a supportive atmosphere, without violating the confidentiality between you and the survivor. It is not appropriate for you to deal with these feelings while you are with the person who has been sexually assaulted.

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It is also extremely important to be aware of your needs as a victim service worker, to clearly define your limits and boundaries, to realize your limitations in supporting her, and to take time out when you need it. As well as maintaining your personal support system, you need to allow time for rest and recreation, which are both crucial to your well-being. If you are meeting your own needs, you will be better able to help others.

# 5 section

■ ■ crisis intervention  
□

Overview

5.2

Responding to the crisis

5.2



## 5 section ■ ■ ■ □



### overview

In responding to a survivor in a crisis, your first priority is to ensure that she is safe and obtains the medical assistance that she needs. Because of the urgent need for safety and possibly medical care for the assaulted woman, you must assess the risk of immediate danger and need for medical assistance quickly and deal with these in a practical way. At the same time, you must begin to create a relationship of trust and respect with the assaulted woman so that she is able to accept your help.

Following a sexual assault, a survivor may be tearful, hysterical, angry, depressed, or fearful; or she may appear calm, working at repressing stressful feelings. She may also believe she was completely or partially at fault for what happened and feel guilty or ashamed. While every individual woman's reaction is her own, many women react in one or more of these ways, particularly in the period immediately after the assault. In most instances, the woman has no experience or model to guide her in responding to this trauma. She is therefore likely to doubt the validity or the acceptability of her emotions. Self-doubt will add to her anxiety and undermine her self-esteem.



Remember that the person you are speaking with may be terrified and in shock. Go slowly. Focus on her tone of voice, the words she is using, and other indications of what she is feeling.

In the immediate aftermath of an assault, the ordinary challenges of dealing with officials and institutions are made more problematic by the sexual assault survivor's emotional condition and by the attitudes sometimes demonstrated towards sexual assault survivors by medical staff, police, and other officials. For survivors who belong to a diversity group, these challenges may be more extreme (see Section 2).

In order to function effectively as a victim service worker, particularly during crisis intervention, you must feel comfortable with medical and justice system requirements. You must also be familiar with community resources and be able to access to those resources quickly (see Section 8 for a list of resources and contact information).

### responding to the crisis

The following are some suggestions and questions you can use to assess the situation and help the survivor during and after her first contact with you.

## first contact

Your initial contact with a survivor of sexual assault may occur in a number of ways, but most initial contacts are made by telephone. The survivor may have been given your name and phone number by a police officer who was at the scene of the assault; the police may have asked you to telephone her; she may have been referred to you by a community agency or group; or she may have called you herself.

Begin by listening carefully to the survivor’s description of what happened and what she needs. Ask her if she is in any danger or if she needs medical attention. For legal reasons, it is important not to ask leading questions or to “put words in her mouth” about what happened.

Provide emotional support immediately. Reassure her that you believe her. Do not attempt to define the situation for her unless you believe her to be unaware of the danger she is in.

### *When you first have contact with the survivor, ask her:*

- Are you still in danger? (If you sense that she is still in danger, you should call the police no matter what she says.)
- Where are you? Are you in a safe place?
- Do you need medical attention?
- Do you want to go to the hospital?
- Would you like to tell me what happened?
- Would you like to talk about how you are feeling?
- Would you like me or someone else to pick you up or meet you or accompany you to the hospital or police station?
- Can I give you some information about what you can expect at the hospital or police station?

### *Listen to her responses and ask yourself:*

- Why is she calling?
- What does she need? (physical, emotional, information needs)
- How is she feeling?
- Is she in shock?



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### *If you will have to pick the survivor up, ask her:*

- What is your name?
- Could you tell me what you look like so I'll know you?
- What is your address?
- What is your phone number?

Tell the woman your name and give her your description. Arrange a safe place for her to wait for you.

### *Tell her:*

- Do not take a bath, shower, or douche, and, if possible, do not urinate or defecate.
- Save clothing and other evidence of the sexual assault.
- Bring a change of clothing to the hospital.

### **ensuring physical safety**

No matter how the survivor contacts you, your first priority is to ensure her physical safety. Find out where she is to determine the urgency of the situation. Ask whether she is in a safe place. If she is in danger, call the police right away. Do not hesitate — get her name, her location, and her consent to phone the police immediately. Ask the police to contact you after they have answered the call so that you know what happened and can make follow-up contact.

If the survivor is alone, ask her whether she would like to call a friend or family member to be with her. If she wants someone else with her, and it is within your agency's mandate, let her know that you will be there as soon as possible. Ensure that it is safe for you to meet her, and check your agency's safety procedures before leaving.

Find out whether she needs an interpreter or other special services. Do not assume that the interpreter will be there as support. For example, at the police station, a police officer may be able to speak the survivor's language and translate for her, but that officer will not be able to offer support and information in an ongoing way. In some situations, interpreters may be too close to the woman's family to be able to truly support her, or they may be connected in some way to the assailant. Therefore, before arranging for an interpreter, be sure to check with the woman to make sure she is agreeable to the proposed interpreter.

### **obtaining medical attention**

Encourage the survivor to attend at the local hospital emergency department if there is any chance at all that she may have been injured. If there is a hospital

in your community with staff specially prepared to handle sexual assault cases, that is where the survivor should be referred or taken.

Explain to her that it is also essential for collecting legal evidence (known as medical forensic evidence) that a survivor of sexual assault receive medical attention at a hospital, even if there are no apparent injuries. (See “The medical and medical forensic examination” in Section 6.3 for a description of medical and medical forensic procedures.)

A survivor may want to know why she cannot just go to her family physician. Explain to her that her family physician may not know the procedures for responding to a sexual assault or have a sexual assault evidence kit that is specifically designed for the gathering of medical forensic evidence — something that will be needed if she is considering reporting to the police.

### reporting to police and keeping track of evidence

At an appropriate time after first contact, ask the woman whether she wants to report the sexual assault to the police. Explain why a report to the police may be helpful: it may lead to arrest and trial; it may help keep other women safer; it may support the evidence of other sexually assaulted women. Tell her about police procedures in general and explain the different reporting options: no report; third-party report; or report to police.

Normally, if a woman reports to police but does not want to proceed with charges, the police will not recommend charges. However, if the police decide that the assailant is a serious danger to the public, they may recommend charges without her agreement.

Whether or not the woman decides to report to police at this time, as soon as possible after the assault, suggest that the woman write down as much detail of what happened as she can remember, including whether she knows or could identify the assailant.

It is important to keep track of evidence as carefully and accurately as possible in case the woman decides to report the assault to the police at any time. Any evidence of the assault that might be used in court must be preserved.

You must tell her that anything she writes down for police will not necessarily remain confidential. Also, let her know that the police investigate the assault and Crown counsel decides whether or not to lay charges based on the available evidence and the likelihood of a conviction.

If she has not yet seen a physician/nurse examiner and intends to do so, tell her that until she does, she should not take a bath, shower, or douche, even though



## section 5

she may desperately want to. It is important to preserve any physical evidence of recent sexual activity and trauma to her body. Ask her to keep the clothing she was wearing at the time of the assault, as it may be used as evidence. Suggest that she bring other clothes with her to the hospital.

### taking care of children

If the woman has children, you must make certain that they are safe and cared for. She may have had to flee her house without them. In that case, it is best for her to keep her children with her if possible. If she was not able to take her children with her, she should return for them as soon as possible. She must think of her own safety when doing so, however. If there is any question about a woman's safety when she is returning for the children, consult with the police regarding the best way of handling the situation. If she is staying in a transition house, workers at the house may be able to help.

Depending on their age and developmental stage, a survivor's children may need support ranging from reassurance to professional assistance.

### finding emergency housing

It may not be physically safe or feel emotionally secure for the woman to remain in her own home. The following questions will help you assess the situation:

- Are you in danger if you stay in your own home?
- Could you stay with friends or family?
- Would that be safe for you and for them?
- Would that be a good situation for you?
- Do you know about shelters or transition houses?
- Would you consider staying in such a place temporarily?

It is important for you to be aware of services and admission procedures for transition houses and shelters in your area, and to maintain a relationship of mutual trust with the staff. Check regularly with VictimLINK for current information for your community (see Section 8 for contact information).

Some communities have specialized transition houses. For example, there might be a house especially for Aboriginal women. However, do not automatically assume that an Aboriginal woman will want to go to an Aboriginal transition house without asking her first.

In communities where there are no transition houses, there may be emergency shelters and safe houses available through the police, YWCA, women's centre, or some other group. In some situations, emergency financial aid can be arranged through the Ministry of Employment and Income Assistance.





## ensuring victim service worker safety

It is particularly important that your agency have safety procedures for staff responding to women in crisis. There must be clear guidelines about when and when not to go out in response to a request, what to do as an alternative, and safety procedure while out on a crisis call (see “Worker safety” in Section 4.8 for suggestions).

## support and follow-up

If there is a sexual assault centre or other specialized service for sexual assault survivors in your community, refer the woman to that centre for counselling and support. If you provide support to the woman in the days following the assault, allow her to talk about her feelings — anger, fear, hate, shame. Ask her:

- How are you feeling?
- What are you going to do today? Tomorrow?
- What kinds of things have you done before when faced with a crisis?
- Do you have some support systems? What are they?
- What can I do to help?

Help the woman understand the importance of taking care of herself, and assist her to identify her strengths. Helping her regain her self-esteem and control over her life can be done by working with her on specific tasks – for example, arranging with her landlord to change the locks or investigating the possibility of an unlisted phone number. Encourage her to plan for her immediate future and for her support and safety needs.



Encourage her to talk about the reactions that her family, friends, and cultural community may have to the sexual assault, and explore ways in which she might be able to find support from this network of people around her.

Discuss her possible reactions to the assault (anxiety, anger, nightmares, insomnia, muscle tension, confusion), in both the short and long term. Explain that counselling is available, and discuss how she would like a referral to be made (see “Making effective referrals” in Section 4.4).

Let her know what help your agency can provide when she deals with the police and the court system. Make sure she knows how you can be reached, and make arrangements for the next contact if appropriate.

Tell her about other resources she can contact for additional support.

(See Section 3.4 for a description of available services and Section 8 for contact details.)



■ ■ **medical procedures**  
□

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# 6 section




## section



Your first responsibility as a victim service worker is to determine whether the survivor is in need of urgent emergency medical care. If that is not the case and the survivor has not yet decided whether to seek medical care or have medical forensic (legal) evidence taken, your role is to inform the survivor about her medical options in order to help her make those important decisions. Once she has decided to seek medical attention, your role is to support her decision, provide her with the information she needs, prepare her for the medical examination, support her during the exam, and be available for any necessary follow-up.

### before going to the hospital



It is important that a sexual assault survivor receive accurate and timely information about how to access medical attention and a medical forensic examination as soon as possible after the assault, regardless of whether she appears to have been physically injured. Some emergency departments provide medical forensic examinations up to four days after a sexual assault, while others provide examinations up to seven days post-assault. Many women, because of shock, may not be aware of injuries they might have. Injuries could be internal and not immediately obvious. Also, some women may not have considered the possibilities of sexually transmitted disease or pregnancy. A survivor may also not have considered the possibility of the need for medical forensic evidence if she is contemplating criminal charges now or at a later date.

It may be difficult for the survivor to decide to go to the hospital or to make any decisions at this time. When discussing these issues with the survivor, keep in mind that she may be in a state of shock and may be feeling overwhelmed by fear, lack of control, helplessness, and shame.

If she doesn't want to go to the hospital but you are concerned about her welfare and think that she should go, don't say, "You should go to the hospital." Instead, you might say something like, "I'm really concerned about you and feel that it is important that you get some medical attention." Let her know that she has a number of options about what interventions she wants at the hospital (see "The options" in Section 6.2).

Let the survivor know that she can have someone at the hospital with her — a friend and/or you or someone else from your agency. If she resists seeking medical attention, she may be basing her decision on fear or misconceptions. Explore this and give her information about what she can expect at the hospital.

Be patient with her and be prepared to advocate on her behalf if necessary. Remember that the final decision is hers.

Changing clothes, bathing, showering, douching, gargling, urinating, or defecating may destroy evidence, and it is important that you tell the survivor this before you go to the hospital. However, it is important that a survivor still go to the hospital for medical attention and to have evidence collected even if there is a chance that some of the evidence may have been destroyed.



## the decision to obtain medical attention and provide medical forensic evidence

### the options

As a victim service worker, your role is to provide a woman who has been sexually assaulted with clear, accurate, unbiased, non-prescriptive information regarding her medical options and then, regardless of her choices, support the decisions she makes. This approach will facilitate her ability to make informed decisions and enable her to regain some control over her situation.

A survivor may choose one or more of the following options:

- Medical consultation only
- Some forms of treatment without a medical examination
- Medical examination and treatment
- Medical forensic evidence collected and submitted to police
- Medical forensic evidence collected and stored, if storage facilities exist, and submitted to police at a later date, if she chooses

Tell her that at the hospital she can be checked and treated for injuries (both internal and external), be given prophylactic medication to prevent pregnancy and sexually transmitted diseases (STDs) and HIV, and have evidence collected. If she is contemplating criminal charges, it is recommended that she receive medical attention, even if there are no apparent injuries. She will be asked whether she wishes to report the assault to police.

Let her know that if she wants to report to police, a medical forensic examination will be conducted, generally using a sexual assault evidence kit, and the medical forensic evidence will be turned over to police.

Many survivors are reluctant to consider talking to police at this point. Let the woman know that this feeling is quite normal, but that she might change her mind in the days, weeks, or months ahead. If you know that the hospital has storage facilities for medical forensic evidence, tell her that she can have this evidence collected and stored, so that if she changes her mind about talking to police, the evidence will be available.

The decision to report a sexual assault to police is an important one and, for many women, a very difficult one. (See Section 7.1 for a discussion of reasons why survivors may be reluctant to report to police. See “Collection and storage of medical forensic evidence” in Section 3.2 for a description of the provincial *Protocol for Compensation for Medical Forensic Evidence and Medical Legal Reports in Sexual Assault Cases Where Police Are Not Involved*.)

For more information about storage of evidence, contact your local hospital-based sexual assault program or emergency room, or call BC Women’s Sexual Assault Service (see Section 8).

### a survivor’s vulnerabilities may make decisions difficult



The hospital environment is intimidating to many people. They may feel vulnerable and afraid in the presence of a physician/nurse examiner. The pain, humiliation, and emotional distress experienced by a sexual assault survivor increase her feelings of vulnerability. These feelings may be heightened by the examination, when she will be requested to lie on her back with her buttocks and genitalia in full view of the physician/nurse examiner and nurse.

If she understands the process and feels listened to, taken seriously, and respected, she may begin to regain some feelings of personal dignity and a sense of control.

As a victim service worker, you should also be sensitive to the fact that many factors, including cultural background, religion, sexual orientation, and ability may influence the degree of comfort a woman feels in talking about the sexual assault, both to the physician/nurse examiner and to you. If she has an interpreter with her, this may add to her feeling of humiliation during the medical examination.

The woman may be extremely uncomfortable describing what has happened to her physically and, if English is not her first language, may not know the names of the parts of her body in English. Talking to her before the exam and telling her what these words are in English may be of help to her.

If the woman is a lesbian, she may find it difficult to respond to the physician/nurse examiner’s questions about her sexual history. It may be equally difficult

for her, but in different ways, if she was sexually assaulted by another woman or a man. Knowing what questions will be asked in advance will help her to feel prepared.

If the survivor is trans, be sensitive to the fact that the survivor will likely be experiencing extreme emotional discomfort about disclosing the assault and about undergoing a physical examination. Ask trans survivors what you can do to make this experience less stressful for them.

If the woman has a disability, she may need special attention during the medical examination. As a victim service worker, you can ascertain this beforehand and try to make sure that what she needs is available.

(See Section 2 for more information to help you support survivors who are members of a range of diversity groups.)

## what will happen at the hospital

### emergency department procedures

You should be familiar with emergency department facilities and procedures.

If you are not familiar with the services available to survivors at your local hospital, request a meeting with the sexual assault program or emergency department staff to exchange information about services that each of you offers. The emergency department should be kept supplied with brochures describing victim services programs and the 1-800-563-0808 VictimLINK line.

Emergency departments usually have a nurse who will greet the patient at the department entrance. If this nurse knows that you are coming and why, she will need less information from the woman when she arrives. The nurse can also contact a friend or relative of the survivor, an interpreter, a victim service worker, or a police officer if requested.

Large emergency departments usually have experienced and specially trained emergency physicians/nurse examiners on call 24 hours a day. Depending on hospital policy and the time of day, some emergency departments will automatically put a call out for the woman's family doctor (or the doctor on call) after the woman has been admitted. If the hospital is staffed with emergency physicians or nurse examiners, the woman may request that her own doctor not be called to the emergency department and not notified about the assault. It is not uncommon for women who feel embarrassed and ashamed to ask that their family doctors not be called.



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The woman may also ask whether she can see a female physician. While this may not always be possible, encourage the woman to make the request if this is her preference.

As soon as possible after she has been admitted, the woman will be taken to a private examination room. If hospital policy permits, she may have a friend, relative, or victim service worker stay with her during the exam; if she prefers, they can wait for her outside until the examination is completed.

The sexual assault examination is time-consuming by emergency department standards, and the physician will try to schedule an uninterrupted examination. Because of this and because there are a lot of patients coming through emergency departments, there may be a long wait before the examination takes place. If the hospital has a specialized sexual assault program, however, she may have to wait only a short time for on-call staff to arrive.

The emergency department nurse, nurse examiner, or physician will usually inquire whether the woman wants the police involved, whether or not they have already been contacted.

### consent to procedures

Hospital procedures vary regarding obtaining the woman's consent for the gathering of evidence, release of information, and documentation of the sexual assault examination, but consent is always required. Typically, a consent form allows the woman to make choices regarding medical examination, treatment, collection of forensic evidence, and disclosure to police. Regardless of the type of consent form used, a woman is free to consent to or decline any of the procedures. She may decide not to consent to any of the procedures and/or treatment options or to revoke her consent at any point during the examination. Whatever a survivor decides regarding consent to procedures, she should be offered support throughout the medical process. Copies of the consent form used in your local hospital are available from the hospital.

### the medical and medical forensic examination

If the woman chooses to have a medical exam, she will be asked to undress and put on a hospital gown in the examining room. If forensic evidence is also being taken, and if the woman is wearing the same clothing she was wearing at the time of the sexual assault, the police will likely want her clothing. Her clothing will probably not be returned as it may be damaged from testing. Any loss or damage to clothing may be compensated by the Crime Victim Assistance Program.

The hospital will provide a dressing gown and slippers. It is a good idea for the



woman to bring extra clothing to the hospital or to have someone bring these for her. Some hospitals and community agencies have clothing available for women who need something to go home in.

The medical forensic exam is conducted in the hospital emergency department, by the same medical practitioner who conducts the medical examination and usually at the same time. Some hospitals have specially trained physicians, nurse examiners, and nurses on call 24 hours a day. If police are involved, all hospitals in BC will either provide medical forensic examinations or refer survivors to nearby hospitals that are better equipped to conduct these highly specialized exams.

The medical and medical forensic examination includes the physical exam and the collection of specimens. It has four parts: medical history/assault data; physical examination; collection of specimens; and prevention of pregnancy and sexually transmitted diseases.

It is not the role of the medical examiner to prove that a sexual assault occurred, but to document physical and emotional findings. The examiner must collect and preserve evidence according to strict legal requirements, whether or not the survivor has decided to report the assault to the police.

### medical history/assault data

During the information-gathering part of the exam, the physician/nurse examiner will ask the woman questions, some of which may make her feel uncomfortable. Tell the woman that the questions are asked in order to help guide the examination. Let her know that she is free to ask the examiner why specific questions are being asked.

The examiner will ask the woman for the following information:

- **Medical background** – any current medical problems; medications being taken; allergies (especially to penicillin)
- **Menstrual history** – last menstrual period; any menstrual abnormality
- Recent sexual history – type of contraceptive normally used (if applicable); last consensual intercourse (0-72 hours)
- **Gynecological history** – previous and current pregnancies; any previous vaginal or pelvic surgery; any signs or symptoms of gynecological abnormalities prior to attack; any previous gynecological conditions, such as a sexually transmitted disease

While it is not necessary for the medical examiner to record a detailed account of the assault (the police will do this), the examiner will need any information that may help diagnose and treat injuries. The examiner may ask:



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- When did the assault occur?
- Do you know the assailant?
- Were any weapons used and, if so, what types?

The medical examiner will need detailed information about the nature of the sexual assault. The examiner may ask:

- Did the assault include: forced vaginal intercourse; forced fellatio; forced cunnilingus; forced anal penetration?
- Was a condom used?
- Were you drugged?

The medical examiner will also ask the woman whether or not she has changed clothes, bathed, showered, douched, gargled, urinated, or defecated since the attack, as any of these acts may destroy evidence.

### physical examination

The medical examiner will perform a general physical examination, paying special attention to any possible trauma and noting such things as bruises, cuts, areas of tenderness, broken fingernails, and foreign material under the fingernails. The examiner will note the emotional state of the woman and, in cases where she wants to report to police, any evidence of intoxication or drug use. With the survivor's consent, internal examinations will be done of any body orifices involved in the assault. The examiner should emphasize to the woman that she can take a break or stop the examination at any time if she does not wish to continue.



### collection of specimens

A medical forensic examination will be done if the woman requests or consents to it. This involves the collection of forensic evidence. The hospital will usually have a special rape or sexual assault evidence kit that contains forms for documenting suspected sexual assault cases, plus all the specimen containers required to collect legal evidence. Some or all of the following specimens will be taken:

- **A culture from the vagina.** This is used to test for the presence of sperm and for an enzyme called prostatic acid phosphatase. Acid phosphatase is present in large amounts in semen and is more reliable than sperm testing. Survivors should be informed that these tests are often negative because a condom was used, there was no ejaculation, or too much time has elapsed since the attack to detect sperm or acid phosphatase. It is not necessary to prove ejaculation to prosecute someone on sexual assault charges.
- **Pubic hair combing and loose hairs.** The woman's pubic hair is combed and

saved along with any loose hairs that may have come from the assailant. The laboratory can tell whether the hair is animal or human, what part of the body it originated from, whether or not the hair was forcibly removed, and the race of the person from whom the hair came. The lab can say only that the hair is “similar” to that of the person assaulted or the person arrested.

- **A blood sample.** This is done by pricking the finger and is used for blood grouping.
- **A saliva sample.** About 80% of individuals secrete blood group antigens in body fluids (including saliva, sweat, semen, and vaginal secretions), which may assist in the identification of the assailant.
- **Fingernail scrapings.** Skin or blood samples from the assailant may be found in these scrapings.
- **Specimens of clothing or fibre.** The source of these materials can be checked, and the materials can be checked for the presence of blood or semen.
- **A drug screen.** This is needed if the woman thinks she has been drugged. Note that many of the so-called “date rape” drugs leave the system so quickly that a negative result does not necessarily mean that she was not drugged.
- **A pregnancy test.** A blood test may be used to determine whether the woman is pregnant as a result of the assault, depending on how recently the assault occurred. If the woman suspects that she might already be pregnant, a urine test may be used to confirm pregnancy.



## photographs

Photographs may be taken at the request of the police, at the police station or in the emergency department. The police may take photographs after receiving written consent from the survivor. Great care must be taken to be sensitive to the woman’s trauma and emotional needs at this time.

## prevention of pregnancy or disease

The medical examiner may recommend treatment for pregnancy or possible sexually transmitted disease (STD).

- **Pregnancy.** In order to prevent pregnancy, the woman may be treated with the emergency contraceptive pill (ECP), also known as the **morning after pill** (MAP). There are different possible treatments for pregnancy prevention. It is a good idea to keep up-to-date about the medical options to prevent pregnancy so that you can discuss these with the woman, but the best person to explain the medical options and possible side effects to a survivor is a medical practitioner. These pills should not be taken if there is any

question about whether the woman is pregnant already. She should have a follow-up pregnancy test in six weeks if she misses her menstrual period.

- **Treatment for gonorrhea, chlamydia, and syphilis.** A small percentage of women who have been sexually assaulted get some form of sexually transmitted disease as a result of the sexual assault. For this reason the woman should be treated as though she has contracted an STD. Unless she is allergic to penicillin, she will be given a large oral dose of antibiotics to be taken 24 hours after the emergency contraceptive pill.

She should check with the medical practitioner about necessary follow-up tests and about symptoms to watch for. It is very common to develop STDs without experiencing any symptoms. Even though she may have been given antibiotics at the hospital, it is still important for the woman to go for follow-up tests to ensure that she did not contract an STD.

- **Treatment for tetanus.** A tetanus shot update may be given if the woman has an open wound or any cuts.
- **Treatment for hepatitis B.** In some hospitals, medical practitioners may recommend a hepatitis B vaccination. This vaccination requires follow-up shots approximately one month and six months after the first shot is given. Follow-up shots should be free of charge. The woman may also require hepatitis B immune globulin (HBIG) if she is considered high-risk and has never been vaccinated.
- **Testing for HIV/AIDS.** Testing for HIV/AIDS will not be done at the hospital, but survivors can be tested three to six months after the sexual assault. The risk of contracting HIV through sexual assault is generally very low. However, in high-risk situations involving non-consensual vaginal or anal intercourse with an assailant who is known to be HIV-positive, is an intravenous drug user, or has sex with men, the woman may be offered medication that could prevent her from contracting HIV. This medication has significant side effects and is available only in high-risk situations.
- **Testing for genital herpes.** The chance of getting genital herpes is slight. It has an incubation period of 2 to 20 days, but most symptoms develop about one week after contact. The lesions are like cold sores that appear in the genital area. A swab of these lesions is used to diagnose herpes. There is no cure for herpes but there are medications to control the symptoms.



If the survivor suspects that she has an STD, she should contact her family physician or the nearest STD centre for diagnosis and treatment.

### sexual assault assessment service record

The Sexual Assault Assessment Service Record form is filled out by the examining physician/nurse examiner. You can ask staff in your local hospital for a copy of the form they use for this purpose.

## supporting survivors through medical procedures

### preparing the survivor for medical procedures

The sexual assault survivor may be experiencing fear, anxiety, a loss of control, and physical trauma when she arrives at the hospital emergency department. Providing her with information about what will happen at the hospital may help alleviate some of her anxiety and help her feel more in control. You can also assure her that she has the right to consent or decline any of the procedures or treatment options or revoke her consent at any point.

Clearly describe to the woman what will happen at the hospital from the time she walks through the door to when she leaves. It is easier to do this if you have met with the hospital staff in advance to find out whether they have a sexual assault team, use the RCMP evidence kit or make their own, have a private room, and store evidence. Even if you do not have all the details, you can still give her information. For example, you can tell her, “We can call ahead and see if they can arrange a room for us to wait in. When we get there we will talk to the admitting clerk or the nurse. You will need to give your name, address, and medical number.”

If the woman has a medical card, make sure that she brings it with her to the hospital. Some hospitals have systems in place that allow women without medical cards to access free medical attention. Call to find out whether this is the case at your hospital.

If the assault has just occurred and the woman is considering having forensic evidence collected, suggest that she go to the hospital just as she is, without changing clothes, washing, or, if possible, urinating. If her mouth and rectum were involved in the assault, she should not brush her teeth, use mouthwash, take anything orally, or, if possible, have a bowel movement before the examination.

Make sure she knows what your role will be if she wants you to come to the hospital. Tell her that you will be there to support her and to clarify information that is given to her by medical staff and the police so that she can make her own decisions.

Assess her ability to absorb information and respond to her needs. You can give her a synopsis of what will take place depending on the options she chooses, but do not overwhelm her with details unless she specifically requests in-depth information, some of which might be better addressed by the physician or nurse examiner. If you take your cues from her, you may find that what she needs most is an empathetic worker who will simply be with her, validate her feelings, and discuss whatever issues she raises, which may or may not be medically related.



If it seems appropriate, you might discuss with the woman the possibility of sexually transmitted diseases and pregnancy, and the possible treatments that she may be given at the hospital. Before discussing pregnancy, find out whether she is using the birth control pill or, if she is older, whether she still menstruates. If the woman is under age, do not ask about the pill in front of a parent.

If it seems appropriate, you might also help her determine the first day of her last period. The physician/nurse examiner will ask her for this information and she may feel more competent if she has already identified this.

Do not assume that if the woman becomes pregnant from the assault she will necessarily want to terminate the pregnancy. Many women will, but some will not. If you are having this discussion, you can also explain the use of the emergency contraceptive, or morning after, pill.

If she has never had a pelvic exam or if she is anxious about it, outline the procedure and the tests that may be done. Before reassuring her that you or another support person can be there if she wishes, check hospital policy.

The more aware you can be of the woman's values and concerns, the more effective you will be in giving support. It is important that you avoid trying to change the woman's attitudes – you need to understand and respect her values, not change them to match your own.



Let her know that she will need to make an important decision at the hospital about the collection of forensic evidence. Tell her that even if she has not yet decided whether she will report to police, she has the right to have medical forensic evidence collected and stored, if the hospital has storage facilities.

(See “Collection and storage of medical forensic evidence” in Section 3.2 for a description of the provincial *Protocol for Compensation for Medical Forensic Evidence and Medical Legal Reports in Sexual Assault Cases Where Police Are Not Involved*.)

### victim assistance at the hospital

The sexual assault survivor may come to the hospital with the police, on her own, with a friend or family member, or with a victim service worker or community advocate.

If you are bringing a woman to the hospital outside the Vancouver area, it is a good idea to call ahead. It is also a good idea to find out in advance whether an interpreter will be available at the hospital if the woman needs one. There may be a long wait at the hospital. You can ask the nurse for an estimated wait time to help lessen the woman's anxiety. If the woman has to wait a long time, try

to arrange a private place to wait. You can use this time to provide information about the examination and procedures and their purpose, and to help her to express her feelings and needs.

Throughout her time in hospital, encourage her to identify her needs and help make sure that these needs are met whenever possible. Establishing and maintaining a cooperative relationship with hospital staff is an important way to help ensure that her needs are met.

Make sure to get the woman's consent if you are going to discuss her situation with anyone else, including police or medical personnel. Simply say, "The police may ask me questions about how you are doing. Is it okay with you if I talk to them? Is there anything you would like me to say or not to say?" This will convey respect and help her regain some control over her situation.

If she has indicated that she would like you to be present during the medical examination, you should check to make sure that hospital policy allows this.

If you are present during the examination, you may feel superfluous as the medical staff conduct their work. Find yourself a place out of the way during the examination. Always preserve her privacy and dignity by remaining out of visual range of the actual physical examination. Provide comfort and support by maintaining eye contact with the woman or by touching her hand if you are absolutely sure she would be comfortable with this. Not all cultures accept touching as a sign of comfort and support. Focus on helping her to relax.

During the examination, ask the woman whether she would like to know what is going on. If so, you can ask questions of the medical staff when appropriate if you do not understand a procedure. Be aware that the examiner is probing the same bodily areas that were recently violated by the assailant. This may be so emotionally and/or physically painful that even a normally assertive woman may not ask what the examiner is doing. Ask how she is feeling and whether she needs anything to make her feel more comfortable, including, for example, information, a different pace, or a break. Debrief with her after the exam, providing support and comfort as required.

Most hospitals document treatment and follow-up appointments for the patient. If this is not the case, before you leave the hospital, encourage the woman to write down any information about treatment that she may want to remember, or write it down for her. Record the dates of any follow-up appointments. If it is within your agency mandate, ask her whether she would like you or someone else to accompany her to these follow-up appointments.

Make appropriate referrals for any services that she may need that you are not able to provide for her (see Section 3.4 for a description of available services and Section 8 for contact details).







# 7 section

## ■ ■ justice system response □

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### involving the police



While many sexual assault survivors are certain that they want to call police, some do not want to involve police, and others are unsure about what to do.

The survivor can also decide when to report. The law allows a report to be made at any time following a sexual assault, regardless of how much time has passed. It is advisable, however, to report to the police as soon as possible. Early reporting increases the chances of finding and preserving fresh evidence and of apprehending and/or prosecuting the accused.

A survivor has three reporting options:

- No report to police
- Third-party report (the survivor requests that a “third-party report” be made to the police by a victim service worker or someone else, without identifying her)
- Report to police (the survivor reports the assault to the police herself, knowing that she will likely have to be a witness if the case is prosecuted)



There are many reasons why a survivor may be reluctant to report the assault to police. She may be feeling that she did something wrong by being sexually assaulted, or that she will bring shame on her family by “going public” with the assault. She may feel that she will not be believed. She may fear that her privacy will be violated if she reports to police and the case is prosecuted. She may fear police or courts because of prior experiences either in this country or in her country of origin. If she does not have landed immigrant status, she may be concerned about the effect of reporting on her legal status. If English is not her first language or if she has a communication disability, she may worry that she will not be able to tell the police what happened to her.

Many of these fears may be exacerbated if the survivor has disabilities or is an immigrant, a person of colour, Aboriginal, lesbian, gay, trans, street-involved, or a member of any other diversity group (see Section 2).

If a survivor is not aware of her legal rights and what the law says about sexual assault, this may also affect how she reacts, especially if she is acquainted with the assailant. Providing her with information about her legal options and legal privacy protections enables her to make informed decisions.



Emotional support from a victim service worker may also be a key factor affecting the survivor’s decision to report to police.

It is also important for her to be aware of the positive aspects of reporting to police, including the potential crime prevention benefits. Reporting the assault and going through the legal process can be an important part of a survivor’s taking control over what happened to her and rebuilding her self-esteem. The decision must be hers, however, and your role is to support her, whatever she decides.

## police procedures following a report of sexual assault

Police responses to sexual assault will be guided by legislation and by umbrella and operational policies where they exist. If the assault took place in the context of an intimate relationship, police responses will be guided by the *BC Violence Against Women in Relationships Policy* or, in the case of RCMP detachments, by the *RCMP Violence in Relationships/Violence Against Women in Relationships Policy* (see Section 3 for a discussion of applicable legislation and policies and Section 8 for how to obtain these).



In a sexual assault case, the role of the police is to collect evidence. Police gather this evidence in order to:

- Determine whether or not an offence did occur
- Determine whether or not it was the accused who committed the offence or identify possible suspects
- Assist in the fact-finding process for a possible prosecution



Police procedures may vary from case to case. A description of general procedures follows.

### third-party report

A third-party report is made by someone other than the woman who has been assaulted. The name of the survivor is not given to the police. The report is not investigated and does not become a part of official police statistics, but it does inform the police that a sexual assault has occurred, which may be useful in other investigations.

This type of reporting is not recommended by the police, as they require a statement from the assaulted woman in order to pursue the offender and

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prevent other possible assaults. It is better than no report at all, however.

Generally, a prior agreement about third-party reports should be in place with the police detachment(s) in your area and the victim service agency. This way, you will be able to ensure confidentiality for the woman if she wants it.

### report to police

If the woman decides to report the assault, she may call the police, who will come to her home or to some other place where the assault took place, or she may go to the police station. In either case, police officers will meet with her in order to take a statement. Her statement to police should include everything she can remember about the sexual assault. The statement may be made at the police station, at her home, or at some other place that the police attend. The police will need to know:

- What happened
- Where it happened
- When it happened
- Whether the accused is known to the woman
- A description of the assailant (height, weight, skin colour, hair colour, eye colour, smell, accent, speech pattern, and any unusual features)
- Whether a weapon was used
- What the survivor said and did
- What the assailant said and did
- Any other relevant details about the incident

Some questions may be embarrassing for the woman. The police will need to know all the details of what happened. If the woman does not know the assailant, seemingly unimportant details may help the police identify him.

After hearing what happened, the police will ask the woman to write out what she told them, or they will write out the statement themselves. In either case, the woman will be asked to read through the written statement and then sign it. In some cases, the interview will be recorded on audiotape or videotape.

Depending on when the assault took place, the police may advise the woman to go to the hospital, or the officer(s) will take her there right away. They may ask questions about the assault on the way to the hospital.

Following the medical examination, the police may ask the woman to come to the police station to make a statement or “record of complaint,” or to be interviewed on audiotape or videotape. If the woman is not physically able to go

to the police station, the police will make other arrangements.

The woman should obtain the name(s) and phone number(s) of the officer(s) who took the statement so that she can contact them if she remembers additional details of the assault or wants to ask them any questions.

## police investigation

The police will want to talk to any witnesses, including anyone else who knows anything about the assault. They will also want to collect all possible evidence of the assault. They will gather physical evidence for forensic examination at the site of the assault, and they will ask the woman to provide any other evidence that she can (see “The medical and medical forensic examination” in Section 6.3 for a discussion of the collection of medical forensic evidence).

After taking a statement, the police may want to go with the survivor to the scene of the assault. They may want to see the exact spot where the sexual assault took place and hear from her again what happened and where, in order to collect more evidence. This may be traumatic for her.

If the offender is unknown to the survivor, the police may ask her to:

- Look at photos of people (referred to as “mug shots”)
- View a line-up of people whose features may be similar to those of the offender as described
- Describe the offender’s features to an artist, who will make a drawing from the description (police artists usually work only in major cities)



The police may also want to take pictures of the woman’s injuries right away. Either a police photographer will come to the hospital or the photographs will be taken at the police station. This process may further upset the woman. Pictures are important, however, because long after the injuries have healed, the photographs will provide evidence of the sexual assault.

If the police have what is known as “probable cause” to believe that a crime was committed and a suspect has been identified, they may consult with Crown counsel. If the investigation continues, the police may:

- Contact the survivor again to determine whether any pertinent information was overlooked and to review the initial report
- Interview people who may have information or be able to provide further corroborative (supporting) evidence
- Arrest the suspect or obtain a warrant for his arrest

**KGB statements**, named after a case in which such an approach was used, are generally videotaped statements to police that are later used in court instead

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of a survivor herself testifying in chief (providing evidence through Crown examination). Such statements make it more difficult for a woman to recant her original statement, although she would still be subject to cross-examination by defence counsel.

KGB statements may be used when the police consider that it is in the public interest to proceed and evidence may not be available for trial. To date, these statements have rarely been used in BC.

### report to Crown counsel

When the police investigation is complete, if police think there is enough evidence to support a charge, they will write a Report to Crown counsel recommending charges. Crown counsel will decide whether there is enough evidence to lay a charge and, if so, what charges to lay. The police will assist Crown counsel upon request by obtaining further evidence, and will be called to testify if there is a trial.

### if the accused was arrested



If the accused was arrested, you can help the survivor find out whether he has been released and whether there are protective conditions. He may have been released from police custody on a Promise to Appear and an Undertaking Given to a Peace Officer or an Officer in Charge (often referred to as an Undertaking to Appear, or UTA). If the survivor is named in a non-communication condition, the survivor has a right to a copy of the accused's undertaking and can obtain this from the police. The RCMP Violence in Relationships/Violence Against Women in Relationships Policy directs members to provide victims with a copy of the UTA. She can also ask the police when his first court appearance will be.

If the accused was arrested and held for a bail hearing in court, he is usually released and placed on a bail order or court undertaking with restrictive conditions. In more serious cases, there may be a requirement for the accused to have someone sign that he will abide by the release conditions or put up cash or surety as part of his bail. Bail conditions usually include a ban on direct or indirect contact with the victim and on going to her residence or other locations such as work or school. The accused may also be ordered to report to a bail supervisor and to abstain from using drugs or alcohol. The survivor may receive a copy of the order through the mail from the bail supervisor, or she can obtain a copy personally from the court registry or the Crown counsel.

If the accused is at high risk to re-offend or has a lengthy criminal record, or if the assault was very serious, he may be held or **remanded** in custody.

The woman should be informed that if the offender does not abide by the

conditions, then it is considered a **breach**. The woman should report the breach to the police, or she may contact the bail supervisor. If the situation is an emergency, she should call 9-1-1 or her local police emergency number.

It may take several incidents before the police are able to arrest the offender on a breach, so the woman should be encouraged to continue to report all forms of attempted contact. It is best if she writes out a brief statement to the police so as to have a written record of her complaint, rather than just calling the officer. It is very important that she understand the importance of keeping clear records of contact, including the date, time, location, witnesses, and an account of what happened.

## section 7

### supporting survivors through the police investigation

#### what a victim service worker can and cannot discuss with the survivor

In order to avoid endangering a possible prosecution or breaking the law, victim service workers must be aware of what they can and cannot discuss with survivors. The following rules of conduct will assist you:

- Do not discuss the case with anyone except your supervisor, the police, Crown counsel, or others as required by law (see “Exceptions to the basic principle of confidentiality” in Section 4.5).
- Remain impartial in discussions of criminal justice issues with your client.
- Never say or do anything that may influence a witness’s testimony.
- Never discuss the survivor’s evidence or suggest what she should say as a witness.
- Never discuss the evidence of other witnesses with the survivor.
- Report any additional evidence to police or Crown counsel in accordance with your agency’s protocols. If you are unsure how to handle new information provided to you by a survivor, consult with senior staff in your program/agency.
- Do not release the following information to a survivor or to others:
  - The name of the suspect, unless a charge has been laid against that person, making the information part of the public record
  - The name or any information that might identify a young offender (a person between the ages of 12 and 17). You can, however, explain that the *Youth Criminal Justice Act* restricts the release of this information, and you can state that a young person has been charged. (The name of the offender may be released to the victim under certain circumstances. Check with police or Crown counsel.)



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- A case file or any part of a case file that is the property of the police (e.g., the Report to Crown counsel). The Crime Victim Assistance Program, insurance companies, and civil lawyers can contact the police department or Crown counsel directly for any information they require.
- Information about the criminal background, or absence thereof, of any suspect or charged person
- Information about any case other than the case in which the survivor was the victim/witness

If you are uncertain whether information is confidential, always check first with police or Crown counsel.

Witnesses may be asked in court by defence counsel whether they have discussed their evidence with a victim service worker. There is the chance that the victim service worker will then be called as a witness.

The following information would not fall under the category of evidence and so can be provided to the survivor:

- Police file number
- Name of investigating officer
- Court file number
- Name of Crown counsel
- How to claim property that has been recovered
- Name of accused if charges have been laid
- Information concerning the status of the case: court dates, whether the case is still under investigation, whether the case has been concluded, the disposition of the case

Persons other than victims or witnesses should be referred to the court registry for information about the status of the case once charges have been laid. For example, if a neighbour of a survivor wants information on the court case, and the neighbour is neither a witness nor a support person for the survivor, you should refer this person to the court registry.

### preparing the survivor for the police investigation

You can prepare the survivor for the investigation by telling her what to expect. Before meeting with the police, tell her who will be involved. Explain the procedures the police will use and the kind of questions they may ask. This may help alleviate some of her fears about giving a statement.

You can let the survivor know that she can tell the police officer that she wants to stop and take a break during the interview. Also let her know that it will



be permissible during the interview to say that she is not ready to talk about something that makes her extremely uncomfortable.

Remember that making the police report is often very difficult emotionally for the survivor because she has to discuss specific details of the assault. It will help to ask the woman about her fears before the interview. This will give you a chance to validate her feelings and explain that it is reasonable to be afraid or distraught. Talking about the interview can also give you a chance to dispel any misconceptions the woman may have about the process.

Let the survivor know that if the police agree, you or someone else can be with her throughout the police interview. Explain that you will not be participating in the interview, that you are there as support for her, and that you will be able to follow up with her after the interview.

### supporting her while she is providing a statement to police

When a survivor gives a statement to police at her home, at another location, or at the police station, your role is similar to your role at the hospital. You are there to support the survivor. Before and after the police interview, your role will be more active. While she is giving her statement, your role will be a somewhat passive one.

As soon as you arrive at the police station or the location where she is giving her statement, give the police officer your name and indicate that you are a victim service worker. You may need to explain your role by saying that you give aid and information to sexual assault survivors as they go through the medical and justice systems.

It is important for you to encourage the survivor to interact directly with her interviewer, and to ask her to avoid physical, verbal, or visual contact with you while she is giving her statement or being interviewed. Your role is to listen, observe, and provide emotional support when she needs it, for example, by passing her a box of tissues.

It is essential that you support the survivor while not interfering with police procedures. This means that you must not tell her what to say or interfere with the interview process in any other way. She needs to feel that the police are on her side. The more rapport established between her and the police officer, the less she will feel powerless and alone.

Sometimes a police officer may ask a question that is obviously difficult for her to answer or causes her a great deal of discomfort. When this happens, you can ask, “Would it help you to answer the question if you knew why it was being asked?” If she says “yes” and the police officer fails to respond, you can say to the

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officer, “It would make it easier for her to answer if you explained the reason for the question.”

Sometimes it can be difficult for a woman to talk about the details of the sexual assault because she does not know the anatomical names for the parts of her body in English. It is important that you inform the police of this.

If at any time the survivor does not understand what is happening, encourage her to ask or try to find out for her. If her anxiety or distress is interfering with the interview process, the police may ask you to provide support or help her find ways to address her discomfort with the interview. In some cases, it might be necessary to set up another interview.

Once the statement is taken, the survivor will be required to read through the statement and sign it. By this time, she may be very tired and upset and may not be paying attention when she is reviewing the statement. The accuracy of the recorded information is very important. If the police agree, you can offer to help her review the information if necessary.

After she has completed her statement, you can talk with her about how she felt during the interview and what is likely to happen next.



Remind her to ask for the name(s) and phone number(s) of the officer(s) in charge of the investigation before both of you leave the police station. She may want to contact them if she remembers further details of the assault or wants to ask a question. She may also want to contact them to find out what is happening with the investigation.

Remember that your ability to help the survivor in her dealings with police will depend directly on the quality of your working relationship with the police. A cooperative, constructive, and respectful working relationship with your local police will do much to help you help survivors get their needs met.

### providing liaison and follow-up support

If necessary, you may act as a liaison between the police investigating the case and the survivor. Once the initial report is made and the statement taken, there may be a long period when nothing seems to happen. During this time, the survivor may begin to feel frustrated with the criminal justice system. She may feel that things are not moving fast enough (they have not picked up the suspect; they have not contacted all the witnesses). It is your role to explain the process and ask questions of the police where appropriate. You can get information about the status of the investigation by calling the officer in charge of the case. You may need to help the survivor obtain a copy of any protective conditions from the police (see Section 7.6 for more information about assisting a survivor with protection orders).

If the police decide not to pursue the investigation or not to recommend charges, you can make sure the survivor understands that the reality of her sexual assault does not depend on its strength as a legal case. Sometimes the police are not able to find sufficient evidence for the Crown counsel to lay charges. This is no reflection on the truth of her statements or the validity of her experiences.

If no charges have been laid and the survivor wants to know why, refer her to the investigating officer or to Crown counsel. Or, under the direction of the officer or Crown counsel, advise the survivor of the reason.

## role of Crown counsel

When a crime has been committed, it is considered to have been committed against society, and the victim of that crime is considered a witness. Crown counsel is the lawyer who represents society, who decides whether or not a charge is to be laid and what the charge will be, and who prosecutes the accused. Crown counsel is not the lawyer for the woman who has been sexually assaulted.

Crown counsel's response to sexual assault will be guided by legislation and by Crown counsel policy, including specific policy on sexual assault and, where applicable, on spousal assault (see Section 3 for a discussion of relevant legislation and policies and Section 8 for how to obtain these).



## laying a charge

If Crown counsel is satisfied that there is a substantial likelihood of conviction and that it is in the public interest to prosecute, Crown counsel will decide what charges will be laid. Crown counsel will lay the charges and police will make an arrest. If Crown counsel decides to prosecute, the survivor will be notified by Crown counsel, the police, or the victim service worker. If the survivor is apprehensive about this decision, she can meet with the Crown counsel assigned to her file.

If there is insufficient evidence or there is not a substantial likelihood of conviction for some other reason, or if Crown counsel decides that it is not in the public interest to prosecute, Crown counsel will not lay charges and the case will not be prosecuted. If Crown counsel decides not to prosecute, the survivor will be notified. She may wish to meet with Crown counsel to hear the reasons.

The survivor has the right to lay charges herself. She will have to go to a justice of the peace (an officer of the court with some of the powers of a judge) to present her information in writing and under oath. This is not a recommended option, however, because it is unlikely that she will succeed on her own if

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Crown counsel has decided not to prosecute. A lawyer can give legal advice about what to do.

### options for proceeding with charges

In Canada, there are two categories of criminal offences: serious crimes, called **indictable offences**, and less serious crimes, called **summary conviction offences**. A sexual assault may be either an indictable offence or a summary conviction offence, depending on the circumstances of the assault. If the survivor was injured during the assault or if weapons were involved, then the crime would be an indictable offence. Summary conviction offences tend to be of a less serious nature, where only kissing and fondling are involved. It is the role of Crown counsel to decide whether to proceed with a charge of sexual assault as a summary conviction or an indictable offence.

Indictable offences and summary conviction offences are tried in different courts. A summary conviction trial is usually held soon after the crime is committed. An indictable offence will involve a longer process, as it is a more serious crime with harsher penalties. The accused charged with an indictable offence has the choice of being tried by a judge or by a judge and jury, as well as the right to hear the basis of the Crown's case before the trial at a preliminary inquiry.



(See the *Overview of the Criminal Justice System* handbook in this series for a detailed discussion of differences between summary conviction and indictable offences.)

### use of alternative measures

Crown counsel makes the final decision about whether alternative measures will be approved, based on the *Criminal Code of Canada* and Criminal Justice Branch policy. BC Corrections Branch is responsible for screening cases for alternative measures and for delivering alternative measures programming (see Sections 3.1 and 3.2 for a discussion of legislation and policy on alternative measures).

As a victim service worker, you may need to explain to the survivor of sexual assault what alternative measures mean and what support services are available. Keep the following points in mind:

- Any survivor of a power-based crime such as sexual assault is not an equal participant in a consultative process, whether with the offender or with a representative of the justice system. The same dynamic that makes it difficult for women to report sexual assault makes them feel vulnerable to pressure from anyone who may be seen as an authority figure. An

understanding of this dynamic is all the more important when victim service workers are providing support in sexual assault cases where alternative measures are used.

- A sexual assault survivor may provide an increasingly full account of the assault to criminal justice system personnel over a period of time, as a relationship of trust is developed and as the survivor is able to fully assess for herself the impact of the assault. Effective identification of risk factors will depend on collaboration among justice system personnel, including Crown counsel, police, probation officers, and victim service workers.

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### pre-hearing interview

For most survivors, contact with Crown counsel begins with a pre-hearing interview. It may take four to six months for the preliminary hearing or inquiry to be held. The purpose of the pre-hearing interview is to assist Crown counsel in preparing the case and to help prepare the survivor to be a witness at the trial. During the interview, Crown counsel may:

- Review the survivor's statement with her, discussing any points that are unclear
- Ask the survivor to repeat the details of the assault in order to assess her ability as a witness in court and prepare her for having to describe these details in a courtroom
- Explain courtroom procedures and acquaint her with the types of questions and questioning styles of both Crown counsel and the defence counsel (the lawyer for the accused)
- Answer questions the survivor may have, and generally attempt to prepare her for her role as a witness in a criminal hearing
- Ask the survivor questions regarding her life before and after the sexual assault so that the Crown can describe to the court the full impact of the assault (this information is useful to Crown counsel during sentencing)
- Assist her in filling out a victim impact statement (VIS), which is a form for the victim to describe the full impact of the crime on her and her life. Crown counsel may give the statement to the judge as information to consider in sentencing.

If there is an application for release of the survivor's personal records, Crown counsel will recommend that she obtain independent legal advice.

### plea discussions

Plea discussion is a process of negotiation between the defence counsel and the Crown counsel. In return for a guilty plea, the Crown may stay (meaning "to not

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proceed with”) some of the charges against the accused, reduce the charge to a lesser offence, or ask the court for a lighter sentence.

Plea discussion, sometimes called **plea bargaining**, is not used in every case, but may be used where the administration of justice and the public interest require that it be considered. If it is used, plea discussion may begin at the earliest stages of the process and go on until the trial.

In plea discussions, particular care is taken to balance:

- The rights of the accused
- The protection of the public
- The cost of the prosecution
- The length of the prosecution
- The number of witnesses involved
- The benefit derived from proceeding
- The interests of the victim
- Concerns related to protection of the victim
- The administration of justice



A number of options are open to Crown counsel. Crown counsel might:

- Accept the proposed guilty plea
- Reduce the number of charges
- Proceed summarily rather than by indictment
- Make recommendations regarding the sentence
- Refuse the plea and proceed to trial on the original offence charged

Crown counsel will likely consult with the woman about these discussions and take her view into consideration in the final decision.

### supporting survivors through Crown counsel procedures

During the time that decisions are being made about charging, your role is to provide information and support to the survivor. It may be difficult for her to understand why Crown counsel is making the decisions that are being made, or the implications of these decisions in terms of the reality of her sexual assault. There may be times when she feels confused, frustrated, or angry; she may be fearful of meeting with Crown counsel or being a witness in court. Your task is to acknowledge her feelings, inform her about her role, reassure her that she will have support, and answer her questions or encourage her to obtain answers directly from Crown counsel. As with police, the more she can deal with Crown

counsel directly and establish a relationship of trust and mutual respect, the more empowered she will feel.

If she wishes, and Crown counsel agrees, you can accompany her to her meetings with Crown counsel. As with her meetings with police, you should be there to support the woman, not to interfere in any way with her meetings with Crown counsel and the review of evidence. It is very important that you do not discuss her evidence with her, as this may jeopardize the court proceedings.

Remember also that your ability to assist and support the survivor will depend on the quality of your working relationship with Crown counsel. As with police, a cooperative, constructive, and respectful working relationship with Crown counsel will do much to help you help survivors get their needs met.

## using protection orders

Although no legal order can fully prevent violence, survivors of sexual assault can take advantage of all the protection the law offers. Protection orders may be imposed by a judge in court to help protect a sexual assault survivor from an accused. Vigorous enforcement of protection orders has been shown to enhance safety for victims of violence. (See the *Violence Against Women in Relationships* handbook in this series for more information on protection orders.)

### peace bonds

Peace bonds are orders made under the *Criminal Code*. They can protect the survivor of sexual assault from anyone – including a family member, an acquaintance, or someone with whom she may have had a dating relationship.

### restraining orders

These are civil orders made by a judge under the *Family Relations Act*. A restraining order can protect a woman against unwanted contact and harassment by her partner or ex-partner. If the woman was sexually assaulted by a partner or ex-partner, this will be important for her to know.

### other protection orders

Other kinds of orders may be relevant to a woman who has been sexually assaulted. They include bail conditions of release, probation orders, and conditional sentence orders.

### protective conditions

Conditions contained in a protection order may include:

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- Keeping the peace and being of good behaviour
- Reporting regularly to a bail supervisor or probation officer
- Having no direct or indirect communication with the victim, her children, or her extended family
- Not attending the family home or the victim's place of work
- Surrendering weapons permits or certificates; not possessing weapons
- Not using alcohol and/or drugs
- Remaining within the jurisdiction and surrendering passport

An order whose only condition is to be of good behaviour and keep the peace or to protect non-personal property is not a protection order.

### enforcement of protection orders

Effective enforcement of protection orders is critical. There is a high degree of risk associated with any breach of a protection order. The survivor's awareness, knowledge, and readiness to act are key to effective enforcement. Coordination among police, corrections, Crown, and victim services at all stages of the process also plays an important role in the enforcement of protection orders.



### reporting a breach

A survivor of sexual assault may find it difficult to report a breach of a protective order:



- She may be harassed or threatened by the offender or his family or friends.
- She may lack confidence in the ability of the justice system to protect her.
- She may not understand that it was an actual breach; for example, does a phone call amount to "contact"?
- She may not know what the reporting process is or whom to call.
- She may not be comfortable speaking English and therefore be intimidated by the need to speak to someone over the phone.

### using the Protection Order Registry

The survivor can call the police to say that the offender has not obeyed a protection order. Police then phone a central number to access the Protection Order Registry (POR) to get up-to-date information about the content and status of her order and can act to enforce the order right away.

The survivor can make sure her protection order is registered on the POR database by calling VictimLINK at 1-800-563-0808 at any time. After hours, she can press "1" to be connected to the POR.



## the victim service worker's role in obtaining and enforcement of protection orders

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Victim service workers play a central role in providing information and moral and practical support to the survivor concerning her options, the nature of protection orders, how to obtain them, and the enforcement process. You may be able to work with other justice system personnel to support her in the following ways:

- Ensure that the survivor has information about protection orders and how to obtain them.
- Help her obtain a copy of the order or release document, with protective conditions.
- Explain its terms to her more than once. Specifically, review the meaning of such terms as **no contact**.
- Outline the differences between civil and criminal orders.
- Explain the purpose of the POR and how she can access it.
- Ask her whether the terms of the order address her safety needs. Help her develop a safety plan.
- Emphasize that the order is meant to control the offender's behaviour, not hers. It is not a good idea, however, for her to initiate or encourage contact with the offender if contact is prohibited by a protection order.
- Help the survivor understand the nature of a breach, explain how to report a breach, and provide her with support. Stress the importance of documenting the circumstances of the breach in writing if possible. Outline the option of using \*57 if the offender is calling her. (Pressing \*57 after hanging up from a harassing call stores the caller's information for Telus to pass on to police. For more information, visit [www.telus.com](http://www.telus.com), click "Calling features," then click "Call trace.")
- Arrange for an interpreter where necessary.
- Outline the procedure that will be followed if she wishes to vary the terms of the order.
- Explain what will happen if the offender makes an application to vary the terms. This is likely only if the offender was her partner or ex-partner, or where custody of children is involved.

In some communities, police provide information to survivors about protection orders. In other communities, victim service workers or corrections personnel provide it. Be aware of the procedures in your community and be ready to answer the survivor's questions about these procedures.



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### steps leading to trial

A good way to become familiar with the court process is to observe cases in progress. Ask questions afterward if you do not understand a procedure. You will want to be able to explain the process accurately to the survivor.

#### Criminal Case Flow Management Rules

In 1999, the BC government introduced new court rules to govern the flow of criminal cases in Provincial Courts. The new rules, called the **Criminal Case Flow Management Rules**, arose as a result of significant problems with delay and backlog in the criminal justice system. The goals of the rules are to:

- Reduce the number of appearances per case
- Create greater “event certainty”
- Achieve speedier case disposition
- Improve the accuracy of trial scheduling
- Avoid witnesses being subpoenaed unnecessarily

The interpretation of these rules will have an impact on the processing of sexual assault cases. Victim service workers should familiarize themselves with the new procedures. An annotated summary of the rules is contained in the BCASVACP paper *Provincial Court of British Columbia Criminal Case Flow Management Rules: A Guide for Specialized Victim Assistance Programs and Other Anti-Violence Advocates* (Braha, 2000).



#### first appearance

The accused is ordered to appear in court before a judge. The charge is read and the accused is asked whether he pleads guilty or not guilty. The woman does not have to be present at this hearing unless she wishes to.

Two things can happen at the first appearance:

- If the accused pleads not guilty, the case will go to trial at a future date.
- If the accused pleads guilty, there will be no trial. The judge will move on to sentencing.

#### preliminary inquiry

If the accused pleads not guilty at first appearance, or if the accused is charged with an offence punishable on summary conviction, the judge will set a date for a trial. There is no preliminary inquiry or hearing. If the accused is charged with an indictable offence, there will be a longer delay. There may be a preliminary inquiry first, and the actual trial may not take place for several months.

As a victim service worker, you are also responsible for keeping the survivor informed of court dates and the progress of the case. She has a right to know what is happening. If the police or Crown counsel’s office has not been in touch for a while and the woman is concerned about the trial date, you should help her obtain the information.

In some cases, there will be a preliminary inquiry before the trial. The preliminary inquiry will occur a few months after the charges have been laid. The purpose of this hearing is for the judge to decide whether the Crown has enough evidence to bring the case to trial. The hearing does not decide whether the accused is guilty or innocent.

The preliminary inquiry gives the accused and the defence lawyer a chance to hear the details of the case against the accused. If there is enough evidence presented at the preliminary hearing, the judge will commit the accused to trial. If not, the charges will be dropped.

The survivor usually must appear in court as a witness at this hearing in order to explain to the judge what happened. The defence may also ask questions to determine whether there are personal records about her that may be relevant to the case. She will receive a subpoena, a legal document that tells her to be at court at a certain time on a certain day. Crown counsel will also notify the survivor when to appear and will explain what she will be required to do.



The preliminary inquiry may not go ahead as planned, either because the accused is going to plead guilty or because the defence lawyer has decided not to hear evidence at a preliminary hearing and the Crown counsel has agreed to go directly to trial.

### closed hearing on release of personal records

In some cases, defence counsel will apply for release of personal records about the survivor. If so, the survivor and the record holder will be served with a **Notice of Motion** and a subpoena. This may happen before or during the trial.

A hearing that is closed to the public will be held. The purpose of the hearing is to decide whether the court should order release of the records. The survivor is not required to testify at this hearing. Her lawyer should make submissions on her behalf. If the records are in the possession of a third party, such as a doctor or counsellor, the third party may also be separately represented.

In recognition of the survivor’s right to privacy and equal treatment, and given the intimacy of the information involved, the *Criminal Code* restricts the release of personal records in sexual assault cases. No records will be released unless the judge orders it.

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### the trial

For a description of the federal and provincial court structures within which criminal and civil trials function in BC, see the *Overview of the Criminal Justice System* handbook in this series.

The same principles of law apply to a sexual assault trial as apply to any other criminal trial. Under Canadian criminal law, a person is innocent until proven guilty. So, although the woman will see the accused as a guilty person, the court will view the accused as an innocent person suspected of having committed a crime. The accused has a right to make a full defence to the charge. After hearing the evidence, the judge or the jury will decide whether a crime did occur and whether the accused is guilty of that crime.

The survivor of the sexual assault is the Crown's key witness, so her testimony is a very important part of the Crown's case against the accused. The survivor will receive a subpoena before the court date, telling her when and where to go to court. She cannot refuse to go to court once she has received the subpoena. If she disobeys or refuses to testify, she can be charged with contempt of court and put in jail (although this rarely happens). If there is a serious reason why she cannot be in court on that date, she should contact Crown counsel immediately.



It is possible that the trial will be adjourned. This means that the trial will not go ahead as planned. There are many reasons for delays: an earlier case could be taking longer than expected, an important witness may be absent, or the defence may have requested an adjournment for some reason. The trial will be put off until another day, and possibly rescheduled to another courtroom.

### who will be in the courtroom

A **judge** will always be present at a trial. A jury will be present if the accused has chosen trial by judge and jury.

A **court clerk** will make sure everything necessary for the trial is in place and will call the judge from chambers when the trial is to begin. The court clerk will also give the oath to the witnesses before they testify.

A **court reporter** or recorder will record everything that is said during the trial.

A **sheriff** may be present to call witnesses to the stand when it is their turn to testify.

The **Crown counsel** will prosecute the case.

The **defence lawyer** or counsel will represent the accused.

The **defendant** or the accused will be present.

**Members of the public** may also be present, unless an order has been made to exclude the public.

### the Crown's case

The Crown will present its case first and will:

- Present evidence to show that the assault took place
- Call the survivor as a witness and ask her questions about the assault
- Call other witnesses, such as the police officers who investigated the assault, friends or neighbours, and physician/nurse examiners and nurses who attended at the hospital
- Present any evidence that supports the Crown's case, such as photographs of injuries, torn clothing, medical records, laboratory test results, or weapons

The Crown counsel's witnesses, including the survivor, will be questioned or cross-examined by the lawyer for the accused.

After the survivor has testified at the trial, she may remain in the courtroom to hear the rest of the witnesses if she chooses to. It would be best to consult with Crown counsel beforehand if she wishes to do this.



### the defence's case

After the Crown has presented its case, the defence lawyer has an opportunity to present the case for the accused. The same process of giving evidence and calling witnesses followed in the Crown's case may be followed in the defence case, or the defence lawyer may simply say there is not enough evidence to support conviction.

The accused does not have to testify at the trial. That is because the law says that no one can be forced to give evidence proving his or her own guilt at his or her own trial. Also, information about the accused's previous criminal record can be brought up at the trial only if the accused is a witness.

The Crown may cross-examine any of the witnesses called by the defence. The judge may ask questions if he or she wishes more information from the defence lawyer or Crown counsel.

After all the witnesses have been heard, the Crown counsel and defence lawyer will make final statements. These statements summarize the evidence that has been presented. If there is a jury, the judge then instructs the jury to make

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a decision regarding the guilt or innocence of the accused. The jury will meet until they make the decision. If there is no jury, the judge must review all the evidence and make a decision regarding the verdict. The judge may either make a decision right away or take several days or weeks to reach a decision. This is called reserving judgement. The trial is then over. If the accused is found guilty, sentencing may take place immediately or at a later time.

### being a witness

Appearing as a witness in a sexual assault trial will be a difficult experience for the survivor. The more information she has about court procedures and what will be asked of her, the better prepared and more confident she will be.

Bill C-2 will make screens (to visually separate the witness and the accused in the courtroom) and video links (to enable the witness to testify from outside the courtroom) available for witnesses under 18 and people with disabilities if they request it, and for other adults, upon application.

### at the courthouse

When the survivor arrives at the courthouse, she will probably be met by Crown counsel. If not, she should go to the Crown counsel's office so that she can be advised where to wait and in which courtroom the case will be heard.

In most cases, witnesses must leave the courtroom at the beginning of the trial or preliminary hearing and wait to be called to testify. This is to ensure that their evidence will not be influenced by what is said by other witnesses. In some communities, there is a waiting room right outside the courtroom. Witnesses will be shown where to wait and will be paged when it is their turn to testify. Be aware that the survivor may need your company because the accused and his family may be waiting in the same area prior to court or when a recess is taken during the trial.

### in the courtroom

When the survivor is called into the courtroom to testify, she will be directed to the witness box and asked to swear or affirm to tell the truth. If she wants to affirm (not swear on any religious book), she should tell Crown counsel before the trial starts. If she wants to swear on any religious book other than the Bible, she should bring it with her. She will be asked to state her name, address, and occupation.

If she wants an interpreter, this must be arranged in advance. The interpreter will be sworn in first and will undertake to provide accurate interpretation of

what is being said. He or she will then translate for the survivor once she is sworn in.

If the survivor has a mental or physical disability that makes it difficult for her to communicate, or if she was under 18 at the time of the offence, or if the survivor or prosecutor makes an application, the judge may order that she testify outside the courtroom or behind a screen (see “Bill C-2” under “*Criminal Code of Canada*” in Section 3.1 for further discussion of Bill C-2).

If the survivor does not want her address revealed in court, make sure that Crown counsel is notified before the trial begins. An order to **restrict or prohibit publication or broadcast** can be requested by Crown counsel to protect her or any other witness involved.

After the survivor has been sworn in, Crown counsel will ask her questions, some of which may have been discussed before the trial. Some examples are:

- Tell the court what happened. When? Where? What did you say? What did you do?
- What did the person look like?
- What happened then? What did you do?

The survivor should take her time answering questions and try to remain calm. She may have to be encouraged to speak loudly enough for everyone to hear. If she doesn’t understand a question, she should ask Crown counsel to repeat it or reword it.

As a general rule, questions about the survivor’s past sexual life are not allowed in court. However, if the accused is someone she knows and has had sexual relations with before, she may be asked questions about their sexual relationship. She cannot be asked questions about her sexual relationship with anyone else unless the judge decides to allow such questions (see “Questions about the survivor’s sexual activity” under “*Criminal Code of Canada*” in Section 3.1). If the defence wants to present such evidence, the judge holds a behind-closed-doors hearing called a voir dire with Crown counsel and defence counsel present. The judge then determines whether to allow these questions. The survivor cannot be asked to give evidence at this hearing.

Once Crown counsel has finished asking the survivor questions, the defence lawyer may cross-examine her. Cross-examination can be an unsettling experience, even for experts. The defence lawyer attempts to point out every reason why the accused should be found not guilty. Questions may focus on the woman’s truthfulness and any changes in her story. Defence counsel may suggest that:



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- The survivor was mistaken in her identification of the accused.
- She consented to what happened.
- The accused could have reasonably believed that she consented.

Cross-examination may take a long time and involve difficult-to-answer questions about things that the survivor does not remember. The defence lawyer may shout and get angry or ask a lot of questions one after the other without giving the survivor enough time to answer. Crown counsel may object to some of these questions, and it will be up to the judge to decide whether the survivor must answer a question.

Following the cross-examination, Crown counsel may want to ask the survivor a few more questions in order to clear up any confusion that came up during the cross-examination.

When the survivor's testimony is completed, the judge will excuse her. If it is a preliminary hearing, she must leave the courtroom. If it is a trial, she may take a seat in the courtroom after she has given her evidence.

It is possible that you, in your role as victim service worker, may be asked to testify and be excluded from the courtroom. This is because anyone who has information bearing on the case may be called as a witness. If this happens, the same rules and procedures will apply.

### verdict and sentencing

After all evidence has been presented, the judge or jury will decide whether or not the accused is guilty. If the verdict is later appealed, the transcripts of the trial and arguments from the lawyers go to the Court of Appeal, which decides whether or not the trial court made a mistake. Witnesses are rarely called to testify in the Court of Appeal. This court can agree with the trial court decision, enter an acquittal, change the sentence, or order a new trial. If there is a new trial, the survivor will likely have to testify again.

### not guilty

If the defendant is found not guilty, it does not mean that the judge or jury thought that the assault did not occur, that it was wrong to lay the assault charge, or that the whole process was useless. It means that there was not enough evidence to convict the accused. Criminal trials follow strict rules of evidence, and the law requires a finding of guilt to be "beyond a reasonable doubt." Being brought to trial tells the accused that sexual assault is a serious crime; it can have a deterrent effect for the accused and for others.



## guilty

If the defendant is found guilty, the judge will decide on the type and length of the sentence. This may happen immediately or may take some time.

## pre-sentence reports

Before sentencing the accused, the judge may ask a probation officer to prepare a pre-sentence report that contains information about the accused's background. A pre-sentence report is requested in only a minority of cases and should not be depended upon as a way of telling the judge about the effect of the crime on the survivor. Crown counsel can convey the woman's views, fears, and requested probation terms to the judge, if he or she has that information from the survivor herself or from the victim service worker.

## presenting evidence on the impact of the crime

Crown counsel may decide to submit a victim impact statement (VIS) or give the sentencing judge information about the physical, psychological, social, or financial effects of the crime on the survivor. The judge may consider the information when sentencing. (See Section 4.7 for details on the VIS process.)

## sentencing hearings

Very occasionally, the survivor may be asked to testify at a sentencing hearing to answer the following types of questions:

- What happened during the sexual assault?
- Were you hurt? How badly?
- Were you hurt so badly that you had to miss work?
- What damage was done to your property and how much did it cost to fix?
- How long was it before you could return to your usual activities?
- What was the emotional impact? Did you require counselling? Have you recovered? If not, what further treatment has been suggested as necessary?

It is more likely that Crown counsel will submit a VIS to the judge as information to be considered in sentencing.

## possible sentences

There are several possible sentences if the accused is found guilty of sexual assault:

- **Conditional discharge.** If the offender follows certain conditions for a certain period of time, there will be no criminal record.
- **Suspended sentence.** The offender gets a criminal record but will not



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have to go to jail, provided that he stays out of trouble and follows certain conditions.

- **Probation.** The offender must follow all the conditions set by the judge in the probation order for as long as required. Usually one of the conditions is that the offender report to a probation officer. The probation officer should inform the survivor of the conditions set out in the probation order. Conditions might include that the offender must not contact the woman or that the offender must get counselling.
- **Conditional sentence.** This is a custodial sentence that the offender can serve in the community, subject to certain punitive conditions such as house arrest. Before imposing this sentence, the court must decide that a sentence of imprisonment is justified. It must also consider a firearms prohibition.
- **Jail.** If the assault was severe or if the offender has committed other criminal offences, he may be sent to jail. The maximum sentence depends on the crime.
  - For sexual assault tried as a summary conviction offence, such as unwanted kissing or fondling, the maximum sentence is 18 months in prison or a \$2,000 fine.
  - For sexual assault Level 1 tried as an indictable offence, the maximum sentence is 10 years in prison.
  - For sexual assault Level 2 — sexual assault with a weapon, involving threats or a third party, or causing bodily harm — the maximum sentence is 14 years in prison.
  - For aggravated sexual assault, where the assailant maims, wounds, disfigures, or endangers the life of a person during a sexual assault, the maximum sentence is life in prison.



It is rare for the offender to get the maximum sentence; this sentence is reserved for the most serious offences.

- **Restitution.** In imposing a sentence, the criminal court may, in addition to any other measure it imposes, order the offender to pay compensation to the woman he has victimized for the cost of property damage and pecuniary damages. This could include loss of income and reasonable living expenses. The making of a restitution order does not prevent her from also seeking a civil remedy for damages.

### Aboriginal offenders

In the *Gladue* case,<sup>1</sup> the Supreme Court of Canada ruled that sentencing judges must pay particular attention to the circumstances of Aboriginal offenders because of their uniqueness and difference from non-Aboriginal offenders. The court also said that imprisonment may be a less appropriate sanction.

## the survivor's role in the court process

### as a witness

One of the difficult things for a survivor of sexual assault to understand is that she is “only” a witness in the court process. It may seem to her that the Crown and courts should be working on her behalf, yet the criminal justice system takes responsibility for charging and prosecuting the accused on behalf of the state, not on her behalf.

As a general rule, the survivor will not need her own lawyer. She is a witness, not a party in the criminal case. If during the course of the trial she is being inappropriately harassed or intimidated by defence counsel, Crown counsel, as an officer of the court, may intervene to ensure that questions are relevant to the issues in the case.

### victim impact statements

In addition to providing her evidence in court, a survivor has an opportunity to provide information to the court about the impact of the crime on her and her life, through the use of a victim impact statement. Survivors can have a voice in the proceedings by describing the emotional, physical, financial, and other effects the offence has had on them. For purposes of possible restitution from the offender, the VIS can list readily discernible financial impacts of the offence. The VIS is used for sentencing purposes only. Even if a statement is submitted to the court, the witness will be expected to testify at the trial. (See Section 4.7 for an overview of the VIS process.)

### application for release of personal records

If the defence counsel applies for release of the survivor's personal records, she is entitled to independent legal representation. The release of documents such as diaries or counselling records can be very traumatic. The risk of having sensitive information disclosed to the accused may affect the survivor's willingness to participate in the prosecution. Her constitutional rights are also potentially affected. For these reasons, she should consult with a private lawyer independent of Crown counsel. The Legal Services Society (LSS) provides legal aid for a complainant or witness in circumstances such as these, where her privacy rights are affected. Contact LSS for more information about this service (see Section 8).

## section 7



### footnote 1

<sup>1</sup> R. v. Gladue (1999), 133 C.C.C.(3d) 385; [1999] 1 S.C.R. 688 (S.C.C.)

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### seeking compensation

The survivor may be able to get financial compensation from her assailant by suing him in civil court. There are time deadlines for proceeding with a civil suit, so she should consult a lawyer as soon as possible. It is not necessary to wait until the criminal trial is over for her to see a lawyer. To find a lawyer, she can contact her local Legal Services Society or Lawyer Referral Service (see Section 8).

A claim in civil court may succeed even though the accused was found not guilty in criminal court, because the standard of proof in criminal court is higher than it is in civil court. If the survivor wins a civil case for damages, the judge will order the offender to pay her a sum of money to compensate for the pain, suffering, and loss of income he caused.

If a survivor has already received monetary assistance under the Crime Victim Assistance Program (CVAP) and then gets a settlement in civil court, she may have to pay back some of the CVAP assistance she has received.

If the accused was employed in a position of trust and sexually assaulted the survivor while he was in that job, the organization that hired the accused may also be held accountable.



The survivor does not need a lawyer in order to apply for assistance under CVAP (see Section 4.6).



Restitution may be ordered as part of the offender's sentence in the criminal proceeding. For purposes of possible restitution from the offender, a survivor may list in her VIS readily discernible losses resulting from the crime. A restitution order does not prevent her from also seeking civil damages.

### role of the victim service worker in the court process

As a victim service worker, you must reinforce the importance of the survivor's role. She is the key witness; without her, there is very little chance that the accused will be convicted. It is also important for you to make sure that the survivor does not feel revictimized by the legal system.

### reassurance and support

Because the court process takes place many months after the assault, survivors often feel that they don't want to go through with the process. The intense feelings that the woman experienced after the assault subside, and she begins to "get on with her life." She may fear that if she goes through with the court process, memories will come back and begin to disrupt her life again. She may fear that she will "fall apart" and that it will take many months to recover. The

woman may also fear dealing with such a personal experience in a public forum. Because of these feelings and reactions, it is imperative that you, as a victim service worker, support her throughout this process.

The court process itself can be alienating. The woman may have gone through a life-threatening experience, yet the court process seems cold and impersonal. You can provide a human element and assist her through another stage in her recovery process.

One way you can help is by scheduling regular appointments with the woman in the time leading up to her court date. Focus on her feelings and fears about being in court. Give her information about the court process and make sure she receives an orientation to the court, the trial, and her role as a witness. She has a right to be kept informed and to be properly prepared for giving her testimony in court.

If the woman knows what to expect in the court process and is supported prior to trial, she will feel stronger and less afraid, and will make a better witness.

The woman may be fearful about testifying, and may also be afraid of being in the same room as the accused. Reassure her about the security precautions taken in courtrooms. Emphasize that she has the option of having you accompany her, if that would help.

Sometimes intense feelings of anger will surface at this time. This anger may have several different targets. Two obvious targets are the accused and the accused's defence counsel.

Support the woman by validating these feelings and by offering a sympathetic ear. At the same time, clarify the roles of the court personnel involved and reiterate that everyone in the system — including the defence counsel — is working for justice and fairness for all parties.

### **assistance with a victim impact statement**

It is the role of the victim service worker to explain the victim impact statement to a survivor and to assist as appropriate in filling out this form. If she did not receive a form in the mail, you can provide it. In most cases, she will either mail the completed VIS back to the Crown office or bring it to you for assistance. You should make sure that the survivor understands how the VIS may be used in court (see Section 4.7).

Completing a VIS can be a complex process for a survivor in a sexual assault case. It is therefore important to ensure that she can complete it without being under time pressure. If a VIS is not completed, note the reasons in the file.



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You need to be familiar with the survivor's VIS, as you may need to transcribe the statement on her behalf if she is unable to do so for some reason. It is essential, however, that the statement is presented in her own words.

For the VIS to be used to best advantage, it is important for you to consult with Crown counsel about the status of the VIS and its use in sentencing. (See Section 4.7 for more on the VIS process and your role.)

### court orientation

Court orientation is an important process for the survivor, as familiarity about the court can do much to lessen her anxiety. It will greatly assist her if you provide her with information about what to expect in court and about her role, arrange a tour of the courthouse for her, and/or arrange for her to observe a court in session. If court orientation in your community is provided by another victim service program, make sure that the referral you make is an effective one, including following up with her to ensure that she received these services. In preparation for her court experience, it is also important that you:

- Make sure that interpretation services are available if the survivor needs them when she is being interviewed by Crown counsel and when she is in court.
- Give the survivor information about the meaning of legal terms that she may not understand.
- Let her know she can look at you when she is in the stand if she doesn't want to look at the judge or jury, particularly during cross-examination. Remember, this may not be of help if eye contact is not a normal form of communication in her culture.
- Let her know that she can request a screen so that she does not have to see the accused in the courtroom, or give her testimony from a location outside the courtroom, by video link. Some conditions apply, so you should check with Crown counsel what might be available for her.
- Prepare the survivor for the possibility that the trial may be adjourned to a later date. Very often trials do not go ahead as planned because a previous trial takes longer than expected or a witness is unavailable. If this occurs, she may need extra support.
- Talk to Crown counsel about what information you are allowed to discuss with her. There could be legal issues at stake, so make sure that your plan of support is approved by Crown counsel.
- Check with the woman often to see whether she has any questions or concerns.



## court accompaniment

Your role in court will likely be limited to supporting the woman before and after she testifies, listening to her comments and feelings after her testimony, and staying with her in the courtroom afterward if she decides to listen to the remainder of the trial.

During the trial, you must stay with the woman at all times. You may be interested in what is happening in the courtroom but your role is to support the woman wherever she has to be. This means keeping her company in the court waiting area if necessary.

If this is not a preliminary hearing, she may want to stay and hear the rest of the trial after completing her testimony. Support her decision even if staying appears to be upsetting her.

At all times, you must be available to listen to her feelings and give her information that will help her understand the process. The more she can express her feelings about the assault, the better.

## after sentencing

### registering for notification of changes in offender custody status

Survivors of sexual assault can register to be notified of changes in the custody status of an offender.

If the offender is in a provincial jail, the survivor can file a confidential **Contact Information Form** with the Victim Safety Unit to be notified when he is about to be released. Victim notification staff will contact her. If the woman wishes to register, you can assist her to download, complete, and submit the Automated Notification Service Information and Registration Form. If she would like more information, she can contact the Victim Safety Unit.

If the offender is in a federal institution, the survivor can contact the National Parole Board/Correctional Service of Canada for more information.

Both federal and provincial corrections now place greater emphasis on the needs and concerns of victims. Corrections personnel will provide the survivor with information about the offender's sentence, custody status, and hearing dates. (See Section 8 for contact information.)

### federal corrections and parole

If the offender was sentenced to two years or more in jail, he will serve his time



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in a federal penitentiary. In BC, all offenders first go to Matsqui Institution, where they are assessed to determine the best place for them to be. If the offender is sent to a penitentiary outside the province, he can ask for a federal/provincial exchange. This means that he will serve his sentence in a provincial institution, and any decisions made about his parole will be made by the provincial (BC) Board of Parole.

With the exception of dangerous offenders and those who receive a life term, an offender is eligible for full parole after serving one-third of his sentence. He is eligible for day parole six months before he can apply for full parole.

In 1992, the federal government proclaimed a new act called the Corrections and *Conditional Release Act*. Under this act, each federal jail has a victim liaison coordinator who is responsible for providing information to survivors and getting information from them.

If the inmate is in a federal jail, the survivor can write to the National Parole Board and find out the answers to such questions as:

- When the sentence began
- The length of the sentence
- The dates the offender becomes eligible for unescorted temporary absences from jail and parole
- Which jail he is in
- The date of any hearing regarding parole
- Conditions of the offender's release



The survivor also has the right to attend parole board hearings. She cannot speak at those hearings, but she can write to the National Parole Board in advance if she has information she thinks would be relevant to the offender's release. Most information that she provides will also be given to the offender.

If the survivor wishes to attend a parole board hearing, see Section 8 for contact information. You can assist her by contacting the appropriate federal institution directly and speaking to the victim liaison coordinator.

### provincial corrections and parole

If the offender was sentenced to less than two years in prison, he will be sent to a provincial institution. Once he is there, he may be assessed by institutional staff who will review any psychiatric reports that have been prepared, as well as the police reports and the judge's comments.

After he has served one-sixth of his sentence, he can apply for day parole. This means he must return to the institution every evening. After he has served



one-third of his sentence, he can apply for full parole. If the offender is released on full parole, he will be supervised by a probation officer until the end of his sentence.

Offenders who demonstrate “good behaviour” in jail are eligible for early release after serving two-thirds of their sentence. Some offenders prefer early release to full parole release, because if they are released early on good behaviour they will not be supervised in the community, as they would be if they were on parole.

If the offender receives a condition of probation or is released on parole from one of the provincial institutions, the probation officer will inform the survivor of the terms of the order or certificate, and will provide her with a copy of the order or certificate as well as advise her on how to report any breaches of the protective conditions.

The BC Board of Parole encourages participation in the parole process and will keep the survivor informed about parole hearing dates and decisions. It will also ensure that victim impact statements and other written submissions are taken into consideration in the parole decision-making process, and will provide an opportunity for the survivor to attend the parole hearing as an observer (see Section 8 for contact information).

## after the court process is over

Being in court is a stressful and disruptive experience for the survivor. You must be sensitive to the intense emotional pressures she may be feeling. The survivor’s life has already been disrupted by the crime itself, by the resulting inconvenience of lost work or school hours or income, and by having to deal with feelings of fear and anger. Then she had to deal with all the pressures that testifying in court involves.

### debriefing with the survivor

Dealing with the crisis and preparing for the court case is such an intense and emotionally charged experience that when the woman finally leaves the courthouse, she may feel lost and bewildered.

Even though the trial is over, her support relationship with you may not end. The woman may have difficulty dealing with the outcome of the trial, especially if the accused was found not guilty. She may need to talk about her experience of the trial, whether the accused was acquitted or sentenced.

Being a witness is exhausting. At the end of the day, ask the woman what she wants to do. She may want to go back to your office to talk about the trial, or she may just want to go home. Be aware that the process is not over for her. Having



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to testify about the assault may have brought up feelings of anger, fear, and grief. At this point, especially if the accused has been sentenced, she may allow herself to express fully the emotions that she has not yet faced.

If the accused is found not guilty, the woman should be assured that the acquittal does not mean that the assault did not occur or that the court did not believe her. Encourage her to express her feelings about the outcome of the trial. The decision about the sentence may also activate feelings of anger (if the sentence seems light) or guilt (if she knows the accused).

### ending the relationship

After you have provided whatever immediate post-trial support is needed, you should try to ensure that the woman continues to pursue activities and services that will give her ongoing support as she integrates the assault experience into her life in a constructive and healthy manner. She must learn once again to trust others and, most importantly, to trust and have confidence in herself.

The woman's adjustment may be slow and may take many months. Once you feel that your part in her recovery has ended, you can help her to end the relationship with you by recommending resources and groups in the community that can be of ongoing benefit to her — women's centres, support groups, peer counselling networks, personal and family counsellors, mental health centres, Native Friendship Centres.



It may be a difficult task for both of you to break the bonds that have formed during the weeks or months that you have worked together.

It may be difficult for the woman to give up a relationship in which she has shared so much of her intimate life. She may feel a sense of abandonment at the prospect of the relationship ending. You can assist her by acknowledging these feelings, putting them in context, and reinforcing her sense of competence and ability to change. It may also help the survivor if you assess the value of the helping relationship and support process with her, and acknowledge its positive aspects and limitations. It is important that she leave the helping relationship with a sense of accomplishment. She may also need encouragement to express any disappointments and fears for the future.

Ending the relationship may also be personally difficult for you. You may have trouble letting go because of strong bonds that have formed between you. It is important to recognize this and for both of you to talk about it. On the other hand, you may be ready for the relationship to end, and, if she is not, you may be struggling with the feeling that you are abandoning her. Be aware of your own feelings and assess carefully whether continued work is really needed or whether you are both delaying saying goodbye.

■ ■ resources for working with sexual assault survivors  
□

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## section 8 ■ ■ ■

### introduction



The resources listed here will be useful to you in all aspects of your work with sexual assault survivors. It is important that you become familiar with these resources so that you can keep current, both in your knowledge and understanding of sexual violence and in your awareness of what exists to help you help survivors.

The telephone directories for many larger BC communities have one or more pages in the front that list phone numbers for community services. These include crisis lines, sexual assault centres, transition houses, and services for non-English-speaking people, seniors, and people with disabilities.

#### **TELUS RELAY SERVICE**

Telus Relay Service (TRS) enables persons who are deaf or hard of hearing, who have difficulty with speech, and who use a TTY (Teletypewriter) to converse with those using a standard telephone, and enables a hearing person without a TTY to call a TTY user.

Call 1-800-855-0511 (Voice to TTY)

Call 7-1-1 (TTY to Voice)

Call 1-800-855-1155 (TTY to TTY) for operator assistance in billing a long distance call to another TTY.

### government services

#### Province of British Columbia

##### **ENQUIRY BC**

If you or the victim needs help finding a program, service, or person within the BC government, call Enquiry BC.

*Telephone numbers:*

**604-660-2421** (Lower Mainland)

**1-800-663-7867** (toll-free outside Lower Mainland)

**604-775-0303** (TTY for hearing impaired)

**1-800-661-8773** (outside BC)

## MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

Web: [www.gov.bc.ca/pssg](http://www.gov.bc.ca/pssg)

Victim Services and Crime Prevention Division

302 – 815 Hornby Street

Vancouver, BC V6Z 2E6

Telephone: 604-660-5199 | Fax: 604-660-5340

E-mail: [vsdvictimservices@gov.bc.ca](mailto:vsdvictimservices@gov.bc.ca)

Web: [www.pssg.gov.bc.ca/victim\\_services](http://www.pssg.gov.bc.ca/victim_services)

To view the Victim Services and Crime Prevention Division publications, including forms, go to:

[www.gov.bc.ca/pssg/victim\\_services/publications/index.htm](http://www.gov.bc.ca/pssg/victim_services/publications/index.htm).

### □ *VictimLINK*

Telephone: **1-800-563-0808**

The line is TTY accessible and provides interpretation services for all major languages in BC.

### □ *Victim Services*

Telephone: 604-660-5199 | Fax: 604-660-5340

E-mail: [vsdvictimservices@gov.bc.ca](mailto:vsdvictimservices@gov.bc.ca)

Web: [www.pssg.gov.bc.ca/victim\\_services](http://www.pssg.gov.bc.ca/victim_services)

For a list of all victim services in BC, go to:

[www.pssg.gov.bc.ca/victim\\_services/directory/index.htm](http://www.pssg.gov.bc.ca/victim_services/directory/index.htm)

### □ *Victim Safety Unit*

Telephone: **604-660-0316** (Lower Mainland)

**1-877-315-8822** (toll-free from anywhere in Canada)

E-mail: [vsusg@gov.bc.ca](mailto:vsusg@gov.bc.ca)

Fax: 604-660-0335

Web: [www.pssg.gov.bc.ca/victim\\_services/index.htm](http://www.pssg.gov.bc.ca/victim_services/index.htm)

To register for victim notification go to:

[www.pssg.gov.bc.ca/victim\\_services/notification/index.htm](http://www.pssg.gov.bc.ca/victim_services/notification/index.htm)

### □ *Crime Victim Assistance Program*

Telephone: **604-660-3888** (Lower Mainland)

**1-866-660-3888** (toll-free outside Lower Mainland)

E-mail: [sgcrimevictimassistanceprogram@gov.bc.ca](mailto:sgcrimevictimassistanceprogram@gov.bc.ca)

To access CVAP Counselling Guidelines and Application Forms, go to:

[www.pssg.gov.bc.ca/victim\\_services/publications/index.htm](http://www.pssg.gov.bc.ca/victim_services/publications/index.htm)



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- *Protection Order Registry*  
Victims can call VictimLINK at 1-800-563-0808 to verify the status of their order.
- *Provincial Protective Measures Unit*  
Telephone: 604-717-3674 | Fax: 604-717-3315  
Operates out of the Domestic Violence Unit of the Vancouver Police Department.

### BC Corrections Branch

Telephone: 250-356-9596 | Fax: 250-387-1753

Web: [www.pssg.gov.bc.ca/corrections/index.htm](http://www.pssg.gov.bc.ca/corrections/index.htm)

### BC Family Justice Services Information Line

Telephone: 604-660-2192 (Lower Mainland)

1-888-216-2211 (Outline Lower Mainland)

Web: [www.ag.bc.ca/family-justice/index.htm](http://www.ag.bc.ca/family-justice/index.htm)

### BC Parole Board

Telephone: 604-660-8846

Web: [www.gov.bc.ca/bcparole](http://www.gov.bc.ca/bcparole)

## **MINISTRY OF ATTORNEY GENERAL**

Web: [www.ag.gov.bc.ca](http://www.ag.gov.bc.ca)

### Criminal Justice Branch

Telephone: 250-356-9596 | Fax: 250-356-2213

Provides access to Crown counsel policies.

### Public Guardian and Trustee of British Columbia

Telephone: 604-660-4444

Web: [www.trustee.bc.ca](http://www.trustee.bc.ca)

## **MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT**

Web: [www.mcf.gov.bc.ca/contact\\_us.htm](http://www.mcf.gov.bc.ca/contact_us.htm)

## **MINISTRY OF COMMUNITY, ABORIGINAL AND WOMEN'S SERVICES**

Web: [www.gov.bc.ca/mcaaws](http://www.gov.bc.ca/mcaaws)

### Stopping the Violence (STV) Counselling Programs

Web: [www.mcaaws.gov.bc.ca/womens\\_services/counselling/index.htm](http://www.mcaaws.gov.bc.ca/womens_services/counselling/index.htm)

## **MINISTRY OF EMPLOYMENT AND INVESTMENT**

Enquiry BC will refer callers to the appropriate MEIA office and transfer callers free of charge. Hours of operation for Enquiry BC are 8:00 am to 5:00 pm, Monday through Friday. (see page 8.2 for contact information.)

## Government of Canada

### **DEPARTMENT OF JUSTICE CANADA**

Web: [www.canada.justice.gc.ca](http://www.canada.justice.gc.ca)

### **CORRECTIONAL SERVICE OF CANADA**

Web: [www.pssg.gov.bc.ca/victim\\_services/notification/index.htm](http://www.pssg.gov.bc.ca/victim_services/notification/index.htm)

Provides information about notification of status of offenders sentenced to custody terms of two years or more.

### **INDIAN AND NORTHERN AFFAIRS CANADA (INAC)**

Web: [www.inac.gc.ca](http://www.inac.gc.ca)

### **NATIONAL CLEARINGHOUSE ON FAMILY VIOLENCE**

Web: [www.hc-sc.gc.ca/hppb/familyviolence/index.html](http://www.hc-sc.gc.ca/hppb/familyviolence/index.html)

Provides educational resources on family and sexual violence, including violence against women, children, and the elderly, and violence in same-sex relationships.

### **NATIONAL PAROLE BOARD**

Telephone: **1-888-999-8828** (toll-free in BC)

Web: [www.npb-cnrc.gc.ca/victims/victims\\_e.htm](http://www.npb-cnrc.gc.ca/victims/victims_e.htm)

### **STATISTICS CANADA, CANADIAN CENTRE FOR JUSTICE STATISTICS**

Web: [www.statcan.ca](http://www.statcan.ca)

### **STATUS OF WOMEN CANADA**

Web: [www.swc-cfc.gc.ca](http://www.swc-cfc.gc.ca)

## provincial and regional organizations

### Affiliation of Multi-Cultural Societies and Serving Agencies

Telephone: 604-718-2777

### BC Association of Specialized Victim Assistance and Counselling Programs (BCASVACP)

Telephone: 604- 633-2506 | Fax: 604- 633-2507

E-mail: [bcasvacp@endingviolence.org](mailto:bcasvacp@endingviolence.org)

Web: [www.endingviolence.org](http://www.endingviolence.org)

Represents and supports BC Specialized Community-based Victim Service Programs, sexual assault and woman assault centres, and Stopping the Violence Counselling Programs. Programs and projects include:

- *Community Coordination for Women's Safety*, a program supporting

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coordinated community approaches to violence against women, focusing on rural and isolated areas

- Safe Choices, a support and education program providing information for service providers on abuse in same-sex relationships

### BC Coalition of People with Disabilities

Telephone: 604-875-9227

Fax: 604-875-8835

Web: [www.bccpd.bc.ca](http://www.bccpd.bc.ca)

Provides advocacy to raise public and political awareness of issues of concern to people with disabilities.

### BC Coalition to Eliminate Abuse of Seniors (BC CEAS)

Telephone: 604-437-1940 (Lower Mainland)

1-866-437-1940 (toll-free outside Lower Mainland)

Fax: 604-437-1929

Web: [www.bcceas.ca](http://www.bcceas.ca)

Promotes education, research, services, and advocacy regarding the abuse of seniors.

### BC Foundation to Support Community Response to Adult Abuse and Neglect

Telephone: 604-660-4482

E-mail: [crns@telus.net](mailto:crns@telus.net)

Web: [www.bccrns.ca](http://www.bccrns.ca)

Supports communities in their responses to adults who are experiencing or are at risk of abuse, neglect, or self-neglect.

### BC Institute Against Family Violence

Telephone: **604-669-7055** (Lower Mainland)

**1-877-755-7055** (toll-free outside Lower Mainland)

Fax: 604-669-7054

Web: [www.bcifv.org](http://www.bcifv.org)

Conducts research and develops educational and training resources focusing on eliminating family violence.

### BC Women's Sexual Assault Service

Telephone: **604-875-2881**

Provides a coordinated, specialized service – including medical practitioners and counsellors – to sexual assault survivors at BC Women's Hospital.

### BC/Yukon Society of Transition Houses (BC/YSTH)

Telephone: 604-669-6943 | Fax: 604-682-6962

E-mail: [admin@bcysth.ca](mailto:admin@bcysth.ca)

Web: [www.bcysth.ca](http://www.bcysth.ca)



Represents and supports transition houses, safe homes, and second-stage housing in BC and the Yukon. Programs include Children Who Witness Abuse Programs.

#### Ending Relationship Abuse (ERA) Society of BC

Telephone: 604-291-0521

Web: [www.endingrelationshipabuse.ca](http://www.endingrelationshipabuse.ca) or [www.bcacam.bc.ca](http://www.bcacam.bc.ca)

A network of individuals who provide or support treatment for those who use violence or abuse in their intimate relationships, directed to effective policy and funding for programs, support and training of counsellors, and high-quality services.

#### The FREDA (Feminist Research, Education, Development and Action) Centre for Research on Violence Against Women and Children

Telephone: 604-291-5197

E-mail: [freda@sfu.ca](mailto:freda@sfu.ca)

Web: [www.harbour.sfu.ca/freda](http://www.harbour.sfu.ca/freda)

Conducts research and provides public education and advocacy on violence against women and children, focusing on immigrant and visible minority women and girls.

#### Justice Institute of British Columbia

Centre for Leadership and Community Learning

Telephone: 604-528-5608 | Fax: 604-528-5640

E-mail: [clcl\\_pr@jibc.bc.ca](mailto:clcl_pr@jibc.bc.ca)

Web: [www.jibc.bc.ca/clcl](http://www.jibc.bc.ca/clcl)

Provides postsecondary training and educational resources for victim services, justice, health, and social services personnel and conducts research on victimization issues.

#### LGTB Centre (“The Centre”)

Telephone: **604-684-6869** (Lower Mainland)

**1-800-566-1170** (toll-free outside Lower Mainland)

Web: [www.lgtbcentrevancouver.com](http://www.lgtbcentrevancouver.com)

Provides information, referrals, and peer support for lesbian, gay, bisexual, and trans people, 7:00 p.m. to 10:00 p.m., seven days a week.

#### Police Victim Services of BC

Telephone: 604-299-2502 | Fax: 604-299-2503

E-mail: [info@policevictimservices.bc.ca](mailto:info@policevictimservices.bc.ca)

Web: [www.policevictimservices.bc.ca](http://www.policevictimservices.bc.ca)

Provides information, resources, and support to police-based victim services across the province.

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Trans Alliance Society

Web: [www.transalliancesociety.org](http://www.transalliancesociety.org)

Serves primarily the trans community in BC.

Vancouver and Lower Mainland Multicultural Family Support Services Society

Telephone: 604-436-1025 | Fax: 604-436-3267

E-mail: [againstviolence@vlmfss.ca](mailto:againstviolence@vlmfss.ca)

Web: [www.vlmfss.ca/main.html](http://www.vlmfss.ca/main.html)

Provides culturally sensitive services to immigrant, refugee, and visible minority women who are experiencing family violence.

## legal information and advocacy

Legal Services Society

Telephone: 604-601-6000 | Fax: 604-682-7967

Web: [www.lss.bc.ca](http://www.lss.bc.ca)

### □ *Legal Aid*

Telephone: **604-408-2172** (Lower Mainland)

**1-866-577-2525** (toll-free outside Lower Mainland)

Web: [www.lss.bc.ca](http://www.lss.bc.ca)

This site has information about legal aid eligibility and coverage. Victims can apply for legal aid by phone by calling the Legal Services Society Call Centre above. To apply in person, victims can visit the LSS website or look in the white pages of the phone book under “Legal Aid – Legal Services Society” to find the office closest to them.

### □ *LawLINE*

Telephone: **604-408-2172** (Lower Mainland)

**1-866-577-2525** (toll-free outside Lower Mainland)

A free legal advice and legal information telephone service for anyone who is not eligible for legal aid and cannot afford a lawyer.

### □ *LawLINK*

Web: [www.lawlink.bc.ca](http://www.lawlink.bc.ca)

LawLINK is an extensive legal information service that consists of a website and public access computers. The site provides details of the computer locations.

### □ Legal Services Society Family Law Website

[www.familylaw.lss.bc.ca](http://www.familylaw.lss.bc.ca)

Provides information about family law and self-help materials to help people resolve family law problems.

### Lawyer Referral Service

Telephone: **604-687-3221** (Lower Mainland)

**1-800-663-1919** (toll-free outside Lower Mainland)

Provides referrals to lawyers who will give an initial interview of up to 30 minutes for a fee of \$10. The lawyer will provide basic legal advice and let the woman know whether or not she needs a lawyer.

### Free Legal Clinics

There are legal clinics that provide some legal advice free of charge. Sometimes the legal clinic is called a “pro bono” (free) clinic. To find out if there is a free legal clinic in your area, ask the Law Line. You can look for a free legal clinic by going to [www.probononet.bc.ca](http://www.probononet.bc.ca). Click “Directory” and look under “pro bono programs.”

### Dial-a-Law

Telephone: **604-687-4680** (Lower Mainland)

**1-800-565-5297** (toll-free outside Lower Mainland)

Web: [www.dialalaw.org](http://www.dialalaw.org)

Plays pre-recorded tapes with information on over 130 law-related topics in BC.

To find text versions of some tapes go to: [www.bccba.org](http://www.bccba.org)

## other useful organizations and websites

This is a selected listing of Canadian organizations that provide useful resources for those working with survivors of sexual assault.

### BC Human Rights Coalition

Web: [www.bchrcoalition.org](http://www.bchrcoalition.org)

Provides assistance and representation to those who need help with a provincial human rights complaint, as well as information and education on human rights.

### Canadian Association of Elizabeth Fry Societies

Web: [www.elizabethfry.ca](http://www.elizabethfry.ca)

Works with and for women and girls in the justice system, particularly those who are or may be criminalized.

### Canadian Women’s Health Network

Web: [www.cwhn.ca](http://www.cwhn.ca)

Provides information, resources, and strategies to improve women’s health.

### DisAbled Women’s Network (DAWN) Canada

Web: [www.dawncanada.net](http://www.dawncanada.net)

Provides resources about violence in relationships against women with disabilities.

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### Education Wife Assault

Web: [www.womanabuseprevention.com](http://www.womanabuseprevention.com)

Provides information and resources relevant across Canada.

Web: [www.womanabuseprevention.com/html/same-sex\\_partner\\_abuse.html](http://www.womanabuseprevention.com/html/same-sex_partner_abuse.html)

Provides information on abuse in same-sex relationships.

### Kettle Friendship Society

Web: [www.thekettle.ca](http://www.thekettle.ca)

Vancouver-based organization that provides resources for people dealing with mental conditions.

### Metropolitan Action Committee on Violence Against Women and Children (METRAC)

Web: [www.metrac.org](http://www.metrac.org)

Toronto-based organization providing resources on sexual assault.

### Network Against Abuse in Same-Sex Relationships

Web: [www.bcifv.org/resources/samesex.html](http://www.bcifv.org/resources/samesex.html)

Provides resources on abuse in same-sex relationships.

### Ontario Coalition of Rape Crisis Centres

Web: [www.ocrcc.ca](http://www.ocrcc.ca)

Provides information for rape crisis centres and maintains a position of responsibility for provincial and national advocacy, and, when called upon, for global advocacy.

### Ontario Women's Justice Network

Web: [www.owjn.org/issues/assault.htm](http://www.owjn.org/issues/assault.htm)

Includes resources on sexual assault and the law, including Supreme Court decisions.

### Outlook

Web: [www.auto-graphics.com/cgipac/mmx/bvaj/Access](http://www.auto-graphics.com/cgipac/mmx/bvaj/Access)

Allows access to BC's public, college, and institute (including the Justice Institute of BC) libraries. "Sexual assault" yielded almost 400 references.

### Pacific Association of First Nations Women

Telephone: **604-873-1833**

Assists Aboriginal women and their families with health, education, and social service issues.

### PovNet

Web: [www.povnet.org](http://www.povnet.org)

An Internet site for advocates, people on welfare, and community groups and individuals involved in anti-poverty work in BC. If you need an advocate to assist a victim, click "Find an advocate."

Sexual Assault Services of Saskatchewan

Web: [www3.sk.sympatico.ca/sass](http://www3.sk.sympatico.ca/sass)

Develops resource materials and strategies to help improve services, and works with other agencies and organizations to eliminate sexualized violence.

Shelter Net

Web: [www.shelternet.ca](http://www.shelternet.ca)

Helps a woman to find a shelter Canada-wide.

Za-geh-do-win Information Clearinghouse (Ontario)

Web: [www.za-geh-do-win.com](http://www.za-geh-do-win.com)

Provides information about health, family violence, sexual assault, and healing for Aboriginal communities.



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- (1993). Community Coordination to Stop Violence Against Women in Relationships: A Framework. Available from Victim Services and Crime Prevention Division.
- (2000). *Moving Coordination Forward: Resources for a Coordinated Community Response to Violence Against Women*. Available online at: [www.endingviolence.org](http://www.endingviolence.org)
- (2004). *Guidelines on Priority Response Partnerships for Women at High Risk of Violence in Relationships, Cellular Phone Initiative*. Available from Victim Safety Unit.

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### pamphlets and booklets

*Abuse: Any Woman, Any Age, Any Time*. A pamphlet for service providers. Available from the BC/Yukon Society of Transition Houses or online at: [www.bcysth.ca](http://www.bcysth.ca)

*Abuse in Lesbian Relationships*. Booklet produced by the National Clearinghouse on Family Violence. Available online at: [www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/pdfs/lesbianabuse.pdf](http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/pdfs/lesbianabuse.pdf)

*Abuse in Same-Sex Relationships*. Pamphlet produced by the Network Against Abuse in Same-Sex Relationships. Available online at: [www.bcifv.org](http://www.bcifv.org)

*Are You Afraid in Your Own Home? An Information Booklet for Older Women*. Available from the BC/Yukon Society of Transition Houses or online at: [www.bcysth.ca](http://www.bcysth.ca)

*Facts to Consider about Sexual Assault.* Fact sheet prepared by the Ontario Women's Directorate (OWD). Available online at:

[www.citizenship.gov.on.ca/owd/english/publications](http://www.citizenship.gov.on.ca/owd/english/publications)

*Family Violence & Animal Abuse: Linking the Circles of Compassion and Prevention.* A series of three pamphlets for the public, animal care professionals, and victim service workers and justice system personnel. Available from the BC Institute Against Family Violence by phone at 604-669-7055 or toll-free at 1-877-755-7055; fax: 604-669-7054; or online at [www.bcifv.org](http://www.bcifv.org)

*For Your Protection: Peace Bonds and Restraining Orders.* A booklet providing information for women in relationships who need protection from violence or the threat of violence. Available in English, Chinese, and Punjabi from Victim Services and Crime Prevention Division by fax or online at [www.pssg.gov.bc.ca/victim\\_services/publications/guides/PeaceBondsRestOrdersWEB.pdf](http://www.pssg.gov.bc.ca/victim_services/publications/guides/PeaceBondsRestOrdersWEB.pdf)

*If You Are Being Stalked.* A pamphlet providing a number of suggestions for increasing women's safety. Available from Victim Services and Crime Prevention Division or online at:

[www.mcaaws.gov.bc.ca/womens\\_services/stalking/toc.htm](http://www.mcaaws.gov.bc.ca/womens_services/stalking/toc.htm)

*Information for Victims.* Available from the National Parole Board by phone at 1-888-999-8828 (toll-free in BC) or online at:

[www.npb-cnrc.gc.ca/victims/victims\\_e.htm](http://www.npb-cnrc.gc.ca/victims/victims_e.htm)

*Let's Talk about Sexual Assault.* (1989). Prepared by T. Porteous et al. for the Victoria Women's Sexual Assault Centre, telephone 250-383-5545.

*Overview of the Crime Victim Assistance Act.* Available from Victim Services and Crime Prevention Division by fax or online at:

[www.pssg.gov.bc.ca/victim\\_services/cva/overview/index.htm](http://www.pssg.gov.bc.ca/victim_services/cva/overview/index.htm)

*Recovering From Rape: Healing Your Sexuality.* Prepared by the Seattle Institute for Sex Therapy, Education, and Research. Available online at:

[www.sextx.com/rape.html](http://www.sextx.com/rape.html)

*Sexual Assault.* Four pamphlets on legal options and the criminal process. Available in Chinese, English, Farsi, French, Punjabi, Russian, Spanish, and Tamil. These and other relevant pamphlets are available from Metrac online at:

[www.metrac.org](http://www.metrac.org)

*Sexual Assault: Dispelling the Myths.* Prepared by the Ontario Women's Directorate (OWD). Available online at:

[www.citizenship.gov.on.ca/owd/english/publications](http://www.citizenship.gov.on.ca/owd/english/publications)

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*Sexual Assault: Information for Families.* Prepared by S. Benson & K. Maier for the Victoria Women's Sexual Assault Centre, telephone 250-383-5545.

*Sexual Assault: Information for Partners and Friends.* Prepared by S. Benson & K. Maier for the Victoria Women's Sexual Assault Centre, telephone 250-383-5545.

*Sexual Assault in Rural Communities.* Prepared by Susan H. Lewis for the US-based National Resource Center on Domestic Violence.

*Sexual Assault: What Every Girl and Woman Should Know.* Prepared by the Ontario Women's Directorate (OWD) for young women ages 17-25. Available online at: [www.citizenship.gov.on.ca/owd/english/publications](http://www.citizenship.gov.on.ca/owd/english/publications)

*Speaking of Abuse: Violence Against Women in Relationships. Information about a Woman's Rights.* A pamphlet in English, Chinese, Farsi, French, Punjabi, Russian, Spanish, and Vietnamese, and in English on audiotape and disk, last updated in 1998. Available from Victim Services and Crime Prevention Division by fax at 603-660-5340 or online at: [www.pssg.gov.bc.ca/victim\\_services](http://www.pssg.gov.bc.ca/victim_services)

*Stalking Is a Crime Called Criminal Harassment.* A pamphlet for victims. Available from the Department of Justice Canada.

*Unspoken Crimes: Sexual Assault in Rural America.* (2003). A booklet for service providers on sexual assault in rural communities, prepared by Susan H. Lewis. Available from the National Sexual Violence Resource Center at [www.nsvrc.org](http://www.nsvrc.org).

*Victims and Parole Board Hearings.* A pamphlet explaining how to receive information and participate in BC Parole Board hearings. Available from the BC Board of Parole online at: [www.gov.bc.ca/bcparole](http://www.gov.bc.ca/bcparole)

*Victim's Information Exchange with the Correctional Service of Canada and the National Parole Board.* Pamphlet giving information about victims' rights and parole board hearings. Available from the Solicitor General of Canada.

*Violence Against Women in Relationships: A Guide for Medical Personnel.* A booklet designed for primary care physicians and emergency department personnel, to raise awareness and assist them when treating abused women. Available from Victim Services and Crime Prevention Division by fax at 604-660-5340.

*Your Rights if You Are a Victim of Crime.* A pamphlet in English, Chinese, Farsi, French, Punjabi, Russian, Spanish, and Vietnamese. Available from Victim Services and Crime Prevention Division by fax at 604-660-5340 or online at: [www.pssg.gov.bc.ca/victim\\_services/publications/guides/YourRights.pdf](http://www.pssg.gov.bc.ca/victim_services/publications/guides/YourRights.pdf)



## legislation, policies, and guidelines

### BC CORRECTIONS BRANCH:

- (2004). *Community Corrections Policy Manual*. Available from Corrections Branch, Ministry of Public Safety and Solicitor General.



### BC CROWN COUNSEL:

- (1999). *Criminal Harassment Policy*.
- (2003). *Crown Counsel Policy Manual: Alternative Measures for Adult Offenders*.
- (2003). *Crown Counsel Policy Manual: Sexual Assault*.
- (2003). *Crown Counsel Policy Manual: Spouse Assault*.
- (2003). *Crown Counsel Policy Manual: Victims of Crime*.

Available from Criminal Justice Branch, Ministry of Attorney General.

*BC Victim Services and Crime Prevention Division*. (2004). Guidelines on Priority Response Partnerships for Women at High Risk of Violence in Relationships, Cellular Phone Initiative. Available from Victim Safety Unit, Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General.

*Crime Victim Assistance Act (General) Regulation, Protective Measures (Section 12), and Counselling Benefits (Section 11)*. (2002). Available from Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General or online at: [www.pssg.gov.bc.ca/victim\\_services/publications/index.htm](http://www.pssg.gov.bc.ca/victim_services/publications/index.htm)

### GOVERNMENT OF BRITISH COLUMBIA:

Copies of provincial legislation are available from Queen's Printer online at [www.qp.gov.bc.ca](http://www.qp.gov.bc.ca) or the Canadian Legal Information Institute at [www.canlii.org](http://www.canlii.org):

- *Child, Family and Community Service Act*
- *Crime Victim Assistance Act*
- *Family Relations Act*
- *Freedom of Information and Protection of Privacy Act*
- *Personal Information Protection Act*
- *Victims of Crime Act*

### GOVERNMENT OF CANADA:

Copies of federal legislation are available from the Department of Justice Canada online at <http://laws.justice.gc.ca> or the Canadian Legal Information Institute at [www.canlii.org](http://www.canlii.org):

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- *Corrections and Conditional Release Act*
- *Divorce Act*
- *Family Relations Act*
- *Immigration and Refugee Protection Act*
- *Indian Act*
- *Privacy Act*
- *Youth Criminal Justice Act*

Copies of bills are available at [www.parl.gc.ca](http://www.parl.gc.ca):

- Bill C-2, Section 32, An Act to amend the *Criminal Code* (protection of children and other vulnerable persons) and the *Canada Evidence Act*.

Ministry of Attorney General. (2004). *Policy on the Criminal Justice System Response to Violence Against Women and Children. Part 1: Violence Against Women in Relationships Policy*. Available from Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General, by fax at 604-660-5340 or online at: [www.pssg.gov.bc.ca/vawc/vawir2000.pdf](http://www.pssg.gov.bc.ca/vawc/vawir2000.pdf)

Ministry of Attorney General, Victim Services Division; and Ministry of Health, Women's Health Bureau. (1999). *Payment for Medical Forensic Evidence in Sexual Assault Cases Where the Victim /Patient Has Not Involved the Police*. Available from Victim Services and Crime Prevention Division, Victim Safety Unit, by phone at 604-660-0316 (Lower Mainland) or 1-877-315-8822 (toll-free).

Ministry of Children and Family Development. (2004). *Best Practices Approaches. Child Protection and Violence Against Women*. Available online at: [www.mcf.gov.bc.ca/contact\\_us.htm](http://www.mcf.gov.bc.ca/contact_us.htm)

Ministry of Public Safety and Solicitor General. Police Services Division. (2005). *Police Release on a Promise to Appear with an Undertaking in Violence Against Women in Relationships Cases*. Available from Police Services Division.

RCMP "E" Division. (2000). *Violence in Relationships/Violence Against Women in Relationships (VIR) RCMP "E" Division Policy*. Available from your local RCMP detachment or from the library of the BC Institute Against Family Violence.

Ruebsaat, G., & Porteous, T. (1998). *Records Management Guidelines*. Vancouver: BC Association of Specialized Victim Assistance and Counselling Programs and the BC/Yukon Society of Transition Houses. Note that these are currently being revised. A revised version is expected in the spring of 2006. Available online at: [www.endingviolence.org/publications](http://www.endingviolence.org/publications)

## training curricula

Victim Services and Crime Prevention Division funds and supports the participation of victim service workers in the following training programs:

- *Charting New Waters: Violence Against Women with Disabilities*. Curriculum developed by the Justice Institute of BC in 1996.
- *Community Leadership Training*. Curriculum developed by the Justice Institute of BC in 2003.
- *Having Our Voices Heard: Implementing Measures of Empowerment for Women Who Are Victims of Violence*. Curriculum developed by the Justice Institute of BC in 2004.
- *Integrating Difference in Transition House Work*. Curriculum developed by the Justice Institute of BC in 2003.
- *Making the Transition: Providing Services to Trans Survivors of Violence and Abuse*. A curriculum for anti-violence and other social service providers developed by Joshua Mira Goldberg, Women/Trans Dialogue Planning Committee, the Justice Institute of BC, and the Trans Alliance Society in 2003.
- *Violence Against Women from Diverse Cultures*. Curriculum developed by the Justice Institute of BC in 2002.

To find out more about training offered through the Justice Institute of BC, Centre for Leadership and Community Learning, telephone 604-528-5604 or go to [www.jibc.bc.ca/clcl](http://www.jibc.bc.ca/clcl)

## videos

### ***Charting New Waters*** (35 minutes)

Explores the obstacles and barriers faced by women with disabilities when they seek assistance from the criminal justice system to end the violence in their lives. The video combines interviews with criminal justice personnel and disability activists with three dramatic scenarios portraying women with disabilities. Available from the Justice Institute of BC by phone at 604 525 5422.

### ***Facing Diversity: Responding to Violence Against Women from Diverse Cultures*** (42 minutes)

This video and instructor's guide is designed to raise awareness of the issues and barriers faced by women from diverse cultures who are experiencing or have experienced violence in their intimate relationships. It illustrates some specific culturally sensitive practices that can be undertaken to support and assist women from diverse cultures to overcome their fears and mistrust of

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the criminal justice system. While the focus is not on sexual assault, the video is a useful portrayal of issues related to diversity and violence against women. Available from the Justice Institute of BC by phone at 604-525-5422.

### ***In Her Own Time: Empowering Women Who Have Experienced Violence***

(19 minutes)

This video is based on the findings of the 2001 measures of empowerment research study (Russell, 2002) and illustrates the factors that empower and disempower women who seek help from the justice system to end the violence in their lives. The video can be used by victim service workers, transition house workers, police, Crown counsel, and other community-based workers. Available from the Justice Institute of BC by phone at 604-525-5422.

### ***A Love that Kills*** (20 minutes)

This documentary tells the story of Monica, a 19-year-old woman who was murdered by her former boyfriend. The video informs viewers of the warning signs of abuse and steps that can be taken to help the victim before it is too late. Available from the National Film Board of Canada by phone at 1 800 267-7710.

### ***The Mountain and Beyond*** (20 minutes)

This multimedia package contains a video presentation of the ideas and experiences of a range of professionals and community activists who are committed to coordinating a response to violence against women in relationships. Available from the National Clearinghouse on Family Violence by phone at 1-800-267-1291.

### ***The Person Within*** (28 minutes)

This is a video and handbook for those who work with children with disabilities. It highlights the dangers of physical and/or emotional abuse of children with disabilities and focuses on the need for prevention and empowerment through building of self-esteem, focusing on “the person within” rather than on the disability. Available from the BC Institute Against Family Violence by phone at 604-669-7055 or 1-877-755-7055.

### ***Preventing Family Violence***

This is an online video catalogue of Canadian videos on family violence for the general public and for professionals working in the field. It is available at [www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/video\\_e.html](http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/video_e.html). The National Clearinghouse on Family Violence and the National Film Board of Canada jointly distribute the collection. The link provides a list of public libraries in BC where you can borrow the videos.

***Pump Up the Volume*** (37 minutes)

This video features 11 women sharing their wisdom about their struggles to end intimate partner violence in their lives. It was produced in 2002 by Project Violence Free, BC Women in Action Association. Available from the BC Institute Against Family Violence by phone at 604-669-7055 or 1-877-755-7055.

