

When a Sexual Assault Case Goes to Trial

Basic Legal Information for Women Experiencing Violence

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Here is what you can expect if you have been sexually assaulted and the case goes to criminal court.

THE POLICE

If you decide to talk to the police about being sexually assaulted, they will ask you many questions. If you want charges to be laid, you must tell them what happened to you.

They will make a "statement" for you to sign. This will describe the sexual assault. Do not sign it if you do not agree with everything in it. Your statement may also be videotaped.

The police will only lay charges if they think there is a strong case.

THE CROWN

The police will give your file to the "Crown Attorney" (or just "the Crown"). Once the police lay charges, the Crown is the lawyer who will try to prove that you were sexually assaulted by the "accused" (the person who is charged).

It is important to understand that the Crown is not your lawyer. The Crown will think about your wishes during your court case, but her or his first duty is to do what is best for all of society.

The Victim/Witness Assistance Program (VWAP) is part of the Crown's office and will help you understand how the court process works.

YOU ARE A WITNESS

You are the witness to what happened to you. You will have to "testify" (tell your story) in the trial. This means you will see the accused in the court.

Whether or not you want to testify, you may receive a 'subpoena'. This means you must go to court to testify.

The Crown will prepare you to testify.

Be honest. Never lie. If you don't remember something, say so.

In court, you will be asked about the statement you signed with the police. During the trial, you will be cross-examined on what you say by the accused's lawyer.

THE ACCUSED AND THE DEFENCE

When the person who assaulted you is charged, he is called the "accused". He may be "released on bail". This means that he will go free until the trial if he follows certain conditions, including staying away from you.

If the accused "pleads" or says he is guilty of the sexual assault, there will not be a trial and he will be sentenced. If he says he did not commit the crime, then there will be a trial.

The "defence" is the lawyer for the accused. The defence will cross-examine you. In court, the accused is called the defendant.

THE TRIAL

The case will not go to trial right away or at all. There are usually many delays, meetings between the defence lawyer and the Crown, and other court appearances that you will not be part of. If the accused is in custody, the trial will be heard more quickly than if he is free on bail.

It will take a long time, and you will not always be kept informed about what is going on. Ask the Crown and [VWAP](#) questions. Call your [local sexual assault centre or women's organization](#) and ask them to help you understand what is going on.

As a witness at the trial, you will have to tell your story in the courtroom and then be cross-examined by the defence lawyer.

Cross-examinations can be very difficult because sometimes defence lawyers ask very personal questions. It is the **Crown's job to make sure that only the right questions are asked.**

Both the defence and the Crown may call other witnesses, but you will be the main one. The accused may or may not testify - it is his choice.

It is a good idea to have someone in the courtroom who is there to support you. The trial can be very difficult.

"I was really afraid of being cross-examined. But my counselor was in the court and I looked at her the whole time I was questioned. I knew she believed me."

HOW TO SURVIVE A CROSS EXAMINATION

- Focus on what you know.
- Do not lie about anything.
- When you are unsure, say that you don't remember.
- Do whatever it takes to make yourself comfortable: wear your favorite clothes, drink water, cry, have your best friend sit in court.
- Trust that the judge and/or jury will be able to tell the difference between truth and dishonesty.
- Remember that it is the defence lawyer's job to try and make you look bad.

GOING TO COURT MAY NOT BE EASY...

- A sexual assault trial can take a long time.
- The questions you are asked will be very personal.
- The defence lawyer will try to make your story sound wrong.
- The accused may say you wanted him to touch you.
- He may lie about other things too.
- Sometimes lawyers, judges and police are not helpful. They often do not understand how sexual assault can hurt people.
- They may treat you unfairly because you are a woman, don't have a lot of money or are young, or because of the colour of your skin, how you look or the kind of work you do.
- Even if the accused is found guilty of sexual assault, he may not go to jail.

If the person accused of hurting you goes to trial, make sure you have lots of support. Look to friends, family, your community and the local women's centre for help.

"If I had known what my sexual assault trial would be like, I may not have gone to court. The whole thing made me feel like a victim again. All the questions. All the doubts. It was really hard. But I felt better when I knew what to expect and when I understood my rights. Besides, no one can take the truth from you. That's inside you forever."