

A Guide Through The

Criminal Legal System

For Survivors of
Sexualized Violence



ASSOCIATION OF COMMUNITIES AGAINST ABUSE

A Guide Through The

Criminal Legal System

For Survivors of
Sexualized Violence



 1 (866) 807-3558

 info@acaahelps.ca

acaahelps.ca

For immediate assistance, please call, text or chat with trained and specialized sexual violence service providers on **Alberta's One Line: 1-866-403-8000**

This service offers supportive listening and information about sexual violence, tools for coping with the impacts of trauma and provides resources and options. You will never have to talk about anything you don't want to.

We always do our best to ensure that conversations on the support and information lines are confidential, but there are some circumstances in which we may have to break this confidentiality. If it is known or suspected that anyone under the age of 18 is being hurt, Albertans are legally obligated to make a report to Children's Services. Additionally, if we suspect someone might harm themselves or others we may be required to reach out to authorities. In both of these instances contacting authorities is our last resort; we value and work to preserve the confidentiality of our calls.

Honour the ways we survive and seek justice. There is no 'right' way to survive sexual assault. A survivor can tell no one, tell themselves, call the police, tell a friend, heal on their own, with community, utilize transformative justice. We can feel okay some days, some months and other times we can feel different minute to minute.

Farrah Khan, Survivor and Advocate.



This guide was created specifically for people who are considering the criminal legal system as a response to sexual offences under the Criminal Code. This can include sexual interference, sexual assault, sexual exploitation and human trafficking.

The criminal legal system is sometimes referred to as the criminal justice system, which is a way that people who have, or are suspected of committing crimes are dealt with using a police investigation, charges, a court trial and if found guilty, sentencing. The outcomes within the criminal justice system are based on the evidence that is available, and not on truth or what may have 'actually' happened. This means that many people don't find 'justice' within the criminal justice system, and prefer to call it a legal system instead.

This guide has been created to provide information only, and should not be interpreted as, or relied on, as legal advice.
Only a lawyer can provide legal advice.

The most important thing we want you to know is what happened is not your fault. This package is to provide you with information about what you might be experiencing, your rights, and options.

You are not alone, and what someone else did to you is not your fault.

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Your Rights

ACAA's Specialized
Criminal Justice
Navigation Program

part 1

ACAA offers survivors of sexual violence and those who support them information about their rights, what to expect in the Criminal Justice System, and how to support them as they go through it.

The Specialized Criminal Justice Navigation Program:

- Helps you make a decision about reporting to the police by letting you know what to expect and what your options are, and giving you the time you need.
- Works with other professionals in the legal system to help things flow more smoothly (or as smoothly as possible).
- Empowers you with: information about the Criminal Justice System and your options for healing.
- Will come with you to police interviews, meetings and court dates related to the abuse/assault.
- Helps you understand how the violence may have impacted you, and offer tools to support emotional regulation and safety.
- Connects you with other people or services in the community to help you heal.

We Will:

- Respect your choices, privacy, and experiences.
- Explain what the Criminal Justice System is and how it operates.
- Provide information about your file or case.
- Provide information to help you make decisions about reporting, and other options.
- Let you know your rights during the process.
- Work with law enforcement, the Crown Prosecutor, police-based victim service units, and other organizations (with your permission) to make things easier for you.
- Connect you with other organizations and people who can help.
- Have your back.

We Will Not:

- Pressure you to report or to continue participating in the Criminal Justice System if you don't want to.
- Be able to predict the future or the outcome of the case.
- Talk to anyone else about your situation or file without your explicit consent. This includes the police, the Crown Prosecutor, Victims Services or people in your life.

What is Consent?

Sexual consent is when people engage in sexual activity, online or in person, that they want and are comfortable with. This can change during sexual activity, or over time. Practicing consent means that:

✓ Each person feels free to say yes, no, or to change their mind at any point.

✓ A person has to do or say something to clearly communicate that they want the sexual activity.

Things to Remember...

If someone doesn't feel safe to say no or change their mind, they likely aren't consenting

You can't assume someone is consenting because they don't say no

Just because they agree to one sexual activity, does not mean they consent to another

There are times when people can't consent (even if they say yes), because they can't freely choose.

This could be if they are:

- Heavily affected by drugs, alcohol or medication
- Sleeping or unconscious
- Manipulated or threatened into participating
- In a power difference, such as age or authority (teacher, coach, employer, landlord)

How do we practice consent?

✓ Check in!

“Is this ok?”

✓ Normalize refusing or changing our minds and being ok with it.

“I’m not into this right now
Maybe later.”

✓ Show you’re totally cool with being refused.

“If you’re not into this, can we
try something else?”

And don’t forget, we do this all the time, with all kinds of people, in all kinds of places. We’re already pros at practicing consent, so there’s no reason we can’t use these skills in sexual relationships too.

“Want to grab a pizza?”
“Not today, maybe later?”

“I know we talked about watching a comedy, but I’m wondering if you’d be into a thriller instead?”

“I’d be down for that!”

What is Sexual Violence?

When consent is not practiced by everyone involved in a sexual activity, it is called sexual violence. Sexual violence is a term to describe any act, in person or online, that uses sex or sexuality to degrade, humiliate, or take control away from another person.

Sexual violence can be in person or online, and can include:

- Comments, jokes or speculation about one's sex life, history or sexuality.
- Sharing someone's sexual or intimate images with others without consent.
- Sexual activity that is gained through pressure, threats, or where someone feels like they need to 'give in'.
- Sexual activity when someone isn't of clear mind. They may be drunk, high, sleeping or on heavy medication and be unable to make a decision based on their needs and desires in that moment.
- Sexual activity or relationships where one person has more power than the other due to position (coach, tutor, teacher, parent/guardian, landlord) or age.

A few facts about sexual violence...

- It happens a lot more than most of us think (45% of Albertans have been victimized).
- Most of the time it doesn't cause any physical injury.
- It is rarely made up; most people don't tell anyone that someone else sexually violated them for a long time, if ever.
- It can impact our relationships, trust, mental and physical health.
- You can heal and you are not in this alone.

Some things to consider when deciding whether reporting is right for you...

Who has your back?

Having emotional support is a way to help share some of the pressure or uncomfortable emotions that come up for you. These could be professionals, friends, family or peers. It could be a large group of people or a select few. Take some time to consider who you can connect with, because we all need someone to share the load with now and again.

What does justice look like to you?

Fairness and justice can be found in many ways. For some, sharing their story, being heard, and being believed can feel like justice. For others, justice can be found by reclaiming parts of themselves lost or altered through the abuse or assault. Consider what justice might mean to you, inside and outside of the legal system.

What does accountability look like to you?

Holding someone accountable means placing responsibility where it belongs. For survivors of sexual violence, this could mean saying their name out loud, or recognizing that they are the only person who could have stopped their behaviour.

What does healing look like to you?

Envision healing in your life. How would you know you are healing? Justice and accountability are outside of our control, especially within the criminal legal system. However, healing is something you are already doing, whether you know if or not. Know that you are not alone in your healing journey. Others have been where you are, and are ready to connect when you are.

What are ways I care for myself?

The criminal legal system can be stressful, long, and is out of your control. It is critical to have ways you care for yourself, decompress, and remind yourself of the goodness that's inside you.

Healing, justice and accountability are yours to define, and can be found outside the confines of the criminal legal system.

If someone has sexually violated you, **it is not your fault.**

- Crisis support and information is available by texting or calling the [Alberta One Line \(1-866-403-8000\)](tel:1-866-403-8000).
- Specialized sexual violence Support, Counselling and navigation through the Criminal Justice System through the [Association of Communities Against Abuse \(1-866-807-3558\)](tel:1-866-807-3558).
- Medical assessment is provided through your local urgent care centre or hospital at any point
- Sexual Assault Response Teams are available at specific sites throughout the province

Your Rights

Information, Choice & Control

Sexual violence is an act of violence that removes power and control from the person who was harmed. This is why it is so important that your healing process be based on restoring this power and control back in your hands.

The Alberta Victims of Crime Protocol outlines your rights when engaging with the criminal legal system.

You Have the Right to...

- **Be informed** about your options, including support, counselling, medical assessment, the status of your investigation, programs available to you and how the legal system works.
- **Safety and security** from intimidation, retaliation and other forms of harm.
- **Privacy**, to the greatest extent possible.
- **Independent legal counsel** if anyone seeks to access your confidential records, or if they already have this access and would like to use them at trial.
- **Privacy around prior sexual history.** The Criminal Code has strict requirements that the defence must comply with to have this information admitted, and your previous sexual history must not be used to prove or imply that you consented, or to question your trustworthiness as a witness.
- **Express your views** about decisions that affect your rights. If the person who harmed you is found guilty, you have the right to share information with the Judge about how this crime has impacted your life before sentencing.
- **Request restitution**, which means you can request that the Judge order the offender to pay you for some of your financial losses as a result of the crime.
- **File a complaint** if you feel your rights have not been respected.
- **Be treated with respect**, compassion and courtesy.
- **Ask questions** about what you can expect, and who will have access to your information.
- **Take your time** making decisions or to change your mind at any time.
- **Choose who you tell**, how much you tell and when to share your story.
- **Make choices** based on your own experiences, comfort level and the information that has been offered to you.

Reporting

part 2

You might have questions and be confused about which way to turn. You get to decide who to talk to, how and when. This includes telling the police or RCMP about the violence perpetrated against you. There is no Statute of Limitations in Canada for reporting sexual abuse or assault. This means you can report the crime immediately, in a week, in 10 years, or you may choose never to engage the criminal legal system.

Preparing to Report

We often think about ‘evidence’ as physical proof of sexual violence. However, your experience, memory and statement are also considered evidence.

- Write down everything you can remember to help guide what you want to tell the police. It’s ok if you can’t remember everything, but no detail is too small: addresses, dates, how you felt, what you ate, the weather, or if there are triggers.
- Gather emails, texts or messages from the person who assaulted you, or about the assault.
- Write down key points you want to say to the police.
It’s common for our minds to become overwhelmed, which can lead to forgetfulness or ‘drawing a blank’.
- The interview will be audio or video recorded and will be used as your ‘official statement’ in court. However, this does not eliminate the need to give testimony in court if Charges are laid.
- You can expect the investigator to ask questions about the incident to get a better understanding of what happened or to help you remember some details.
- Don’t worry if you can’t provide all this information at the initial interview. Often, trauma can affect our ability to recount incidents in chronological order. You can always follow up with the investigator with any details you remember after the interview.
- Remember that you can take a break anytime during the interview.

The Criminal Legal System

The criminal legal system is a set of processes that are used to report, investigate, prosecute, and sentence crimes based on the Criminal Code of Canada. These legal proceedings are focused on the person who committed the crime, and determining if there is enough evidence to lay charges and convict them.

This system is not focused on the needs of the person who reported, or who the crime was committed against. In fact, in the criminal legal system, the victim is considered a witness, and this can be very challenging for survivors of sexual violence, who can be left feeling like their needs and experiences are not being heard or acknowledged.

ACAA, and other sexual assault centres provide support to survivors of sexual violence as they navigate the legal system, offering information, choice, and a sense of control where possible. As a survivor of sexual violence, you get to decide what justice and accountability look like to you, even when it does not align with the legal system's practices or timeline.

Reporting

Many people have lots of questions about reporting to the police and the legal system in general:

Is there enough evidence?

Will they believe me?

How will I be protected from the person who hurt me once they have found out that I told?

How long will the whole process take?

If charges aren't laid, or they aren't found guilty, will people think I made it up?

Will I have to testify in court?

Will I feel better after I report?

At ACAA, we know that these are some of the questions people have, and there may be many more. We do our best to answer these questions and are transparent with you when there are no answers.

Questions to consider while making the decision to report or not might include:

What are my hopes in reporting?

What are my fears and worries?

What information do I need to decide?

If charges are not laid, or the person who harmed me is not found guilty, how might that feel?

What kind of support do I need?



Meeting with the (police) officer in the ACAA office made the conversation so much easier. I felt like she heard me, didn't blame me, and it actually completely changed how I see law enforcement now. I don't think I could have gone through it at the (police) station.

- Survivor of Sexual Assault



There are a few *different ways to report...*

- If you are in immediate danger or require emergency medical assistance, call 911.
- Go in-person to your local police station or RCMP where you live, or where the crime occurred.
- Call your local police non-emergency line.
- Contact your local sexual assault centre to ask about Supportive Reporting. Note that the sexual assault centre will review your questions and options with you and will not report the crime on your behalf.

Often, the first officer you speak with will not be the officer conducting the investigation. You may be interviewed immediately or contacted a few days later to schedule a time and location that works for you and the police. You may also ask ACAA to help coordinate the interview, and request that it be at the ACAA office, or another location that feels comfortable for you.

Supportive Reporting

ACAA and other sexual assault centres in Alberta offer Supportive Reporting. To ensure you are making the right decision for you, and to give you as many options as possible, you may be offered:

- The opportunity to meet with police in advance of reporting to talk about the investigation process, and for you to ask any questions that might be specific to reporting. This might help you to get a stronger sense of how reporting the sexual violence fits within your life and your healing journey and can give you greater confidence in your choices.
- A support person to accompany you. They may not be able to sit with you during the interview but can support you before and after. This can be a friend, family member, or sexual assault centre worker.
- Choices around where you report, such as at home, in a neutral space or at the sexual assault centre. It is important that you have privacy and feel as comfortable as possible. ACAA's mobile recording equipment can be used anywhere and is compatible with police software for recording and maintaining evidence.

The Investigation

part 3

Before charging someone, the police will collect evidence to gain a clear idea of what happened. This can include:

- **Physical evidence**
- **Interviews and recordings or communication such as emails, texts or phone calls.**

If the sexual violence was recent, the police may also collect evidence, which can include clothes, items from the location where the assault took place, and pictures of any marks or injuries.

If you received medical care or had a Sexual Assault Examination Kit completed within hours or days following the assault, the police may request this as evidence. Police may interview any witnesses who were present or have relevant information.

If there were cameras in the area, the police may attempt to retrieve the recordings to corroborate your statement. It is important to note that all evidence collected, including your interview, will be given to the Crown Prosecutor and if Charges are laid, to the accused and their lawyer.

The police may question the person who perpetrated the violence (called the 'suspect' during the investigation and the 'accused' if charges are laid').

Depending on the availability of evidence, the investigation can take days, weeks or months. You are invited to contact the investigating officer for updates on your case, or request that the ACAA's Specialized Criminal Justice System Navigator request this information.

Your privacy is very important to us, and we will need your permission to talk to anyone else about your file.

After the police investigate, they must be able to prove **3 things**:

1 Occurrence
That the assault actually happened.

2 Identity
That the accused person is the one who perpetrated the assault.

3 Consent
That it was not consensual.

The police then give the evidence to the Crown Prosecution (the lawyers who represent the people of Alberta). It is the Crown Prosecutors who will decide if charges can be laid against the suspect person/people.

If this happens, you might be asked to go to court.

Charges

Charges

Charges will only be laid if the Crown Prosecutor determines that there is a realistic prospect of conviction, which means there is enough available evidence to prove the person committed an offense.

If charges are laid, you will be notified by the police. They will review any conditions, which are 'rules' around whether the Accused is allowed to contact you or attend your home, place of work or anywhere you are. They may be ordered not to contact you via social media or send messages through anyone else. If they do, please contact the police as soon as possible to report this.

If the person is arrested, they are usually released within 24 hours, sometimes with an order not to contact the person or people they harmed. If they are not released, a bail hearing is set within 24 hours, and a judge decides if the person charged will be released or held in custody until trial.

Dropping Charges

If you decide that you do not want charges laid or want charges withdrawn, the police and the Crown Prosecutor should respect your request. If charges are laid, only the Crown Prosecutor can drop or change those charges later. Though you, as the survivor, cannot technically withdraw charges after they are laid, you can ask the Crown not to proceed. However, if you (as the key witness) withdraw from the legal process, it is likely that the Crown will drop the charges.

No Charges

You still have access to supports at ACAA and other sexual assault services.

If charges are not laid, it simply means there was not enough evidence available to proceed to trial. **This does not mean the police do not believe you or that you weren't harmed.**

The Court Process

part 4

First Appearance

The first appearance is the first time the accused will be in front of a judge. The judge will make sure the accused understands the charges and schedule a plea hearing.

Plea

The accused pleads guilty or not guilty. You do not have to be present for the plea hearing, and in some cases, the plea hearing is held and rescheduled several times if the accused has not made a decision about their plea.

Guilty - If the Accused pleads guilty, there will be no trial and a sentencing hearing will be held.

Not Guilty Plea - If the Accused pleads not guilty, they are choosing to go to trial.

Preliminary Hearing

A preliminary hearing is where the judge decides if there is enough evidence to go to trial, and is held in a courtroom. The accused will be present, and the victim/survivor and other witnesses may be called to testify. There is not always a preliminary hearing.

Trial

If the accused pleads not guilty, there will be a trial where both the Crown and the Defence lawyers will ask you and other witnesses or experts what happened before, during and after the incident.

Children and youth who are interviewed at a Child Advocacy Centre may have the recording of the interview used as evidence in court but may still be required to answer questions asked by the lawyers. Because of the presumption of innocence, the accused is not required to testify on the stand and be cross examined. The trial will take place before a jury or judge.

If you choose to report sexual violence and it goes to trial, it is incredibly important to have a strong support system. It is also important to practice caring for yourself and develop grounding strategies before, during and after the trial.

Trials can be long days where there is a lot of waiting. If you are a witness and testifying in court, you are unable to be in the courtroom to watch the other testimonies, to make sure that your testimony is not influenced by others. Bring food, water, a phone charger and something to keep you occupied while you wait.

Verdict

The formal decision or finding of 'guilty' or 'not guilty' made by the judge or jury, and based on evidence provided during the trial. In order to someone to be found guilty of a sexual assault three things must be proven in court:

- **Occurrence – that the assault happened.**
- **Identity – that the accused person is the one who perpetrated the assault.**
- **Consent - that it was not consensual.**

The judge or jury may take hours, days or much longer to reach a verdict.

Acquittal

If the accused is found not guilty, they will be acquitted. This means there was not enough evidence to convict. It does not mean that you are not believed, or that they did not commit the harm.

Conviction

If the accused is found guilty, they will be convicted. This means there was enough evidence to prove that they committed the crime and they will receive a sentence.

Appeal

Both the Crown and Defence are able to appeal the verdict or sentence within 30 days.

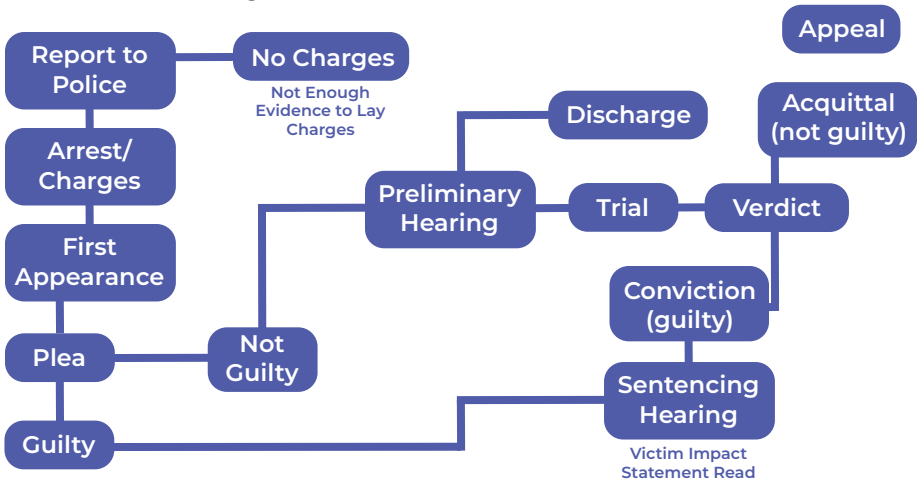
Sentence Hearing

The judge determines a sentence for the offender, based on the Criminal Code of Canada and other similar cases. This may include jail time, community sentence, and/or registry with the National Sex Offender Registry.

Victim Impact Statement

You will have the opportunity to write and submit a Victim Impact Statement in court outlining how the sexual violence has impacted your life, emotionally, financially, professionally, personally, relationships and your sense of safety. This needs to be submitted before the sentence hearing, which may happen anytime after the accused pleads or is found guilty. You can choose whether or not you want to read your statement in court aloud, or if you want someone else to. The accused and defence lawyer will receive the statement and have the opportunity to object to any of its contents. Do not share any personal information you do not want the accused to know.

In Summary:



Preparing for Court

ACAA's Specialized Criminal Justice System Navigators can help to prepare you for court with:

- **Grounding tools** to help keep your head, heart and body present and stable.
- **Memory retrieval strategies** to help you remember what happened. This can be hard when you are feeling stressed out!
- **A Courtroom tour** to help you become familiar with the space you will be testifying in. You will learn where everyone sits, where you will wait to testify, how to act, and where the bathrooms are.
- **What to expect on the day of court**, such as the schedule, what to bring, where to go, who to ask when you have questions, and anything else you might want to know.
- **A mock trial** to give you practice answering the types of questions that lawyers ask. The mock trial will be related to something low stress, such as your pets, what you did last week, or your last holiday.

Tips for Testifying

- Tell the truth.
- If you can't remember something or don't understand what someone says, say so.
- If you don't know the answer to a question, say you don't know - don't guess.
- If you don't agree with what someone asks you, tell them that you don't agree.
- If you are sure about the answer to a question, you can say so.
- Talk to the judge if something is bothering you or if you have a question while you are being a witness.

Reviewing Your Statement

Before the trial, you can review your statement to the police. This is what you shared with the police during their investigation, and might be a video or audio recording, a transcript, or a written statement if that's what you provided. Your statement will be provided to you by your ACAA worker or the Victims Service Unit. If you remember anything differently than what you originally reported, let your ACAA worker or the Crown Prosecutor know. It is normal for memories to change over time, and important for the Crown to be aware of this.

Support

It is important to avoid talking with other witnesses about the crime you will be testifying about. This is to avoid anyone from believing that sharing this information influenced anyone else's testimony. However, you can continue to talk about your feelings, fears, and strategies for building resilience together.

Court Accommodations

The Crown may apply to make testimonial aids available for you. The judge will decide if these can be used, based on your age, needs, health and ability to testify without them.

These can include:

- The use of a screen between you and the person who harmed you
- Testifying via video streaming in another room or location (CCTV)
- Having a support person in close proximity
- Using a chair in the stand (rather than standing)
- Using a support dog
- Using the video recorded statement or interview in place of full testimony
- Language interpreter
- Frequent Breaks
- Eagle feather (Indigenous affiliation)
- Garbage pail in close proximity of the stand

At Court

On the day of court, you will be provided with a private space for you and the people supporting you to wait until it is your turn to testify. Bring something else to focus on that is comforting and relaxing. We do our best to make sure you do not have to interact with the Accused, but you will need to be in the courtroom with them during your testimony, unless you have been approved to testify in another room.

Arrive On Time

It is important that you arrive when your court date is scheduled for.

Dress in Comfortable & Clean Clothes

You are not expected to dress in suits like you will see lawyers doing. You can dress up if you wish to, but you can also just wear something clean and comfortable. You cannot wear hats in the courtroom.

Stay Hydrated

Water is the only drink you are allowed to have in the courtroom. You cannot have other food or drinks with you.

Be Calm & Respectful

Testifying

During the testimony the Crown asks the Crown witness questions while the judge (and sometimes a jury too) listens to their answers. This is called **direct examination**. After the Crown is finished, the defence lawyer will ask questions of the witnesses called by the Crown. This is called **cross examination**. The Crown will listen carefully here and will intervene if it is necessary. When the defence lawyer calls witnesses later in the trial, the Crown will then question those witnesses. This is also called cross-examination.

For child witnesses, if there is a videotaped statement, this will usually be shown in court with the child present. If the child says that the content of the videotape is what took place during the interview and that they were trying their best to tell the truth, the videotape will become part of the evidence. All witnesses (including children), still need to answer questions from the Crown and the Defence lawyers. It is important to avoid talking about your testimony (what you said in court) with other witnesses until the trial is complete. You will not be allowed to watch other people testify until you have already done so.

When Testifying:

- Tell the truth.
- If you can't remember something or don't understand what someone says, say so.
- If you don't know the answer to a question, say you don't know - don't guess.
- If you don't agree with what someone asks you, tell them that you don't agree.
- If you are sure about the answer to a question, you can say so.
- Talk to the judge if something is bothering you or if you have a question while you are being a witness.

After The Trial

You might have lots of emotions at this point, now that the 'work' is done. The evidence has been presented, you have testified, you may have come face to face with the person who caused you harm.

You might feel relief, sadness, anger, apprehension or even joy. You might be tired of waiting, or nervous about the verdict if it hasn't happened yet.

The Verdict

When the trial is over the judge or jury will take time to decide on their verdict. This could happen on the same day as the trial, or another date may be scheduled weeks or months away.

The verdict is the decision the judge or jury makes after hearing the evidence, and will be either 'guilty' or 'not guilty'. The verdict is not a judgement of truth, but of evidence.

If the accused is found 'not guilty', this usually means that the court process is over. The Crown may decide to appeal the verdict, but this is very rare and only in the case where the judge made a technical or legal error.

If the accused is found 'not guilty', it does not mean that they are innocent. It means that there wasn't enough evidence to prove the case beyond a 'reasonable doubt'.

To be found guilty, the Crown must prove the case against the accused beyond a 'reasonable doubt'. The judge or jury must be able to say with certainty that the most likely explanation for the evidence is that the crime happened.

“ *What helped me was hearing again and again that a not guilty verdict did not mean he didn't do it. I learned to change my vocabulary to if he is not convicted...I wish that those were the words that were used in court instead of not guilty.* ”

- A Mom

“ *I had held onto the expectation that if he was found guilty it would help take the pain away. While it didn't take all the pain away, the guilty verdict did give me some relief.* ”

- Survivor of Sexual Abuse

Sentencing

After the accused is found guilty of the charges against them, the judge listens to arguments from the Crown and the Defence lawyer and decides what the offender's consequences will be. Sometimes sentencing will be on the same day of the verdict or guilty plea, but most often the sentencing will be scheduled for a later date to allow the lawyers to prepare.

Sentencing is based on mandatory minimums and maximums described in the Criminal Code, previous cases, a pre-sentencing report (a report written by a probation officer about the accused), and mitigating or aggravating factors.

Anyone directly impacted by the crime may submit a Victim Impact Statement, which will be provided to the lawyers and the judge. The Judge will take the impacts of the crime into consideration when sentencing the offender.

The Victim Impact Statement is one of your only opportunities to have your voice heard in the Criminal Legal System. It can be as long or as short as you like, and spelling and grammar don't count. Some people even choose to write a poem or submit art to represent the impact of the violence on their lives.

You may also request that the person who harmed you pays you for financial losses you experienced because of the crime through a Statement of Restitution form.

Supporting Safety

If the accused is found not guilty, there are still ways the judge can order that they have no contact with you. Protection orders include:

- Restraining Orders are made by a Family Court and are applicable if you were married, lived with, or have children with the accused. They can last indefinitely and you will need to prove that you and/or your children have reasonable grounds to be fearful of the accused.
- Peace Bonds are made by a Criminal Court and can be requested against anyone you have reasonable grounds to be fearful of. This includes fear of harm to pets and property. You may be asked to sign a Mutual Peace Bond, in which you and the accused agree to stay away from each other. Peace Bonds typically last for 12 months.
- Emergency Protection Orders can be granted by the police if someone has threatened to harm you.

Now what?

Once your court process has ended, regardless of how, you may consider:

- Having your publication ban lifted in relation to your court case. Publication bans stay in place to protect your identity, so if you want to talk about your case publicly, you will need to apply to lift it.
- How to feel supported and cared for when people ask about the case, or when the offender's parole officer reaches out to you.
- Supports you can lean on to process any emotions that might come up for you after the court process is complete.

Whatever the outcome, you're likely to feel waves of emotions, thoughts and memories. Whatever is coming up for you is real. Take some time to reflect on:

- What does justice mean now?
- What have I learned from this process?
- What are my emotions telling me about myself?
About what I need?
- What personal qualities did I show?
- What did I learn about my strengths and supports?



Who's who in the criminal legal system?

Police or RCMP member

The police are responsible for collecting evidence that a crime occurred. They interview you, other witnesses, and might interview the suspect. They will look for physical evidence, which might include medical assessments related to the violence, video, photo or audio recordings, social media or text messages, or anything else that might help tell the story of what happened. If there is enough evidence, police will work with the Crown Prosecutor to decide whether to arrest and lay Charges. Once the investigation is complete, the police job is done. They may come to court as a witness.

Witness

A witness is a person who is asked to go to court and tell what they know about the subject of the trial. This is called "testifying." The Crown helps the witnesses to testify by asking them questions. It is most important for a witness to tell the truth when they answer the questions. The victim or survivor is called a witness in the criminal legal system.

ACAA Specialized Criminal Justice Navigator

This position supports survivors of sexual violence and their loved ones as they decide whether to report to police, and then offers information, advocacy, options and support throughout the process. Our Navigators are specialized in sexual violence and the criminal legal system and understand the unique dynamics and challenges experienced by survivors of sexual abuse and assault.

Police Based Victim Service Unit Advocates

Police Based Victim Service Programs are supported by trained volunteers who offer information, support, and local referrals for victims of crime and tragedy. Co-located with police, they have access to court information and updates for victims.

Crown Prosecutor

The Crown Prosecutor receives information about the case (the evidence) and decides if there is enough evidence to lay Charges. The Crown represents your story, but is not your lawyer. They may meet with you to talk about what to expect, understand what you want, and answer questions. Although at the trial the Crown will help you and other witnesses tell what happened, they are not your lawyer.

Judge

The judge is an expert on the law. The judge's job is to listen to everything that the witnesses and lawyers say in court. After everyone has finished talking, the judge makes decisions about the trial and what the result will be. The judge usually decides whether the accused person has broken the law. When there is a jury, the judge gives the jury information about how the laws work, and the jury makes the decision.

Defence Lawyer

The defence lawyer is sometimes called defence counsel or just "the defence."

The defence lawyer is the lawyer for the accused. The defence lawyer's job is to ensure fairness for the accused in court. This means making certain the accused's version of events are heard and understood by the judge (or jury). The defence lawyer tests the evidence about what happened by questioning the Crown's witnesses and by calling witnesses for the defence so that they may tell their version of what happened.

Court Clerk

The Court Clerk is in the courtroom to ensure certain jobs are done to make things run smoothly. Their job includes recording the courtroom proceedings, handing documents and exhibits from the lawyers to the judge, announcing when the court is ready to hear the next witness, and asking the adult witnesses to take an oath or affirmation before they begin giving their evidence. Children are asked to promise to tell the truth.

Accused

The accused is the person who has been charged by the Crown with doing something wrong and breaking the law. They have to be in court to hear the evidence by all the witnesses, and be present when the judge decides whether or not they are guilty.

Very
Common
Questions

part 5

Why might people be hesitant to report to the police?

- Survivors are often worried they will not be believed or will be blamed for what someone else did to them.
- It is rare for a sexual assault charge to result in a conviction and a survivor of sexual violence may feel that it is pointless and will only cause further emotional distress.
- It can feel re-traumatizing to tell your story to police officers and lawyers.
- The survivor most often knows the person who violated them and may even care for them.
- Some people do not view what has happened to them as sexual violence.
- Many blame themselves.
- Gaps in memory caused by stress or trauma can make reporting sexual violence challenging, even if it occurred recently.
- It can be difficult to establish physical evidence of sexual violence.

Given the low conviction rates, why do some people choose to report?

For many people who choose to report, the outcome is not what's important. There is so much that is out of the survivor's control in the legal system, and the outcome may result in charges or no charges, guilt or not guilty.

Some people choose to report because it feels validating to know that their story has been heard by a formal institution such as the police or criminal legal system. It can feel empowering to have one's story heard.

Reporting the crime can also open access to other benefits through Alberta's Victim Assistance Program. The Victim Assistance Program may be able to provide support for medical and psychological support related to victimization.

How do I know if reporting to the police is the right choice for me?

It is your choice whether to report sexual abuse or assault to the police. Regardless of whether you choose to report, your experience of sexual assault is valid and real.

Your decision about reporting may depend on what is right for you, based on your situation and what your capacity, social location, resources and wants are. If you choose not to report, you can still seek counselling and access sexual assault support services.

Fact: Sexual assault is one of the most under-reported crimes in Canada, with only about 5-12% reported to the police. There are many reasons people choose not to report, such as fear that no one will believe them, concerns about retaliation, mistrust of the legal system and other institutions, and the time and energy required for the process to resolve.

Take your time and consider your options. It can take days, weeks or even years to decide about reporting, and what might feel right for you might be different for someone else. ACAA and other sexual assault centres can help you find the information you need to decide and will support you regardless of the choices you make.

Note: you are not responsible for someone else's choice to harm, and reporting someone's violent behaviour will not necessarily stop them from harming someone else. It was not your fault that someone hurt you, and you are not responsible for their choice to harm someone else.

Will I have my own lawyer?

In Canada, the criminal legal system is used to determine whether or not someone who is charged with committing sexual abuse or assault is guilty or not guilty according to the Criminal Code of Canada. If they are charged, a Crown Prosecutor is assigned to prove this person is guilty. While they will seek your input, they are not your lawyer. They represent the government. You are free to hire a lawyer and seek legal assistance on your own to provide you with advice as the case moves through the criminal trial, but the Crown Prosecutor is in charge of the case. If you hire a lawyer, they can provide you with advice and assistance outside of the courtroom but will not be able to represent you in the Criminal trial.

You will be advised to hire your own lawyer if the Defence applies to use your sexual history in court (often to imply consent or discredit you), or if civil claims are made against you. If you hire a lawyer, you will be financially responsible for the costs. However, there may be low fee or no cost lawyers available to consult through non-profit organizations.

How long does the court process take?

The length of the court process depends on the details of the case. If the case goes to trial, it could take a few years before everything is completed. If the case is appealed, or moves to a higher level court, it could take even longer. The investigation can take time, and then the lawyers need to prepare. The accused may delay their plea for months, and the courts are busy, so dates are scheduled months in advance.

Although the timeline can vary, there are limits set within the criminal legal system for how long a court case should take. According to the Canadian Charter of Rights and Freedoms, the accused has a right to be tried within a reasonable timeframe.

Is the information I share with the police or Crown Prosecutor private?

The accused in a court case has a right to “disclosure”, which means that the Crown Prosecutor must give them copies of all relevant police reports and witness statements. This means that if a charge is laid, the accused will know that you have made a report to the police and will see your police statement/interview. It also applies to any new relevant information that you might share in your discussions with the Crown. Those discussions are not confidential. If you told the Crown that you remembered something new or different that was not in your original police statement, the Crown would be required to disclose that information to the accused. The Crown would also have to disclose if you shared any medical, counselling, or personal records (including text messages) you share with the Crown. Although the accused’s lawyer would have to apply to the court to see them, it makes sense to consult with a lawyer other than the Crown before deciding to share these documents. The accused will not be given your address or phone number.

Will there be a jury?

In Canada, sexual assault is considered a hybrid offence, which means that the Crown can decide to pursue charges against the accused either through a summary conviction or an indictment.

A summary conviction has a lower sentencing and is for less serious charges, and if it is the accused’s first offence. Summary convictions are processed in the provincial court in front of a judge, and there is no option for a jury.

More serious offences may be tried as an indictment in the Court of Kings Bench and have higher sentencing. In these cases, the accused may choose to have their case heard by a judge alone, or by jury. This aspect of the court process is centred on the accused and may feel like you have little control.

Does the court take the history or culture of the accused into account?

If the suspect self-identifies as Aboriginal (they do not have to have status or live on reserve), the judge, Defence, or Crown may request what is called a Gladue Report. Prepared by an independent Gladue Writer, the report is a pre-sentencing or bail hearing report that takes into consideration factors such as the person's history with residential schools, child welfare, and sexual or physical abuse. It also considers any learning disabilities, mental illness, fetal alcohol syndrome, trauma, or substance use or abuse. It also includes the impacts of racism and poverty on the person's life. The report can also include if the person has taken part in traditions, celebrations, or family gatherings such as fishing, sweat lodges, dances or cultural events. It will also identify sentencing options that are available in the person's community. The Gladue writer may interview the victim/survivor. This process may be difficult as they will have to re-tell their story in detail. The report is taken into consideration when the judge determines eligibility for bail as well as a sentence.

What if I was in contact with the person who hurt me, after they assaulted me?

There are lots of reasons people maintain a relationship with the person who hurt them. This can be because we don't always recognize sexual violence, or we don't want to believe this person hurt us in this way. We might also want things to just get back to 'normal', and forget it ever happened. Sometimes, cutting off communication can feel risky, raising alarm bells with the person who caused harm.

Questioning why you continued to be in contact with the person who harmed you in court might be a strategy used by the Defence, but it's also the responsibility of the Crown to offer good reasons for this. The Crown should also address other common misconceptions around sexual violence that the Defence might try to use.

Will everyone know?

At the earliest opportunity, the Crown Prosecutor will ask the judge to impose a publication ban to protect your identity. A publication ban is not automatic, but the Crown will almost always ask for one, and it will be granted. This means that it is a criminal offence for anyone (including you) to publish, broadcast, or transmit (through an email or message) any information that could reveal your identity.

Publication bans in sexual assault cases are intended to create some privacy for survivors of sexual violence. However, you have the right to your own story and who you want to tell it to. If you do not want there to be a publication ban protecting your identity, you should let your ACAA support worker or Victim Services Advocate know as soon as possible. They will contact the Crown who can file an application to lift it.

The publication ban prevents people from sharing your identity in relation to the case publicly, but it does not prevent members of the public from going to court to watch the proceedings, or ordering court transcripts.

Can I post on social media about the case?

If there is a publication ban for your case, no one involved in the case is allowed to share information that reveals your identity – including you. This also applies to social media. If the accused is a youth, or being tried as a youth, there will be a publication ban regarding their identity and it is legally important to respect this.

If you decide that you want to be able to talk about your experiences through the media or on social media, then you have the option of having the publication ban lifted through an application to the court. You have the option of making an application to the Superior Court of Justice in writing to have the publication ban lifted after your court case is over.

It is important to know that if you do decide to speak openly about the case, through a reporter, or on your own social media, then what you share can be used in the court case by the accused's lawyer. If there are any differences between your statements made during the investigation and what is said publicly, the accused lawyer could try to use this to make you seem less credible.

Can my sexual history be brought up in court to discredit me?

In Canada there is a law referred to as the “rape shield” law, which prevents Defence lawyers from using your sexual history against you in court. To bring up your sexual history in court, defence must show that this information is relevant for another reason and apply to obtain an order from the judge. Generally speaking, a person’s sexual history does not help the judge decide whether the sexual assault occurred. If the defence’s request to ask about your sexual history is approved, the hearing will be held in private without members of the public present. You are entitled to make arguments or submissions to explain to the judge why that evidence is not relevant and the Crown should speak with you in advance to prepare you. You are also entitled to have a lawyer represent you at the hearing to make those arguments on your behalf. While the requirements to have your prior sexual history admitted in court are very strict to help protect you and your privacy, it is important to note that there may be particular instances where the accused’s lawyer may succeed in admitting this evidence in court. For further information on this matter, it is recommended that you seek legal advice from a lawyer.

Can my personal journal, medical or mental health records be used in court?

The defence must bring an application to the judge to access your personal records. If they do make an application, you are allowed to have a lawyer to advise about whether you should consent to providing your records. If you do not consent, the defence needs to demonstrate to the judge that they are relevant to the case and a court order would have to be made.

If you tell someone involved with the Criminal Legal System, such as the police, Crown or Victim Service Unit that you have a journal that contains information about the crime or tell them about medical or counselling related to the offence, this information will be disclosed to the defence and could be used in court.

How is Consent Understood in Canadian Law?

In court, the accused may claim that they thought they had consent, and the judge may accept this argument. According to Canadian law, a person cannot claim that they thought you consented if:

- Being intoxicated led them to believe that you had consented
- They were “reckless” about determining if you were consenting.
- They ignored cues that there was no consent.
- They didn’t “take proper steps” to see if there was consent. The accused also cannot claim that the act was consensual because they waited enough time after a “no” and the victim/survivor did not express a “no” again.
- If someone communicates no, it is a no until the person agrees to the sexual act.

case details

Police Investigator: _____

Police File Number: _____

Docket Number: _____

Date of Plea: _____

Plea:

Guilty | Not Guilty

Date of Preliminary Hearing: _____

Date of Trial: _____

Kings Bench or Provincial:

KB | Provincial

Courthouse: _____

Assigned Crown: _____

ACAA Support Worker: _____

VSU Advocate: _____

Criminal Court Resulted in:

- Guilty verdict
- Pled Guilty
- Not guilty verdict (Acquittal)
- Stay

Sentence:

Conditions:

Did you:

- Finish your Victim Impact Statement?
- Apply for Restitution (if you suffered financial losses due to the crime)?
- Review options available through the Government of Alberta's Victim Assistance Program?

Community Resources

Legal supports

The Independent Legal Advice for Survivors of Sexual Violence project (ILA): provides free legal advice to survivors of sexual violence. A team of lawyers trained by ILA staff provides this advice, and each survivor is entitled to up to four hours of legal advice, as well as attendance at legal clinics (as scheduled). ILA is open to adults (18+) of any gender who live in Alberta and experienced sexual violence in Alberta.

legal_advice@efrynorthernalberta.com

Legal Aid: can help with Emergency Protection Orders to keep a violent family member from contacting you or coming near you and your children.

Central Alberta Community Legal Clinic: provides 30 minutes of free legal advice to those who qualify based on income.

Counselling & Support

ACAA Trauma Therapy: offers up to 24 sessions of no cost trauma therapy in East Central Alberta. ACAA's trained therapists are located in Tofield, Camrose, Stettler, Drumheller, Hanna and Oyen, and offer in person, phone or video options for counselling.

Private Counselling If the victim/survivor has the financial means, a health and dental benefits plan, or Employee and Family Assistance Plan (EFAP), they may want to visit a private counsellor.

Non-Insured Health Benefits Program provides status First Nations and recognized Inuit people with financial coverage for counselling and prescription drugs. The counselling coverage is for "mental health counselling to address crisis situations when no other mental health services are available and/or being provided" (Guide to Mental Health Counselling Services, First Nations and Inuit Health, Government of Canada). Only mental health professionals who are enrolled with NIHB will be covered.

Phone Lines

Kids Help Phone — The Kids Help Phone provides phone or web counselling to youth who are 20-years-old and under. The 24/7 service is free, anonymous, confidential, and nonjudgmental.

For more information visit: <https://www.kidshelpphone.ca/>

Alberta's One Line: call, text or chat **1-866-403-8000** for support, information or referrals related to sexual violence

Indian Residential School Crisis Line: This 24-hour phone line provides support to former residential school students in crisis - **1-866-925-4419**

About ACAA

A hummingbird with blue wings, a green body, and a red throat is flying to the left, positioned above the letters 'C' and 'A' of the acronym 'ACAA'.

ACAA is the primary sexual assault centre serving East Central Alberta. ACAA has office locations in Stettler and Camrose, with Support, Counselling and Education offered in additional communities across the region (Hanna, Oyen, Drumheller, Tofield) and online.

ACAA offers:

• **Counselling and Support** •

Providing specialized treatment services including crisis support, therapeutic counselling, and family support for survivors of sexual abuse, assault and other forms of trauma.

• **Specialized Criminal Justice System Navigation** •

Empowering survivors as they navigate the Criminal Justice System by providing information, support, and advocacy from before they choose to report to the end of the process.

• **Education and Training** •

Educating and engaging the public, students, parents, and professionals on sexual violence through inclusive and accessible training sessions.

• **Community Coordination** •

Building leadership and skill capacity – enhancing organizational and community capacity to respond to sexual abuse and assault.



acaahelps.ca

For more info:

 [@acaalberta](https://www.instagram.com/acaalberta)

 1 (866) 807-3558

 info@acaahelps.ca

