

RESPONDING TO A SEXUAL ASSAULT DISCLOSURE

PRACTICE TIPS FOR LEGAL SERVICES

Sexual assault is a deeply serious, traumatic, and humiliating experience, and telling someone about it is often terrifying. A sexual assault survivor's physical injuries may not always be significant, but the unseen psychological injuries may be severe. A survivor's long-term ability to feel safe in the world, concentrate, earn an income, trust herself and the world around her, and have relationships may be directly affected by the crime, but may not be obvious at the time of initial disclosure, nor be easy to prove. As a paralegal, you do not need to be an expert in the area of sexual assault response, but how you respond to a disclosure is critical to a survivor's well-being and recovery. These Practice Tips aim to better equip you to respond to a sexual assault disclosure using a trauma-informed approach and empower victims/survivors by helping them identify options and resources.

WHAT IS SEXUAL ASSAULT?

As outlined in the Criminal Code, sexual assault is any form of non-consensual sexual contact.

- Consent must be given freely. It is not consent if there are threats, fraud, manipulation, or coercion.
- Consent must be continuous, and can be withdrawn at any time.
- Consent to one form of sexual contact does not mean consent to all forms of sexual contact.
- Consent cannot be legally given if a person is intoxicated, drugged, unconscious, or asleep.
- Consent cannot be given where the perpetrator induces the victim to engage in sexual activity by abusing a position of trust, power, or authority.

SOME TRUTHS ABOUT SEXUAL ASSAULT

- 1 in 3 women will be sexually assaulted in her lifetime.
- In Canada in 2014, an estimated 633,000 women and girls aged 15 years and older were sexually assaulted.
- The majority of sexual assaults are committed by men against women, but sexual assault also happens to men and people who identify as trans.
- While sexual assault can happen to anyone, at any age, girls and young women (aged 15–24) are most often targeted.

- Most women are sexually assaulted by someone they know (family or friend, acquaintance, intimate/dating partner, spouse), and most sexual assaults occur in a home or vehicle, or in a commercial or institutional setting.
- Most sexual assaults are premeditated – they involve planning, coercion, force and/or threats of some kind. Many sexual assaults are facilitated by alcohol and/or drugs, and most sexual predators are repeat offenders who deliberately target those they see as vulnerable.
- The trauma of sexual assault can result in lifelong impacts – physiological, psychological, emotional and/or spiritual. Sexual assault is the most frequent cause of post-traumatic stress responses for women.
- According to Statistics Canada, sexual assault is the most under-reported of all violent crimes. Only 5% of sexual assaults were reported to the police in 2014.
- False reports of sexual assault are extremely rare. They are no more common than false reports for any other type of crime (2–4%).

WHY IT MAY BE DIFFICULT TO DISCLOSE

It is not easy for someone to disclose that they have been sexually assaulted. A sexual assault most often includes profound humiliation and shame because sex and sexuality (including that which is healthy) are not talked about freely in society. Even though sexual assault is more about aggression, power and control, sexual assault involves a person's sexual body parts and behaviors that appear similar to sex, both of which most people are taught to be embarrassed or feel ashamed about. When there is physical violence (such as overpowering someone or using sex as a weapon), the trauma and shame can be deep. Sexual assault is intensely dehumanizing, and the survivor may feel like she lacks control over her life.

It is likely that a victim/survivor of sexual assault may:

- Feel deeply embarrassed, ashamed, or humiliated, especially if the assault was perpetrated by someone she trusted, or if there were drugs or alcohol involved.
- Fear she will not be believed or will be blamed, especially if this has been her experience in the past or she has seen this kind of thing in popular culture (e.g., television, movies).
- Be confused about whether or not it was sexual assault (especially if the survivor is young and/or unaware of the law).
- Fear for her safety, or the safety of her friends and family, especially if threats were involved.
- Fear gossip, judgment, anger or ostracism from her friends, family, or community, especially if the perpetrator is part of that community.
- Feel conflicted about the perpetrator getting into trouble, especially if she was assaulted by someone she knows (e.g., intimate/dating partner, spouse, friend, family member) or if the perpetrator is part of the same close community.

- Fear the response of the police and the justice system or fear nothing will come of reporting.
- Fear testifying in court, and being cross-examined by the defence counsel.
- Fear the perpetrator will just get a “slap on the wrist,” even if convicted.
- Hope to put it behind her quickly by avoiding talking about it or avoiding having contact with the perpetrator.

COMMON RESPONSES OF SURVIVORS

All responses to sexual assault are adaptive attempts to survive this traumatic experience, both physically and emotionally. These responses can be particularly complex for survivors who have experienced early and/or repeat trauma. You might hear a range of experiences and observe a range of emotional responses during a disclosure of sexual assault:

- She may appear anywhere on a continuum from calm and collected to frantic and distraught. A survivor may also respond with anger, aggression, or even violence. All are ways of coping. If you are hearing about a sexual assault immediately after it happens, you may see the survivor expressing anxiety, confusion, shock and disbelief. She may also appear numb. She may be disoriented and her articulation of what happened may not seem coherent.
- Survivors often have responses that can be described as “fight, flight, or freeze.” The survivor may tell you that she fought back, or that she tried to get away. There is growing understanding that many people freeze in traumatic situations, and find themselves immobile, unable to speak, or mentally removed from their bodies (a common traumatic response due to flooding of stress hormones or dissociation).
- Thanks to developments in neuroscience, we now know that trauma impacts how the brain encodes memory. The survivor may have clear memories of the assault, or may only remember bits and pieces and have trouble recounting events in chronological order. She may remember sensory details like sounds and smells, but may have no clear memory of how the assault unfolded. Sensory details often trigger flashbacks, and the survivor may feel like she is reliving the traumatic experience.
- You might hear the survivor describing anxiety, fear, nightmares, anger and/or sleep disturbances, invasive memories, changes in appetite, depression, self-isolating, self-blame, and difficulty trusting others.
- You may see attempts to numb emotional responses or regain a sense of control with drugs, alcohol, or self-harming behaviours (e.g., cutting).

You can help the survivor to recognize that these reactions are normal responses to trauma, and her way of coping with what has happened to her.

WHEN YOU RECEIVE A DISCLOSURE

You are a key person in the survivor’s experience. How you react to her disclosure can have a significant influence on how she makes sense of what has happened to her, and could affect what she does or does not do next.

It is common to feel uncertain about what to say or do when receiving a sexual assault disclosure. Remember that the survivor is telling you because she sees you as a safe and trustworthy person. You have an opportunity to empower the survivor and assist her in her path forward and in accessing additional supports.

Some **common pitfalls** when receiving a sexual assault disclosure:

- A judgmental, shocked, or over reactive initial response
- Disbelief, minimizing, or questioning the “truth” of a survivor’s story or reactions – especially if she seems to be very calm, or doesn’t want to report to police.
- Asking for unnecessary details, or focusing on the behaviour, appearance, and/or location of the survivor at the time of the assault.
- Focusing on your own emotional reaction (e.g., horror, sadness, anger, recalling a similar experience you may have had).
- Questioning why a survivor did not act in the ways society expects a sexual assault survivor to react (e.g., fighting back, reporting to police, discontinuing contact with the perpetrator after the assault).
- Not making an effort to connect the complainant with a support person (such as a victim service worker) early in the process.

AN EMPOWERING RESPONSE

LISTEN

- Find a private place to talk, and tell her you are glad she is telling you.
- Be patient and let her tell you as little or as much as she wants at her own pace, without interrupting. Talking about how she feels can be as helpful or more helpful than talking about the details. Take her lead on this.
- Show her that you are actively listening through your body language (e.g., nodding, facing in her direction, sitting down at eye level) and words (e.g., “I hear what you’re saying”).
- Be aware that some people may find themselves flooded with emotions. If she is getting increasingly upset while telling you about what happened, she may be reliving the experience. There are several ways you can help to ground her if she is overwhelmed:
 - o Encourage her to take slow deep breaths while gently planting her feet into the floor and holding on to her knees.
 - o Ask her to keep her eyes open, even if just momentarily. This helps to bring her back to the present.
 - o Ask her to look around the room and name some ordinary objects she sees. Do this until she feels calmer.

- Respect her personal space, and do not touch her. Even if you think she wants a comforting touch, resist your urge to do so. Always follow her lead. You can offer her something to keep her warm, like a blanket or your jacket (shock can involve feeling cold, shivering and shaking).

BELIEVE

- Validate her feelings and assure her that these are normal reactions to a very traumatic event, and avoid promising her that everything will be okay.
- Assure her that it was not her fault (many women struggle with blaming themselves) and that the responsibility for sexual assault lies solely with the perpetrator. This is true regardless of whether she was drinking, got into his car, brought him to her home, etc. **It does not matter what the survivor did or did not do before, during, or after the assault – it is never her fault.**
- Reassure her that you will do whatever you can to help her get the support she needs. If possible, stay with her or find someone she trusts who can be with her.

EMPOWER

Sexual assault can result in a profound sense of loss of power and control. You can help her regain control over her life by trusting her to make her own choices about what to do next. You do not need to do everything for her; it is your role to help her get connected to appropriate resources and supports.

- Provide her with as much information about the court process as possible.
- Ask her about who her supports are (e.g., family, friends, professionals) and help her connect with them.
- Provide her with information about local specialized sexual assault response programs or Stopping the Violence (STV) counselling programs, as soon as possible. Support her in accessing these services.
- Find out if she needs medical assistance. Encourage her to seek medical care with a specialized sexual assault program (if available) or with her family doctor or a nurse practitioner.
- Talk to her about her safety. If she is involved in a court process that involves the perpetrator (Criminal and/or Family Court), explain the role of the Sheriffs in maintaining security in and around the courthouse. Ensure she knows safe places to go in the courthouse and surrounding grounds.

Offer her options and resources, rather than telling her what to do or giving her advice. Keep your initial information simple and straightforward. Reassure her that, even if she feels overwhelmed by decisions, she can take her time. Feeling overwhelmed is a normal response to a traumatic event. Respect her decision about which (if any) of the options she chooses.

DISCLOSURE AND REPORTING OPTIONS

There are several options available to sexual assault survivors. These include *disclosing* to someone to access emotional support and/or medical assistance, *reporting* to police or another authority, *not reporting* to police, or making a *Third Party Report*. A survivor may choose any of the following options, or any combination of options available to them.

No Report to Police

She may wish to disclose (i.e., tell someone) but not report to police. Disclosing may help her access more support and/or needed assistance.

Report to Police

She may wish to report to police, ideally with the support of a sexual assault response worker, Stopping the Violence (STV) counsellor, or community-based victim support worker.

Third Party Report to Police

She may make an anonymous report to police without making an official statement. This is called a 'Third Party Report,' and can be submitted through a community-based victim support worker. This type of report is not, in and of itself, a police investigation, but it can help the police identify sexual predators in order to protect others from being sexually assaulted.

Medical Assistance

It is advisable for anyone who has experienced sexual violence to seek medical attention because of the possibility of physical injury, pregnancy and/or sexually transmitted infections, including HIV. Refer the survivor to the nearest hospital, health centre, or nursing station.

Forensic Medical Exam

Inform her that medical staff can conduct a forensic medical exam and collect forensic samples, ideally within 72 hours, but forensic samples can be collected up to 1 week after an assault. If the victim/survivor wants to report to the police at the time of the forensic medical exam, the forensic samples should be transferred to the police at that time. If the victim/survivor is unsure about reporting to police at the time of the exam, forensic samples can be collected and stored for up to 1 year while she decides whether or not to report. If possible, advise her to not shower, eat or drink, brush her teeth, or change her clothing before the forensic exam, as that may destroy some potential forensic evidence. Reassure her that if she has done any of these things, forensic samples can still be taken.

Civil Claim

She may wish to contact a civil lawyer to inquire about taking the perpetrator to court for damages suffered. This option may be pursued instead of, or in addition to, police recommending criminal charges.

EMPOWERING SURVIVORS THROUGH RESOURCES

Help the victim/survivor find the best possible resource(s) for emotional and practical support. Refer them to a local and accessible sexual assault response or community-based victim assistance program. Consider whether they would benefit from a culturally-specific, multilingual, or queer/trans-inclusive resource or service.

VictimLink BC is a toll-free, 24/7, confidential, multilingual (110 languages) telephone service. They provide information and referral services to all victims of crime, as well as crisis support to victims of sexual and domestic violence.

VictimLink BC
1.800.563.0808

TTY: 604.875.0885

Text: 604.836.6381

Email: VictimLinkBC@bc211.ca

Receiving a disclosure of sexual assault can be a difficult experience. It may be helpful to debrief or get support for yourself. However, it is important that details about the survivor and the assault remain confidential.

For other sector-specific sexual assault disclosure response practice tips and information about Third Party Reporting, visit **www.endingviolence.org**
