

1) **How does the law define sexual assault?**

Assault means the intentional use of force on another person against his/her will. Touching, slapping, kicking, punching or pushing are all examples of assault. Kissing, fondling, sexual intercourse, anal intercourse and oral sex are all examples of sexual assault, if done without your consent.

2) **What evidence proves I didn't consent?**

Sexual assault is a crime because the sexual activity happened without your permission. Your consent to the sexual activity must be freely given. You did not consent if you were afraid to fight back or if you were frozen with fear. No one has the right to force you to engage in any sexual activity against your will. *You always have the right to say "no"*

3) **What if I didn't fight back?**

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

4) **Can my husband or wife be charged with having sexually assaulting me?**

Yes. Since the Criminal Code was changed in January 1983, a person who sexually assaults his or her spouse has committed a crime. Your lack of consent is the key element of this crime.

5) **What if I didn't report a sexual assault right away but want to now?**

It is never too late to report a sexual assault. Even if you decided not to go to the police right after you were sexually assaulted, you may change your mind. Waiting days, weeks or months before reporting a sexual assault makes it much more difficult to prove the assault in court. However, even at a later date your evidence is important.

22) **Can the court decision be changed?**

Yes, the Crown can ask the court of appeal to review the decision or the sentence given by the court that heard the case. The court of appeal can agree with the trial court decision, can change the sentence or can order a new trial. If there is a new trial, you may have to testify again.

23) **Can I get financial compensation?**

As a result of the assault, you may have suffered physically and emotionally. You may have had to miss work and repair or replace damaged property. Governments have established crime victims' compensation funds that can give you money to cover some of your losses. Information and forms are available through Victim Services.

24) **Can I get money from my attacker?**

You may want to consult a lawyer, legal aid or a community law office about filing a civil action.



YOU AND THE LAW ON SEXUAL ASSAULT

Commonly asked questions about sexual assault and the legal process.



6) What will happen to the person suspected of assaulting me?

If you were attacked by a stranger, the police will have to use your description and the evidence they have collected to try to find the person. If you know your attacker, the police may be able to find that person easily. Having you identify your attacker is one of many ways the police collect evidence for the trial.

7) Will the suspect be charged?

The police may decide to wait for lab results and they may want to speak to witnesses and check out other information before laying charges. The police will consider all the evidence they have collected. Charging a person with a criminal offence is a serious accusation and the police must believe that they have enough evidence to justify the charge.

8) Will the suspect be arrested?

Once the police are satisfied that there is enough evidence against a person, they will lay charges and make an arrest.

9) What if the police don't lay charges?

If the decision is made not to prosecute, you have the right to lay charges yourself. You will have to go to a justice of the peace - an officer of the court with some of the powers of a judge - to present your information in writing and under oath.

10) What if the police can't find my attacker?

Police keep all reports of crimes and there is a chance that the attacker will be found later.

11) Will my name be in the newspapers?

The Crown Attorney can ask the judge to order the media not to make your name public.

12) What if the accused pleads guilty?

If the accused pleads guilty there is no need for a trial and you won't have to testify in court.

13) Do I have to testify in court?

As the victim of the crime, your testimony is a very important part of the Crown's case against the accused. You are the Crown's key witness.

14) How should I prepare for the trial?

You need to keep in touch with the police and the Crown Attorney's office. Bring someone to court who can give you moral support while you are on the witness stand. Be prepared for an adjournment. Very often hearings do not go ahead as planned. Victim Services can help to prepare you for court.

15) What does a witness have to do?

Before you testify, you will be asked to swear to tell the truth. It is important to tell the truth! Breaking this promise on the witness stand and telling a lie on purpose is called perjury and it is a crime.

Take your time and answer the questions as clearly and simply as you can. Try to stay calm. If you don't understand a question, you should ask the Crown to repeat it or reword it. After the Crown has finished with their questions, the defense lawyer will ask you questions. This is called a cross-examination.

16) What happens during cross-examination?

Defense counsel may suggest that you were mistaken in your identification of the accused, that you consented to what happened or that the accused could have reasonably believed that you consented. Take your time, listen carefully. Keep your answers simple. Don't volunteer answers and don't make up any answers.

Tell the truth. Your confidence in the truth of what you say will help you to stand up to any cross-examination.

17) Will I be asked about my sex life?

You cannot be asked questions about your sexual activities with anyone else.

18) What happens after cross-examination?

After the defense lawyer has finished the cross-examination, the crown attorney may want to ask you a few more questions. The new questions can clear up any confusion that came up during the cross-examination.

19) When is the trial over?

After all the witnesses have been heard, the crown attorney and the defense lawyer make final statements. These statements summarize the evidence that has been presented. The case is then given to the jury, or if there is no jury, to the judge, to decide if the accused is guilty.

20) What if the accused is found guilty?

Sometimes the judge will decide on the sentence right away. Often sentencing is put off for a few weeks. A probation officer may be asked to prepare a pre-sentence report. The probation officer will speak to people who know the accused and then write up information on the accused's background.

21) What if the accused is found not guilty?

If the accused is acquitted, found not guilty, it means that there was not enough evidence before the court to prove the guilt of the accused beyond a reasonable doubt. An acquittal does not mean the attack did not occur. If you are afraid that the accused might try to get back at you after the trial is over, speak to the police or the crown attorney.
