



POLICE AND COURT SUPPORT



Navigating the Criminal Legal System

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Table of Contents

The Facts	3
The Impact	3
The Law	5
Reporting	7
Financial Benefits	10
Court Process	10
• The Plea	10
• The Preliminary Hearing	11
• The Trial	11
• Restitution	12
• The Sentencing	12
What's Next?	12
Resources	14



**Reach out if you need
more information or
support -403-237-5888**

The Facts

- Sexual assault is never your fault.
- You deserve to be believed and supported.
- Violence is never okay or justifiable.
- You have the right to set your own limits in any relationship.
- You did not cause the abuse and are not to blame for anyone else's behaviour.
- You are not alone.
- You are not crazy.
- Sexual assault has nothing to do with who your friends are, what you are wearing, your sexual past or where you hang out.
- Sexual assault happens to all genders.
- Sexual assault happens in every type of relationship.
- Sexual assault is committed by dates, partners, co-workers, friends, acquaintances or strangers.
- The person who chooses to sexually assault another is 100% responsible.



The Impact

After being sexually assaulted, you will probably look at yourself and others differently. Remember that these feelings and thoughts are very normal reactions to something that happened to you.

You might feel:

- Embarrassment
- Guilt and shame
- Grief and loss
- Confusion
- Disbelief
- Anger
- Dirty
- Powerlessness
- Numb
- Fear and anxiety

You might experience:

- Nightmares or flashbacks (vivid memories or feelings that bring you back to the assault)
- Sleeping problems
- Changes in your eating
- Headaches or muscle tension
- Isolation or withdrawal from friends and family
- Problems trusting people
- Conflicts with friends or family
- Problems with school or work
- Difficulty concentrating
- Thoughts about hurting yourself



The Law

Sexual assault is any sexual activity without consent. It is a crime of power and control. People who commit this crime aren't looking for sex; they are trying to take control of someone else's body, spirit and mind.

Laws have been written into the Criminal Code of Canada in order to protect all people from being hurt. The sections are in accordance with the level of physical injury. These sections are not indicative of the psychological impact or trauma experienced by the person who was assaulted.

- Sexual assault (271) – This is when you have been kissed, sexually touched or forced to have inter- course without your consent and minimal or no physical injuries have been caused.
- Sexual assault with a weapon, threats to a third party or causing bodily harm (272) – This is when you are sexually assaulted by someone who has a weapon (or pretends to have one), if the offender threatens to harm another person if you do not participate in a sexual act, or if more than one person sexually assaults you.
- Aggravated sexual assault (273) – This is when you are wounded, disfigured, beaten, or in danger of losing your life while being sexually assaulted.

Some laws talk about age. These laws were not created to stop teenagers from sexual activity, but to protect them from being taken advantage of by someone older or with more power.

Consent

Consent is when you agree to a sexual activity with someone else. However, there are certain situations when someone cannot legally give consent:

- Anyone who is 12 or 13 cannot agree to sexual activity with someone who is more than 2 years older.
- Anyone who is 14 or 15 cannot agree to sexual activity with someone who is more than 5 years older.
- Anyone who is under 17 cannot consent to someone who is in a position of trust or authority (coach, teacher)
- If any person is pressured into sexual activity with violence, weapons or threats.

- If someone is really drunk or high, they cannot give legal consent. For example, if someone passes out due to drinking, it is illegal to have sex with them, touch them in a sexual way or take sexual pictures of them.


It is important to know that saying 'no' or fighting back is not the only way to resist unwanted sexual advances. Some people stay quiet during the abuse because they are scared that the offender might hurt them even more if they yell, or some people 'zone out' and pretend that they are somewhere else or not in their body in order to make the assault less scary.

Sexual assaults can be committed by many different types of people in your life:

- A family member or friend
- A date or someone you just met
- Your partner/significant other
- Your co-worker or supervisor
- A teacher, a doctor or someone else in authority

Sexual assaults can occur in many different settings:

- Your home or the offender's home
- A family member's or friend's home
- At work or school
- In an institutional setting such as a doctor's office, a church or a prison



What is most important is that you take care of yourself. You deserve to get what you need to heal from this experience. This can look a lot of different ways, but here are some examples:

- Talk to someone you trust about your feelings. You don't have to share details about what happened, but talk about what you need to help minimize the impact of the assault on your life.
- Seek medical attention to treat any physical injuries or possible sexually transmitted infections (STIs) related to the sexual assault. Within 96 hours of the assault you can go to the Sheldon M. Chumir Health Centre Urgent Care department in Calgary for immediate support by a team specifically trained to help people who have been sexually assaulted. In Calgary you can also access the confidential services at the Sexual and Reproductive Health Centre (403-955-6515) or at the STI clinic (403-955-6700).
- Know that there is no right or wrong way to feel, and sometimes it's okay not to feel anything. If your emotions feel overwhelming, reach out for support.
- If you can, give yourself time to take a break, and only get back into your regular routing when you're ready. For some people that is right away, and for others it can take longer.

Reporting

Your Choices

Believe it or not, you get to choose how, when, where and whether or not to report the sexual assault to the police.

1. Don't report to the police.
2. Report to the police immediately.
3. Report to the police later. You can take as much time as you like to think about and explore your options. It is never too late to report this crime.

It is common for people who have experienced a sexual assault and the people around them to believe that they are required to report a sexual assault to the police. However, this is not the case.

Often there are many factors to consider when reporting a sexual assault including fear of not being believed, the impact on themselves and their lives, impact on family members, job, and social situations.

When the person who chose to use sexual violence is known to the person who experienced it, they are often considering the impact it could have for the person. Some people also have concerns about what the process will be like if they do report to the police and what will be expected of them. We know that the more information a person has about the available options and about what to expect from the legal process, the more satisfied they will feel about their decision.

The most important part of your decision is that it feels right for you and that it will help you heal from the experience of sexual assault.



What to consider when deciding whether or not to report to the police:

- What's my motivation for reporting to the police?
- What will it be like to share detailed information about a traumatic event? How will I feel if the person who hurt me is not found guilty?
- Am I willing to wait for one to two years for the process to be over?
- Do I know how to access support if and when I need it?
- How will I feel if I don't report?
- How will reporting impact my relationships with my family and friends?

Please remember that there is no right or wrong way to answer these questions. The legal system can feel empowering, frustrating, satisfying and re-victimizing all at the same time. These questions may help you to make the decision that is best for you.

The Report

If you choose to report the sexual assault, phone:

- Calgary City Police at 403-266-1234
- RCMP or the Tribal Police in the area where the sexual assault occurred

The dispatcher who answers the phone will ask for some general information about the crime and will arrange for the officers to meet you at your location, or you can meet them at the police station.

If you would like to report to the police from the CCASA office, please phone the Support and Information Line at 403-237-5888 for more information.



At this first meeting, the officer will take an initial account of what happened. It may be helpful to make notes about what you remember prior to speaking with the police. The officers will ask you many questions about the situation that you are reporting in order to better understand what happened and how to investigate.

It is the job of the police to collect all of the evidence they can, so even small details count. Sometimes the questions may seem hard, like they are questioning you personally, or they may ask the same thing more than once. It is their job to make sure they have all of the important facts about what happened. Be sure to tell the officers simply what you remember, and don't make guesses if you don't have answers to their questions.

After you report, you may remember more information that you would like to tell the officers, write it down and phone them. Depending upon the situation, the constables either take on the investigation or will refer your case to detectives at a district office or to a major crimes unit (Sexual Assault Investigative Unit, Child Abuse Unit, Domestic Conflict Unit). You will likely be asked to complete a second interview at the Police Station to gather more information about the crime, and this meeting will probably be videotaped so the officers do not miss any important information.

Once the police officers have your statement, they will proceed with the investigation, which can take many forms. They may interview the accused or any possible witnesses. They may also ask for your clothing or any other physical evidence.

The investigation from that point may, or may not, result in charges being laid against the perpetrator(s) of the sexual assault. If there is enough evidence to lay a charge, the police will do so. It is not up to the person who experienced a sexual assault to charge the accused. The person reports the sexual assault and the police collaborate with the crown prosecutors to decide whether to charge the accused.

Call us if you need more information
403-237-5888



Court Process

The Plea

Once the accused has been charged, a crown prosecutor will be assigned to your case so you do not need to hire a lawyer. The crown represents the province of Alberta, not the person who experienced the abuse. The accused is responsible for attaining a lawyer and if finances are limited, may access Legal Aid.

At this point, the accused will be asked to be at the courthouse on a specific day to enter a plea of 'guilty' or 'not guilty'. You do not have to attend this hearing but may do so if you wish. If you are working with the Police and Court Support program, you may ask the support counsellor to provide you an update after the plea hearing.

This stage has the potential to be very frustrating for the victim of the crime as the process may be continuously delayed and they do not have any control over this.

Delays can be caused by the accused not understanding the charges or not hiring representation.

If the accused pleads 'guilty', a sentencing hearing will be scheduled and you will be asked if you want to write a *Victim Impact Statement* to assist in sentencing; this is voluntary. If the accused pleads 'not guilty' a preliminary hearing may be scheduled. Before the preliminary hearing, the crown prosecutor will contact you and provide you with a copy of your previous statements for you to review.

Please remember that at any point during the court process, the accused may plead guilty or the crown may decide that there is not enough evidence to proceed. The process could last up to two years or more and requires commitment and patience.

The Preliminary Hearing

The preliminary hearing will take place at the court house and is where the judge decides whether there is enough evidence to go to trial. The accused will be present at this hearing. You will likely be required to testify at this. The crown prosecutor will begin by calling their witnesses and questioning them about what occurred. The defense lawyer will then have an opportunity ask the witness more questions about the incident(s) and may suggest another version of how the incident occurred. It is important to tell the truth and just say what you remember. If you don't remember details, don't make guesses. You can also refer to the transcripts of the statements you made to the police if you don't remember what you said.

After questioning by both lawyers is completed you are free to leave the stand. However, for the preliminary hearing you cannot remain in the courtroom to observe the rest of the proceedings as your testimony may be influenced if you hear what others have to say about the incident.

The Trial

The trial is where both lawyers present their evidence and the judge decides if the accused is guilty beyond the shadow of doubt. It is the crown prosecutor's job to convince the judge that the crown's version of the story is much more reasonable than the defense's version. The defense will likely suggest other versions of the story that don't make sense or that are not true. Try to stay patient and calm, and remind yourself that they are doing their job, even though it may feel unfair.

You will be asked to testify at trial as well. It will be similar to when you testified at the preliminary hearing, but you will probably be asked more questions, and the defense lawyer will probably be more challenging. It is important that you are not present for the testimonies of other witnesses before you testify, but you may attend the trial after you have testified. At the trial there may be more evidence presented than at the preliminary hearing, and the accused might testify.

The accused may choose to be judged by a jury rather than a judge alone. In this case, 12 members of the public are chosen to watch the evidence be presented and make a decision about the guilt of the accused. At the end of the trial the jury must come to a unanimous decision (they must all agree) about whether the accused should be found guilty or not guilty. If they are unable to do this, it is called a 'hung jury' and the judge can call a mistrial. In this case there will be another trial later on.

The judge may make a decision about the trial on the day it ends, or a separate date for a decision as to whether the accused is guilty or not guilty may be set if the judge feels they need time to consider all the evidence presented during the trial. In order for a judge to find someone guilty of a crime the crown prosecutor must have proved the case beyond a reasonable doubt.

Restitution

Restitution is a way for the perpetrator to pay you back financially for the losses suffered as a result of the sexual assault if he or she has been found guilty. If you had financial losses related to the sexual violence such as stolen or broken property, medical or therapeutic expenses, moving expenses or loss of wages due to time off work, you can apply for restitution. In order to apply for restitution, you must complete the appropriate form (this can be obtained from CCASA) and must provide all necessary documentation to prove financial loss that you are claiming. If the judge orders the offender to repay a particular amount of money, it is your responsibility to enforce this. If you do not get the money owed to you, you may wish to consult a lawyer, as restitution is a civil action and not part of the criminal legal system.

The Sentencing

If the accused is found guilty by the judge or jury a date will be set for sentencing. A *Victim Impact Statement* is an opportunity for you to express how this crime has impacted you physically, emotional and socially. You may choose to read it aloud at the sentencing hearing, or simply provide a copy to be read silently by the judge, the defense, the accused and the crown. In sentencing, judges must consider the seriousness of the crime, the impact on the victim, previous related offences committed by the offender, previous sentences for those related convictions, the level of remorsefulness and the supports (family, friends, job) the offender has in the community.

What's Next?

Being sexually assaulted or abused can be a life altering experience. Making the decision to engage in the criminal legal system process also significantly impacts one's life. From the time the police investigation begins to the time the criminal matter is concluded, your life may feel like it is "on hold" to a certain extent.

The system takes considerable time to process these crimes, and many times decisions are made along the way that results in cases not going forward. In addition, the outcome of a "guilty" or "not guilty" verdict will likely impact your sense of being heard and believed and may complicate your emotional and psychological healing. Many people assume that once the case concluded they would no longer be experiencing trauma symptoms and they may find that is not the case.


Take your time. Just because the court process is over doesn't mean you are expected to 'go back to normal'. Once it's finished with, your body and mind may feel that it is 'safer' to start experiencing some of the impact of trauma. This is a normal part of healing and takes time and support.

Trust your feelings. There is no right or wrong way to feel once the court process is over. It can be difficult to see someone be sentenced for something they have done, even if you were the victim. This is especially true if you ever cared for this person.

Remind yourself that it took an incredible amount of courage and strength to survive the sexual violence and then to participate in the criminal legal system and court process.

Get support. Surround yourself with family and friends who support you. Contact CCASA or other community resources that are informed about the impact of trauma when you feel that you need additional support.

**We will always be here to walk this path with
you. Get in touch if you need support.**



Resources

Calgary Communities Against Sexual Abuse


Support & information line: Our support and information line is available to anyone who has been affected by any form of sexual violence. We offer judgement-free, emotional and empathetic support and information. This service provides referrals, resources, information and emotional support.

Counselling: We provide one-on-one and group counseling for individuals impacted by any form of sexual violence, including sexual harassment, sexual abuse, and sexual assault. We also provide counseling to anyone supporting an individual who has been impacted by sexual violence.


Police & Court Support: The Police and Court Support Team exists specifically to support and advocate for people who have experienced sexual violence as they navigate the legal system or are considering doing so.

Calgary Sexual Assault Response Team (CSART): The Calgary Sexual Assault Response Team (CSART) team provides specialized care to individuals who have been sexually assaulted within the past 96 hours.

CCASA Contact Information



CCASA Support & Information Line
9am-9pm – 7 days a week
403-237-5888



Alberta's One Line for Sexual Violence
9am-9pm – 7 days a week
Phone/Text | 1-866-403-8000
Chat | calgarycasa.com
TTY Line 403-508-7888