



Information Guide for Victims of Sexual Assault



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Introduction

Sexual assault is a violent crime that is forced upon the victim.

It is an unwanted attack that violates the sexual integrity of the victim and can occur without warning, anywhere, anytime.

Studies indicate that most victims know their assailants.

This information guide focuses on the law related to sexual assault and is designed to provide you with background about the criminal justice system and the help that is available for victims of sexual assault.

The law

Assault means the intentional use of force against the victim's will. Examples of assault include touching, slapping, kicking, punching or pushing. It is also an assault to threaten to use force.

It is not always possible to fight back and a lack of resistance does not mean you consented to the assault.

If you did fight back, you will not be charged with assault provided you did not use more force than necessary to fight off an attacker.

The Criminal Code of Canada has identified three levels of sexual assault based on the degree of force used.

Sexual assault - occurs if you have been kissed, fondled or forced to have intercourse without your consent. It is a crime because it happened without your permission.

Sexual assault with a weapon, threats to a third party or causing bodily harm - happens if you are sexually assaulted by someone who has a weapon or imitation weapon and threatens to use it; the offender threatens to harm a third person, a child or friend, if you do not consent to a sexual act; the offender causes you harm; or more than one person assaults you in the same incident.

Aggravated sexual assault - takes place if you are wounded, maimed, disfigured, beaten, or in danger of losing your life while being sexually assaulted.

If it happens

If you have been sexually assaulted, assistance is available and you should seek help immediately.

Call the police

The first step is to call the police who can take you to the hospital. If you wish, ask a friend or relative go with you.

To help the police gather and protect necessary evidence for their investigation, it is best not to clean or move any items at the scene, wash, change your clothes or even comb your hair.

You should not consume any alcohol, drugs or medication.

Go to the hospital

Once you are at the hospital, tell the person in charge exactly what happened to you.

Some hospitals have sexual assault units with specially trained people to help you.

Call for support services

Help is available through police or community-based victim services programs.

A victim services worker can provide assistance.

If you are not referred for assistance, ask the investigating police officer to put you in contact with a victim services program.

You may also want to call the crisis line or Sexual Assault Centre in your community. Trained counsellors are usually available to provide you with support 24 hours a day.

Write down what happened

It is important that you write down everything you can remember about the incident as soon as possible.

Your written record will be valuable for the police investigation and may be used for court evidence.

The following checklist will help you to record all you can about your assailant including vital details such as:

- | | |
|--|--|
| <input type="checkbox"/> age | <input type="checkbox"/> height/weight |
| <input type="checkbox"/> hair/colour/cut | <input type="checkbox"/> type of hair |
| <input type="checkbox"/> beard/mustache | <input type="checkbox"/> eyes/eyeglasses |
| <input type="checkbox"/> complexion | <input type="checkbox"/> visible scars |
| <input type="checkbox"/> weapon | <input type="checkbox"/> shirt |
| <input type="checkbox"/> coat | <input type="checkbox"/> trousers |
| <input type="checkbox"/> shoes | <input type="checkbox"/> methods of escape/direction |
| <input type="checkbox"/> mannerisms | <input type="checkbox"/> vehicle description |
| <input type="checkbox"/> voice | <input type="checkbox"/> license plate |

What to expect

It is natural that a variety of questions will arise at the outset of police investigations into cases of sexual assault. Here are some of those questions, along with answers for the common concerns you might share:

Will the police ask me a lot of questions?

Yes. It is the duty of the police to collect all the evidence they can. They are concerned about you, enforcing the law and finding your attacker.

Is a medical examination necessary?

You should obtain medical attention as quickly as possible. The examination will ensure that you receive prompt and thorough treatment. It will also allow the doctor to conduct tests and obtain samples for use in court.

Can I go to the hospital without calling the police?

Yes, however, calling the police should be your first step.

Will the police want to keep my clothing?

The police may need to keep your clothing for evidence. They may suggest that you arrange for someone to bring you some other clothes from home.

Will I have to be photographed?

Photographs are used as evidence of sexual assault. The police may want to take pictures of your injuries at the hospital or later at the police station.

Why do I have to go to the police station?

After your medical examination, you will be asked to go to the police station to make a statement, which is a record of your complaint.

If you are not well enough to go to the police station, other arrangements will be made for you.

Your statement includes everything you can remember about being sexually assaulted.

The police will want to know as much detail as possible as your statement is the basis of their investigation.

They will ask you to write out what you told them or they will type up the conversation.

You will then be asked to read and sign your statement.

Before you leave the police station, ask the police officers for their names and phone numbers. You may want to call them about details you forgot to give them or you may have questions that later come to mind.

You may also want to ask them for a Victim Impact Statement form, which will provide you with an opportunity to have input at the time of sentencing.

Will I still be involved in the police investigation?

Yes. As soon as possible, the police will go to the scene of the assault to gather necessary evidence. They may ask you to be there.

If you do not know who attacked you, the police may also ask that you look at photos of people, view a lineup of people or describe your attacker's features to a police artist.

If I didn't report the sexual assault when it happened can I still call the police?

Yes. It is never too late to report a crime.

About the suspect

An arrest will be made once police are satisfied there is enough evidence to do so. When that happens, there are usually some typical questions that are asked:

Will the accused be kept in jail?

If you are worried that the accused may try to hurt you again, you should tell the police or the Crown prosecutor about your concerns. The Crown prosecutor is the lawyer who is responsible for conducting the prosecution.

Under Canadian law, a person is innocent until proven guilty.

The accused must be released from jail unless the court finds there are good reasons why this should not happen.

If the police do not charge the suspect, what steps can I take?

If the police believe there is not enough evidence to lay a charge, they will let you know. You can ask that this decision be referred to a supervisor for further review if you disagree with it. If, after this review, you are still unsatisfied with the result, you can seek independent legal advice for appropriate criminal or civil action.

If there is a lack of information, it may be difficult for the police to find the person responsible for the crime. However, the police keep all reports of crimes and it is possible your attacker may be found at a later date.

Court proceedings

The decision to proceed with the charges as laid is based on the Crown prosecutor's assessment that there is a reasonable likelihood of conviction on the evidence gathered by the police.

In some cases, the accused pleads guilty and there is no need for a trial and you won't have to testify.

You may, however, be asked to testify at a sentencing hearing to help the judge decide an appropriate punishment. Your Victim Impact Statement, which allows you to express in writing how the crime has affected you and those close to you, will be considered by the judge at the time of sentencing. If you have not been given a Victim Impact Statement form, ask your local police or community-based victim services program for one.

If the accused does not plead guilty, the court proceedings may be lengthier which gives rise to questions such as:

Will I need my own lawyer?

As a witness, you do not need your own lawyer. If you do want legal advice, you can, of course, consult one.

If you move or change your phone number tell the police or the Crown prosecutor. They will want to keep you informed.

Will my name be on radio, tv or in the newspapers?

The Crown prosecutor can make an application to the Court for a publication ban that prohibits any identifying information about you from being released to the media.

The first time you go to court ask the Crown prosecutor about keeping your name out of media reports.

What if the accused is under 18?

Under the federal Youth Criminal Justice Act, the process will be in Youth Court and you may be called as a witness.

When the accused is an adult, what is the difference between a summary conviction offence and an indictable offence?

The category of offence depends on the circumstances surrounding the crime.

For instance, if a stranger kissed you against your will, the sexual assault would likely proceed as a summary conviction offence.

If you were threatened with bodily harm or if the accused threatened to harm someone close to you, then this crime would be tried as an indictable offence.

If you were injured during the assault or weapons were involved, then the crime would also be tried as an indictable offence.

An accused charged with an indictable offence can decide to be tried by a judge and jury.

The accused also has the right to hear the basis of the case at a preliminary inquiry which is sometimes referred to as a preliminary hearing.

What is the purpose of a preliminary inquiry?

The hearing determines whether there is enough evidence to justify a trial. If the judge decides there is sufficient evidence, the trial will be held in the Court of Queen's Bench.

If the preliminary inquiry is cancelled, it may mean the accused has decided to plead guilty. It could also mean the defence decided not to hear evidence at this stage and the matter will go directly to trial in the Court of Queen's Bench.

Will I have to attend the preliminary hearing?

Normally, you will have to attend the hearing. You will receive a subpoena that tells you the date, time and location. It will also have a telephone number you can call if you have any questions.

A subpoena is a court order and it is a criminal offence not to go to court when you receive the subpoena.

If the police do not advise you about a meeting with the Crown prosecutor before the hearing, you can call the Crown prosecutor's office and arrange a meeting that will help you prepare for court.

You can call your local police or community-based victim services program for court support and accompaniment.

If there is a trial, will I have to testify?

Yes. Your testimony is very important and you must testify. You will receive a subpoena that tells you when and where to go to court.

As you are a Crown witness, you are eligible for reasonable travel and accommodation expenses if the trial is in a place other than where you live. Other expenses may be considered upon application to the Clerk of the Court.

If I'm nervous, who can I talk with?

A network of police and community-based victim services programs has been established throughout the province to provide support.

Trained volunteers can provide assistance and information about your case, and criminal justice proceedings. They can help you prepare for court and accompany you to court.

Sexual Assault Centres also exist in a number of Alberta communities and can also provide crisis intervention, support, education and referrals to appropriate agencies.

The Crown prosecutor can help by answering any specific concerns you may have.

You may also want to bring a relative or friend to court with you to provide support.

What will I have to do in the courtroom?

The Clerk of the Court will call out your name when it is your turn to testify.

All witnesses give their testimony from the witness stand and are asked to swear to tell the truth.

You will be asked questions by both the Crown prosecutor and the defence lawyer.

It will be helpful if you stay calm and answer the questions clearly. If you do not understand a question, ask that it be repeated. If you are asked a question and you don't know the answer or cannot remember, say so.

Will I be asked about my sex life?

If the accused is someone you know and someone with whom you've had sexual relations before the assault, you may be asked about those sexual activities.

You will not be asked about your sexual involvement with anyone else unless the judge allows such questions.

What else happens before the trial ends?

Other witnesses such as the police, doctors, nurses or those who saw you after the attack may be required to testify.

Evidence such as photos, clothing and medical records may be presented.

The defence lawyer may call the accused and other witnesses to testify, but the accused does not have to testify.

If there is no jury, the judge will review all the evidence and make a decision. The judge may reserve judgment until a later date.

If there is a jury, it is the jury who will review the evidence and make a decision.

When a guilty decision is delivered, sentencing may be postponed for a few weeks so that the judge may review information presented in Court.

After the trial

You may be asked to testify at a sentencing hearing to help the judge determine an appropriate sentence. Your Victim Impact Statement, about how the crime has affected you, will be considered by the judge at this time.

The punishment is based on the law, the circumstances of the crime and whether or not the person found guilty had previous convictions.

If the accused is found not guilty, it means that there was not enough evidence for a conviction.

Depending on the verdict, the Court of Appeal may be asked by either the accused or the Crown, within 30 days, to review the decision. If a new trial is ordered, you may have to testify again.

Financial Benefits

If you have suffered physical or emotional injury as a direct result of crime, you may be eligible to apply for benefits from the Alberta Solicitor General and Public Security Financial Benefits Program. The Financial Benefits Program brochure and application form are available from victim services programs.

If you have suffered a financial loss as a result of a crime, you may have the right to seek restitution from the offender. Information about restitution and a Request for Restitution form are available from the police and victim services programs.

Conclusion

As a victim of sexual assault, this information guide may help you through a difficult time.

It is important for you to remember that support is available in your own community.

Criminal Code sexual assault offences

Sexual Assault

- 271.(1) Every one who commits a sexual assault is guilty of
- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or
 - (b) an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

Sexual Assault With a Weapon, Threats to a Third Party or Causing Bodily Harm

272. Every one who, in committing a sexual assault,
- (a) carries, uses or threatens to use a weapon or an imitation thereof,
 - (b) threatens to cause bodily harm to a person other than the complainant,
 - (c) causes bodily harm to the complainant, or
 - (d) is a party to the offence with any other person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Aggravated Sexual Assault

- 273.(1) Every one commits an aggravated sexual assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.
- (2) Every one who commits an aggravated sexual assault is guilty of an indictable offence and liable to imprisonment for life.

Spouse May Be Charged

278. A husband or wife may be charged with an offence under section 271, 272 or 273 in respect of his or her spouse, whether or not the spouses were living together at the time the activity that forms the subject-matter of the charge occurred.

Contacts

For general information about Victims Programs contact:

Alberta Solicitor General and Public Security
Victims Programs
10th Floor, J.E. Brownlee Building
10365 - 97 Street
EDMONTON AB T5J 3W7

Telephone: 780-427-3460
Fax: 780-422-4213

For information on applying for benefits from the Financial Benefits Program contact:

Alberta Solicitor General and Public Security
Financial Benefits Program
10th Floor, J.E. Brownlee Building
10365 - 97 Street
EDMONTON AB T5J 3W7

Telephone: 780-427-7217
Fax: 780-422-4213

You can call toll-free from anywhere in Alberta through Service Alberta at 310-0000 or visit our website at www.victims@gov.ab.ca

Sexual Assault Centres in Alberta

Calgary Communities Against Sexual Abuse (CCASA)
7th floor, 320 5 Avenue SE
Y.W.C.A. Mary Dover Building
Calgary, Alberta T2G 0E5

Crisis: 403-237-5888
Business: 403-237-6905
Hearing Impaired: 403-508-7888 (TTY)
Fax: 403-264-8355
Toll Free: 1-877-237-5888
E-mail: info@calgarycasa.com
Web-site: www.calgarycasa.com

Crisis Centre
A201- 5212 48 Street
Red Deer, Alberta T4N 7C3

Crisis: 403-340-1120
Business: 403-340-1124
Fax: 403-340-1163
Toll Free: 1-866-956-1099
E-mail: cenabsac@telusplanet.net
Web-site: www.cacrisiscentre.ca

Lethbridge Family Services — Counselling & Education
1107 2 Avenue A North
Lethbridge, Alberta T1H 0E6

Canadian Mental Health
24 Hour Distress Line 403-327-7905
Business: 403-327-5724
Fax: 403-329-4924
E-mail: counselling@lethbridge-family-services.com
Web-site: www.lethbridge-family-services.com

Lloydminster Sexual Assault and Information Centre
PO Box 2033
Lloydminster, Saskatchewan S9V 1R5

Crisis and Business: 306-825-8255
Fax: 306-825-9557
E-mail: reception.lsaic@sasktel.net
Web-site: www.lsaic.com

P.A.C.E. Sexual Assault Centre
#201, 10118 101 Avenue
Grande Prairie, Alberta T8V 0Y2

Business: 780-539-6692
Fax: 780-538-0960
E-mail: pacegp@pacegp.ca
Web-site: grandeprairie.aasac.ca

Saffron Strathcona Sexual Assault Centre Ltd.
#44, 48 Brentwood Blvd.
Sherwood Park, Alberta T8A 2H5

Crisis & Business: 780-449-0900
Fax: 780-416-2393
E-mail: info@saffron-ssac.com
Web-site: saffron-ssac.com

Sexual Assault Recovery Committee (SARC) of Medicine Hat
477 3 Street SE
Medicine Hat, Alberta T1A 0G7

Business: 403-504-8026 ext 29
Fax: 403-504-0351
Alberta Mental Health Board Help Line
1-877-303-2642
Phoenix Safe House Crisis Line
1-800-661-7949

Sexual Assault Centre of Edmonton
#205, 14964 121A Avenue
Edmonton, Alberta T5V 1A3

Crisis: 780-423-4121
Business: 780-423-4102
Hearing Impaired: 780-420-1482 (TTY)
Fax: 780-421-8734
E-mail: info@sace.ab.ca
Web-site: sace.ab.ca

Sexual Assault Program — Fort McMurray Family Crisis Society
PO Box 6515
Fort McMurray, Alberta T9H 4W1

Crisis and Business: 780-791-6708
Fax: 780-791-5560
E-mail: sexualassault.couns@shawcable.com
Web-site: fortmcmurray.aasac.ca

University of Alberta Sexual Assault Centre
2 - 705 Students' Union Building
Edmonton, Alberta T6G 2J7

Crisis and Business: 780-492-9771
Fax: 780-492-3804
Web-site: ualberta.ca/sac

**Your victim services program
phone number is**

