

A GUIDE FOR SEXUAL ASSAULT SURVIVORS

Dear Survivor,

We recognize this is a very difficult time for you. It is important for you to know that the York Regional Police is here to help.

A sexual assault is any unwanted sexual touching. It includes unwanted kissing, hugging molestation, rape and attempted rape. It can happen to someone once, more than once, or even over many years.

Sexual assault can happen to women, men, transgendered people, young or old. A person can be sexually assaulted by a stranger, their partner, dates, coworkers, acquaintances or family members. People in authority and professionals can also commit sexual assault. Even if the survivor was very close to the person who sexually assaulted them, it is still a crime.

Sometimes people who have been sexually assaulted feel as though it is their fault. Sexual **assault is never your fault**. It does not matter what you were wearing, what you were doing, who you were with, or where you were. Sexual assault is the fault of the person who commits the crime.

In Canada there is no statute of limitations for sexual assault offences.

If you are not ready to report to police, seek medical attention and reach out for support.

Our job as a police officer is to conduct a thorough investigation. The York Regional Police will also provide you with ongoing support throughout the entire process. Our goal is to identify arrest and prosecute the person(s) responsible.

During the course of the investigation, many things will happen, including where possible every effort should be made to provide an interviewer of the victims preferred gender. This booklet is for survivors of sexual assaults and will explain the process so that you have a clear understanding.

WHAT WILL I BE FEELING DURING THIS TIME?

There is no “right” way to feel. Some survivors are very emotional, tearful and anxious after an assault. Other survivors seem to be very cool, calm and collected. They may return to their previous activities and seem to be in control. Whatever type of person you are, you may start to feel anxious, frightened or depressed. You might have trouble sleeping and begin to have nightmares. You may lose your appetite and find that thoughts about the assault start to interfere with your daily life. You may feel you are re-experiencing the sexual assault. You may find it difficult to cope with work or school as it becomes harder to concentrate. You may feel especially anxious when you see or hear anything that reminds you of the sexual assault. **All of these feelings are normal.**

PARTNERS, PARENTS AND FRIENDS

People who have been sexually assaulted need the support of their families and friends. Survivors may feel ashamed, embarrassed, depressed and frightened. They may or may not want to talk about what happened. Be ready to listen when they are ready to talk. Let them know you care about them and do not

blame them for what happened. No one wants or deserves to be sexually assaulted. **They may feel guilty, but what happened is not their fault.** You can be of great help by giving them this message.

THE CRIMINAL JUSTICE PROCESS

In most cases, a police officer will take brief details about the sexual assault to complete an initial report. Depending on the nature of the sexual assault, the officer may ask you to go to the hospital to treat any injuries and to have a Sexual Assault Evidence Kit taken. The kit will collect forensic evidence.

More information about this process is on the Mackenzie Health website:
http://mackenziehealth.ca/patient_services_emergency_page.php?id=404

WHAT WILL HAPPEN AFTER I REPORT THE SEXUAL ASSAULT?

If you live outside of York area and wish to find a centre in your area, call the victim support line toll free at: **1 (888) 579-2888**.

Alternatively, check out the Network of Sexual Assault/Domestic Violence Treatment Centre website:
www.sadvtreatmentcentres.net.

You can choose to go to the hospital or not. If you choose not to go to the hospital or not to have a Sexual Assault Evidence Kit completed, the officer will continue with the investigation and take a report.

WHO WILL INVESTIGATE MY CASE?

Assignment of sexual assault cases are done on a risk-based assessment. This means:

1. Cases where the offender is “known to the victim” will be investigated by the district where the sexual assault took place, and
2. Cases that are “high risk to the community” and where the offender is “not known” will be investigated by the Special Victims Unit.

All sexual assault cases are handled by police officers who are trained in the area of sexual assault investigations. **An Officer in Charge (OIC) is ultimately responsible for the investigation.** However, the OIC is not the only one working on your case. There are other trained investigators that will work alongside of the OIC. A trained police officer will conduct a thorough electronically recorded interview with you.

The Officer in Charge will keep in contact with you throughout the investigation and court process and can help you get support, assistance and referrals.

The OIC works closely with Victim Services York Region and the Victim/Witness Assistance Program (VWAP). Victim Services York Region and VWAP’s roles are explained in the back of this booklet.

The investigators will make sure you are kept informed of the case status, bail conditions, court dates, and final sentencing.

WHAT IF THE OFFENDER IS NOT CAUGHT?

Unsolved sexual assault cases are never closed. They remain active. If further information is received, action will be taken that may lead to an arrest.

WHAT HAPPENS AFTER THE ARREST?

Once a person has been arrested and charged with a crime, they become “the accused”. Depending on the circumstances, the police can hold the accused in custody for a bail hearing or release them with conditions.

If the police have not released the accused, the accused must go before a Justice of the Peace (JP) or a judge within 24 hours of the arrest for a bail hearing.

At a bail hearing, the Justice of the Peace or Judge will decide if the accused is granted bail or kept in jail. Bail means someone known to the accused provides money or any type of surety as a promise that the accused will show up for his or her future court dates. The accused may also be required to agree to obey certain conditions as decided by the JP or Judge.

One of the conditions is usually a “No Contact Order”.

This means the accused cannot have any contact with you – not even through a third party. An example of a third party is the accused getting a friend to call you for them. The accused cannot contact you by phone, letter, e-mail, text message or in person. Generally, the accused will not be allowed near your home, school and/or work. If the accused disobeys any of their bail conditions, you need to contact the police. An additional charge for breaching the bail conditions can be laid against the accused.

The accused will make many court appearances throughout the judicial process. Some of these court dates will be referred to as a “Set Date”. You are not required to attend these court dates. These dates are routine preparation dates for the lawyers.

You will only have to attend court if there is a preliminary hearing or a trial. Preliminary hearings and trials are explained later in this booklet.

DO POLICE ALWAYS LAY CHARGES?

Sometimes the police decide not to lay a charge. This does not mean that the police do not believe you or that the sexual assault did not happen. It may mean that there is not enough evidence to prove a criminal charge in court.

HOW LONG DOES THE COURT PROCESS TAKE?

Depending on the case, it might take between a couple of months to a couple of years. This long wait may be difficult for you. It is important to get support during this time. There are community agencies that can help you through the process.

WHAT IS A PRELIMINARY HEARING?

A preliminary hearing is a mini trial in front of a Judge. It is not required in every case but it is very common when sexual assault charges are laid. In a preliminary hearing, the Judge will decide if the Crown Attorney has enough evidence for a trial. You will most likely have to testify in a preliminary hearing. Other witnesses may have to testify as well. The accused and their lawyer may also attend and testify.

WHAT IS A TRIAL?

A trial is when the Crown Attorney and the accused's lawyer will ask you and other witnesses what happened before, during and after the sexual assault. At the end of the trial, the Judge will make a decision.

It is important to remember that if the Judge decides the accused is not guilty, this does not mean you or the other witnesses were not believed. If the accused is found not guilty, the accused is free to go. This is called an acquittal. If the accused is found guilty, the Judge will choose from a range of sentences.

At the beginning of the trial, the accused will plead "guilty" or "not guilty" to the sexual assault. A plea of "guilty" means the accused admits to the crime. In these cases, there will not be a trial and you will not have to testify. The Judge will listen to the facts of the case, find the accused guilty, and decide the punishment to be imposed.

A plea of "not guilty" means the accused does not admit to the crime. The accused will then request a trial before a Judge alone or before a Judge and Jury. In these cases, you will have to attend court to testify at the trial.

WILL I HAVE TO TESTIFY IN COURT?

If the accused chooses to plead not guilty, you will most likely be required to testify at the preliminary hearing and at the trial. There are several resources that will help you prepare for court. The investigator will offer these resources to you. The website www.courtprep.ca provides information on the Canadian justice process and includes an animated courtroom. The website was developed by youths and the Scarborough Hospital Sexual Assault Care Centre.

WHAT IF I AM NOT COMFORTABLE COMMUNICATING IN ENGLISH?

You will be allowed to communicate in whatever language you are most comfortable with. If you require an interpreter to help you communicate with the police or to testify in court, one will be provided for you. In addition, if you require a sign language interpreter, one will be made available to you.

WHAT IS A VICTIM IMPACT STATEMENT?

If the court finds the accused guilty, the Crown Attorney will ask you to complete a Victim impact Statement. This form is your opportunity to say how the sexual assault has affected your life, emotionally and physically. This statement is taken into consideration by the Judge for sentencing. A police officer involved in your case, a Victim Services worker or a Victim/Witness Assistance Program worker can help you understand the Victim Impact Statement forms.

Completing a Victim Impact Statement is your choice. You are not required to do this in order for the accused to be sentenced. However, it is very important for the Judge to understand the impact of the sexual assault on you and your life. If you do submit this statement, the Judge is required to consider what you have said when deciding what penalty will be imposed.

WHAT KIND OF SENTENCING CAN A JUDGE ORDER?

PROBATION

Probation is when the offender serves their time in the community. The offender will be supervised by, and must visit with, a probation officer. The offender usually has rules to follow that are listed on the probation order. These rules, known as conditions, may include abstaining from alcohol, staying away from certain areas or people, to attend counselling, to seek or maintain employment and to obey a curfew. A Probation Order cannot last more than three years.

If the offender violates any one of the conditions of probation, they may be arrested and charged with a new offence of “**Breach of Probation**”.

SUSPENDED SENTENCE WITH PROBATION

A Judge may choose to delay or “suspend” giving a sentence to the offender. The Judge may then release the offender on a probation order. The offender does not serve any jail time but is under the supervision of a probation officer.

A Judge may use this option to see how the offender complies with their probation. This allows the Judge to decide on a more serious penalty or to suspend the sentence until the probation period is complete.

INTERMITTENT SENTENCE

When a Judge orders a sentence of 90 days or less, the offender may have to go to jail on weekends only. This allows the offender to go to work or school, care for children, or manage any health concerns. This sentence always comes with a probation order. The offender must abide by the probation order when they are not in jail.

IMPRISONMENT

The offender may go to jail. The Judge can also order a “**No Contact Order**” as part of the sentence. This means the offender cannot contact you from jail.

If the sentence is less than two years, the offender is sent to a “**Provincial Jail**”. A probation order may also be given to start when the offender gets out of jail.

If the sentence is two years or more, the offender will be sent to “**Federal Prison**”. There are minimum, medium and maximum-security prisons. The security level is determined by the risk the offender poses **within the prison**. It does not mean the sexual assault was more or less serious.

APPEALS

The accused or the Crown Attorney can ask for a higher court to review an acquittal, conviction, or sentence given by a Judge. This must be done within 30 days of the Judge's decision.

If the higher court agrees to hear the appeal, the Judge may change the original court's decision, sentence, or order a whole new trial. You do not have to testify at an appeal court. You will only be called to testify again if a new trial is ordered.

WHEN WILL THE OFFENDER BE RELEASED FROM PRISON?

Most offenders will not serve their full sentence in jail. In most cases, an offender will be released from jail on parole after serving a part of their sentence. You can request to be notified of the offender's release and parole hearings.

If the offender is serving a sentence in a "Provincial Jail", you may register with the Victim Notification System by calling: **(416) 314-2447 or toll free at 1 (888) 579-2888**

Then choosing the option for the Victim Notification service.

If the offender is serving a sentence in a "Federal Prison", you may register with the National Parole Board by calling toll free at: **1 (800) 518-8817**.

To ensure you can be notified of parole hearings. Also, call the Victim Services Unit of Correctional Service Canada toll free at: **1 (866) 806-2275**.

So you can be notified if the offender transfers, is released, or escapes.

WHAT IS PAROLE?

Most offenders can apply for early release from prison after serving one third of their sentence or after seven years, whichever comes first. A parole board will decide, based on the offender's behaviour and completed programming or treatment, whether or not to approve the offender's request for parole. Offenders who are denied parole can reapply every two years.

Some offenders in the federal prison system are not allowed to apply for parole after serving one third of their sentence. In these cases, the Judge will decide during sentencing the date the offender is allowed to apply for parole.

If parole is approved for an offender, this does not mean the offender is free without supervision. The offender will be released from prison and will serve the remainder of their sentence in the community under specified conditions and under the supervision of a parole officer.

If you need further help in understanding the criminal court process, a diagram of the different phases of a criminal case is provided on the following page.

THE CRIMINAL JUSTICE PROCESS

**POLICE INVESTIGATE
SEXUAL ASSAULT**

**WARRANT OBTAINED
OR
PERSON ARRESTED**

PROVINCIAL COURT APPEARANCE

BAIL REVIEW

Can happen any time after the accused is granted bail

PRELIMINARY HEARING

May take place prior to trial (You are required to testify)

TRIAL

Judge & Jury, or Judge alone

Victim Services Toronto

Will provide emotional support and assist with urgent and practical matters.

Victim Witness Assistance Program

Will provide you with information, assistance and support in regards to the court process.

**SENTENCING
and
VICTIM IMPACT STATEMENT**

APPEALS

**I NEED HELP DEALING WITH THE AFTERMATH OF
THE SEXUAL ASSAULT. WHERE CAN I GO FOR
HELP?**

Just because the trial is over does not mean the trauma is over.

There are many resources available to you during the investigation and after the trial. York Regional Police works with many agencies to make sure support is there for anyone who needs it. The people who work at these support agencies are “not” police officers.

SEXUAL ASSAULT/DOMESTIC VIOLENCE CARE CENTRE

The Sexual Assault/Domestic Violence Care Centre (SA/DVCC) provides emergency service, follow-up health care and counselling to both female and male victims/survivors of recent sexual assault and intimate partner violence.

Care is available 24 hours/day and includes crisis intervention, physical examination, documentation of injuries (including photographs), testing and treatment for sexually transmitted infections and pregnancy, forensic evidence collection for release to police (or stored at hospital), safety planning and referrals for ongoing support. Follow-up health care and counselling is also available at the SA/DVCC.

There are 35 SA/DVCCs across Ontario. Listed below is one centre that is within York Region. If you live outside of York and wish to find a centre in your area, call: **(416) 314-2447 or toll free at 1 (888) 579-2888**.

Alternatively, check out the Network of Sexual Assault/Domestic Violence Treatment Centre website: www.sadvtreatmentcentres.net.

Mackenzie Health

10 Trench Street,

Richmond Hill, On

Tel: 905-832-1406 ext. 2

http://mackenziehealth.ca/patient_services_emergency_page.php?id=40

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VICTIM SERVICES York Region

Victim services of York Region is a non-profit, charitable organization dedicated to helping survivors of crime. They provide responsive, accessible, and accountable programs and services. They focus on restoring and enhancing the survivor's quality of life and preventing re-victimization.

There is immediate on-site support and crisis intervention, operating 24/7. They will connect you to agencies and resources in your local community for counselling, advocacy, violence prevention, safety services and outreach.

16640 Yonge St., Unit 1, P.O. Box 93339, Newmarket, ON L3X 1A3

**Phone:
905-953-5363**

Toll free: 1-866-876-5423 ext 6790

Fax: 905-954-1057

Website: <http://www.victimservices-york.org/>

VICTIM/WITNESS ASSISTANCE PROGRAM

The Victim/Witness Assistance Program (VWAP) provides information, assistance and support in regards to the court process to all survivors and witnesses of crime. The VWAP is located within most courthouses across the province. To find the closest courthouse with a VWAP office, check the telephone book (all courthouses are listed in the blue pages under "Courts"). The VWAP for York Region is located at:

50 Eagle Street West,

Newmarket, On

905-853-4818