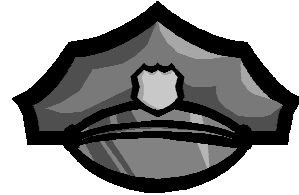


SYSTEM RESPONSE

LAW ENFORCEMENT

The following information is provided in order to outline the reporting to law enforcement and the procedures and policies followed by most law enforcement/police departments.



Before the physical exam in the emergency room, the sexual assault survivor, family, or friend may have contacted law enforcement officers. If not, it is important for them to understand that most hospitals automatically contact law enforcement once a survivor enters the emergency room. When a report is made, usually a uniformed police officer in a marked car will respond. **This does not mean that there is an obligation to make a crime report.** As there are typically few policewomen in any police department, there will be a great chance that the investigating officer will be a man.

A survivor is the only person who can decide whether or not to make an initial crime report and how to report the crime. In making this decision, the following facts might be considered:

ADVANTAGES:

- ☛ If the crime is reported and the suspected offender is caught and convicted, the survivor may have protected others from falling victim to this rapist. Also, by reporting they may be able to help substantiate another survivor's report.
- ☛ The survivor may be eligible for financial compensation provided by the state.
- ☛ The survivor may request assistance throughout the trial process from sexual assault advocates.

DISADVANTAGES:

- ☛ It may be difficult to repeat the history of the sexual assault so many times to law enforcement officers and in court.
- ☛ The prosecutor decides whether or not to proceed with the case, although the survivor is entitled to know why the case was not filed.
- ☛ Fewer than one out of five cases go to trial, and even fewer result in conviction. This does not mean that their particular case will not be filed, but the statistics are discouraging.
- ☛ Reporting the assault may be emotionally difficult because it may cause the individual to relive the experience.

If the decision is to report the sexual assault, transportation will usually be arranged or provided by the police to the health care facility for the medical examination and necessary treatment. The survivor will probably spend less time waiting to be seen by the emergency room physician if she is accompanied by a uniformed police officer.

If the woman has not already called the police and goes directly to the health care facility, the hospital is usually required by law to notify the police. The survivor may have to wait for the police to arrive before being examined.

All evidence is collected at the site and from the medical examination. The evidence is then transported to the crime laboratory for analysis.

Depending on the emotional state of the survivor, the police officer may continue the initial interview at the emergency room or upon the survivor's return home.

THE POLICE INVESTIGATION

As an assault victim, a survivor may have her first encounter with the criminal justice system. In many cases, this initial contact may seem brutal. There will be a barrage of questions from officers and investigators. Many policemen have not been afforded the sensitivity training to properly handle this kind of situation.

However, the police need all the help the survivor can give them in order to apprehend the assailant. There are specific police procedures that should be undertaken as soon as possible following the report of the assault. Although the survivor may be suffering severe trauma mentally and physically, this is the best time to gather the crucial data that may lead to the conviction of the assailant.

THE DISPATCHER'S JOB

If the police are called immediately, the dispatcher may ask the assault victim questions that enable policemen to begin an immediate search for the assailant. Any information that can be given regarding the assailant can be relayed to all patrol cars within minutes.

POLICE AT THE SCENE OF THE ASSAULT

The officers who arrive at the scene of the assault will need enough information to determine whether to arrest the assailant without a warrant, if he is located quickly. The resulting process of question-and-answer can be grueling to the survivor. An advocate can come in handy at this time; even crisis intervention by phone may ease the immediate effects of the trauma.

GATHERING EVIDENCE

Under the trauma of the assault, a survivor may not realize how crucial physical data is. Evidence of a sexual nature, such as sperm, seminal fluid, or acid phosphates, can later help

to convict a rapist. Therefore, a policeman versed in the procedures of a rape may tell the survivor not to clean up, change clothes, or in any other way alter themselves or the scene of the crime. This will allow the police to collect significant physical evidence. As previously discussed, medical care should be obtained. The police may begin asking questions at this time, and may even take photographs which show the condition of the survivor, the survivor's injuries, and the scene of the assault. These photographs may later be invaluable during prosecution before a jury. Finally, the officers themselves will serve as valuable witnesses later at the trial. They can testify to the survivor's condition following the assault.

THE POLICE INTERVIEW

After initial questioning, the police will need a detailed report concerning all facets of the assault. This is of utmost importance. It may be months before the assailant is brought to trial, and the facts need to be recorded while they are still vivid in the survivor's mind. Moreover, the written account can be used to develop the case for the prosecutor.

The report may be prepared in several ways. The interviews may be conducted in the police station or at the survivor's residence. At the survivor's request, a friend or relative may be present. The most important piece to this interview is to establish the Modus Operandi (the method of operation) of the assailant. Assailants often repeat their crimes, and in the same manner each time. For that reason, the M.O. is crucial. Everything that occurred during the assault forms a significant part of the M.O.

If a brief, initial interview was conducted at the hospital, a second in-depth interview will likely occur within twenty-four to forty-eight hours after the assault if the survivor decided to press charges and if the suspect is known or apprehended. If there is no known suspect, a long interval may pass until the survivor is interviewed a second time.

The second interview will usually be conducted by a plain clothes detective within the investigative division of the department. Where such units or squads exist, this detective may be from a "Sex Crimes", "Sex Offense Unit", or squad dealing with crimes against persons. This detective will probably remain on the case throughout, unless he/she had reason to believe another detective might relate better with the survivor or if individual case load requirements dictate reassignment.

For the second interview, the detective will contact the survivor and request an interview either at the survivor's home or the police department (the latter being the more likely). This interview, in addition to reviewing facts covered by the investigating officer, will be much more detailed. The interview will most likely be recorded, especially if there is a known suspect in the case. This interview is often where most of the criticism of police procedures dealing with rape survivors occurs, as the survivor is often drilled for specific facts, thus feeling as though reliving the assault.

The detective will probably ask for the following information from the survivor:

- **Suspect's Description:** The survivor must be careful not to let the detective put words in his/her mouth, as he may already have a person in mind.
- **Activities of the Survivor Prior to Assault:** Questions such as those regarding the activities, location, and the people who were with the survivor.

- Suspect's Relationship to the Survivor: Questions pertaining to if the survivor had ever seen the suspect before and if so, in what context.
- Resisting the Attack: Questions regarding the verbal and/or physical threats and intimidations, as well as questions regarding how the survivor resisted the attack.
- Survivor's Clothing: The survivor will be asked to identify the clothing worn at the time of the assault. The clothing will probably be kept as evidence.
- Suspect's Exact Words: Questions such as, "Did the suspect use obscene words during the assault? If so, describe." "Did the suspect ask you to perform any unnatural acts- describe." If the survivor does not remember the exact wording, it should be stated that only approximate wording can be remembered and thus recorded.
- Survivor's Statement: This may be taken prior to the detailed questioning of the survivor. It is a long, thorough, subjective account of exactly what happened, in the survivor's own words.

The survivor must be truthful in each statement made. If a survivor does not know something exactly, he/she must make every effort to describe it as accurately as possible. The officers are not there to judge survivors. They are there to obtain information about the crime, date, time, location, description of suspect, etc. Officers should not ask questions like "Did you enjoy it?" or "Did you climax?" etc. In some cases, they may ask questions about mental state in order to determine whether or not the survivor may need to be referred for counseling. They will also need to know whether any penetration occurred and what sexual acts were forced to determine what crimes can be charged.

The slightest penetration may result in an assault charge rather than an attempted assault charge. Remember, it is not the survivor who did these things but the assailant. The information provided is the basis for a legal proceeding and must be accurate. The survivor has the right to read over everything the law enforcement officers write on forms and to ask them to correct any misinformation. It is a good idea to get the **NAMES, SERIAL or BADGE NUMBERS** and **BUSINESS TELEPHONE NUMBERS** of the officers. Many people find that they remember more details of an event when they are written down. If a survivor finds that he/she have remembered something he/she might call the law enforcement agency with the information.

FOLLOW UP

There may be many more interviews with the detective, particularly when new information becomes available or further identification is needed. Usually, the survivor will be asked to identify the suspect through photos and mug shots. If the suspect is apprehended, the survivor will be required to identify the rapist at least one time during a police line-up.

The survivor may request that news media not disclose any identifying information. Sometimes the media may cooperate, at other times, they may not. Many states now have laws that forbid the release of this information.

Reported assaults, in which the survivor wished to press charges, are turned over to the prosecuting attorney when and if a suspect is known or is in custody.

Survivors reporting rape may refuse to be interviewed or to give detailed information. The police will try to encourage the survivor and will perhaps empathize with their reluctance. If the survivor decides not to cooperate in the investigation, the case will be terminated.

If accompanying the survivor during the police investigation, advocates should keep in mind that they are guests while at the police department. The detective is not obligated to allow an advocate to be present during questioning. Upon a survivor's request, however, most departments welcome the advocate's supportive presence during the process.

INTERVIEWS OF SEXUAL ASSAULT SURVIVORS

1. In what manner did the offender gain access to the survivor? Did he use a con, ruse, surprise?
2. How did the offender obtain and maintain control of the survivor during the assault (weapon, threats, or mere presence)? Was a weapon actually observed?
3. What physical assault, if any, was sustained by the survivor (slapped, burned, cut, other)?
4. Did the survivor offer any verbal or physical resistance to the assault, and if so what.
5. What was the subject's reaction to the resistance offered by the survivor? Did he flee, strike the survivor, threaten the survivor, relent in his attack?
6. Did the subject have difficulty in obtaining or maintaining an erection during the attack?
7. What acts were demanded of the survivor or performed by the subject in order for him to obtain or maintain erection?
8. Did the subject experience premature ejaculation, retarded (difficult) ejaculation, or did he in fact not ejaculate?
9. If ejaculation occurred, obtain the specific location of the ejaculation (vaginal, oral, anal, outside the body, and if so, where?).
10. Determine the sequence of sexual assault, the acts demanded of the survivor or the acts performed by the subject (on himself or the survivor) and any repetition of those acts.
11. Determine if the subject demanded verbal activity from the survivor, such as telling the subject she loved him, she wanted him to make love to her, use of profanity, etc.

12. Determine from the survivor what type of demeanor was demonstrated by the subject (gentle, firm, abusive, hostile, apologetic).
13. Did the subject's demeanor change at any time during the entire process, and if so, how (threatening to apologetic, friendly to hostile, etc.)?
14. During the assault, did the subject speak in a calming manner, a foul or profane manner, threatening manner, or in a moderate tone of voice?
15. Did the subject take any personal item belonging to the survivor (clothing, hair, jewelry, etc.)?
16. Did the subject establish any safeguards prior to, during, or after the attack (disconnect the telephone, lock the survivor up, etc.)?
17. If physical or verbal assault of the survivor took place, where in the assault process did it first occur and cease?
18. Who else was present with the survivor during the assault (small children, husband, roommate, etc.)?
19. Did the subject utilize any bondage devices, i.e. hood, gag, tape, etc. during the assault and, if so, at what stage of the assault?
20. Did the subject attempt to mask his identity in any manner from the survivor (gloves, mask, blindfold for the survivor, not allowing the survivor to look at him, etc.)?

THE WRITTEN REPORT

There are certain procedures that can facilitate the writing of the account. One of the most effective procedures is the "walk-through" of the assault, both mental and physical. As soon as the survivor is able, she should try to recall everything said and done by the assailant. Some assailants have long conversations with their survivors during assaults that last for hours. Everything said by the assailant is significant, and should be written down afterwards, no matter how abusive or indelicate. Certain words may be part of the assailant's trademark or his M.O.

An actual "walk-through" (going over the road taken during, or in route to the assault, as well as going back to the site of the assault) will help the survivor recall the particulars of the assault. Although this process may not be pleasant, later writing out the account of the crime can often act as a catharsis, freeing emotions that have been immobilizing to the survivor. The more detailed a report is, the more vividly it will convey circumstances that speak for themselves.

The police will produce a composite of the assailant from the survivor's description. If the survivor is not satisfied with the final composite sketch, the survivor can assist them or draw one herself. Many survivors can give complete and detailed descriptions of their assailant, even when fearing for their lives throughout the entire ordeal. Survivors are

sometimes able to quickly develop composite pictures that are an exact likeness of their assailant.

THIRD PARTY REPORTING

Sexual assault survivors are able to report information anonymously about their assault and about their assailant(s) to the law enforcement through third party reporting.

The sharing of such information is a special benefit to law enforcement and the survivor. The law enforcement agency will add the third party report information to the other data they have collected concerning assaults and assailants. This compilation of information frequently reveals assault and assailant patterns which can lead to the arrest of the perpetrator(s) and/or the discovery of a serial rapist.

The survivor, who is the only person able to contribute this valuable information, may do so without having to reveal his/her own identity if that is their choice. Also, making a third party report may be an important step in reclaiming a sense of decisiveness, personal power and integrity.

SAMPLE THIRD PARTY REPORT

This is used only to supply information to law enforcement. This is not an official report. The survivor has agreed to provide this information: _____ (advocates initials).

THIRD PARTY REPORT

I.

Assault Information: Date: _____ Time: _____ am/pm

Location: _____

Location of first encounter with assailant, if different: _____

Did the offender use a vehicle? Yes _____ No _____

Year: _____ Make: _____ Model: _____ Color(s): _____

License Plate #: _____ State: _____

Special Features: _____

What were you doing before you were assaulted? _____

How did the offender approach you? _____

What happened during the assault? _____

Was a weapon used, what? _____

Were you physically injured, how? _____

Did you receive medical attention, where?

II.

Suspect Information: How many? _____ Name(s): _____

Address(es): _____

Description: Age(s): _____ Sex(es): _____ Race(s): _____

Complexion: _____ Eye color: _____

Height: _____ Weight: _____ Build: _____

Hair color: _____ Length: _____ Texture: _____

Did the offender say anything, what? _____

Description of voice: _____

Offender's clothing: _____

Physical distinctions (beard, smell, physical impairments, tattoos, etc.) _____

Additional information about the sexual assault or any other information you feel is important: _____

Would you be willing for the sexual assault program to have your name and number on file so that we may contact you should law enforcement wish to talk with you more about this report? You would then be able to decide if you wanted to contact them. YES NO

Name: _____ Day Phone: _____

Address: _____

CRIMINAL JUSTICE SYSTEM



SUGGESTIONS FOR COURT ACCOMPANIMENT ADVOCATES

- ✍ Without speculation on the merits of the survivor's case, provide him/her with as much information as possible on the court system. It is much better to tell the survivor that you do not know the answer to a question than give incorrect information.
- ✍ Often the survivor is not as concerned about a particular legal aspect of their case, as they are afraid and frustrated by an unfamiliar set of circumstances or intimidated by the threats of the defendant. If the defendant threatens the witness she/he should contact the police and the victim witness office immediately.
- ✍ If the survivor does want to know about a particular problem in his/her case, call the victim witness office and the sexual assault coordinator will provide the information or will contact the prosecutor.
- ✍ Postponements are an inherent problem in the judicial system and the effect can be devastating to a witness. Regardless of the type of case, cases are given scheduling priority according to the amount of time the defendant is not in jail, and out on bond: how old the case is in relation to the others on the court's docket (unless the case is given a priority setting).
- ✍ Some courts, especially the older ones, have more of a backlog than others do, which further aggravates the problem. Postponing the case is also a standard defense tactic because the more frustrated the witness gets; the less likely the witness is to appear when the trial finally does begin.
- ✍ Assure the survivor that the postponement is not due to a frailty in the case. The victim witness office can work with her/him to place he/she **ON-CALL** for court appearances in conjunction with the prosecutor. That is, they will not have to come to the courtroom until called when the case is certain to go to trial.
- ✍ The most common defenses in a sexual assault case are either identity or consent. In an identity defense, the defendant does not deny that the witness was sexually assaulted, but asserts that he/she did not do it. In a consent defense, the defendant will claim that he/she did have intercourse with survivor, but it was consensual.

- ✍ Assure the witness that the trial will be difficult to go through, but not impossible. Often it is beneficial to contact the victim witness office to find a scheduled trial for the witness to observe.
- ✍ Information on the Crime Victims Reparations Program is available through the Attorney General's Office. The act provides payment of medical bills and counseling expenses for victims of violent crime. For more information on Crime Victims Reparations, you may contact the Crime Victims Reparations Program at the Office of the Attorney General.
- ✍ Billing for the sexual assault forensic exam itself is also covered by the Crime Victims Reparation Program. Hospitals and medical clinics are reimbursed for such costs. It is against federal and state law for a survivor to be billed for such costs.
- ✍ Finally, you may be the first contact that the victim has. Your function is an invaluable one and much needed. Please feel free to call on the victim witness office to help you with any problems.

SUGGESTIONS FOR WITNESSES

- ANSWER ALL QUESTIONS DIRECTLY** - Answer only the question that is asked. If you can answer with a "yes" or "no," do so. If you do not understand a question, **FEEL FREE TO ASK TO HAVE THE QUESTION REPEATED OR EXPLAINED.**
- SPEAK CLEARLY AND DISTINCTLY** - The juror farthest from you should be able to hear you.
- BE ATTENTIVE** - Remain alert at all times so that you can hear, understand, and give a proper response to each question. Avoid trying to "second guess" the questioner. The prosecutor will develop the case by your testimony and will object to any improper questioning by the defense during cross-examination.
- DO NOT BE AFRAID TO TELL THE TRUTH** - Do not guess or make up an answer. If asked little details you do not remember, it is best to say, "I don't remember."
- DO NOT LOSE YOUR TEMPER** - Losing your temper during cross-examination may mean losing your credibility. Anger will lessen your recall ability and may cause you to make incorrect statements.
- DRESS CONSERVATIVELY AND BE COURTEOUS** - The jury knows nothing about you, except for the impression that you make with your testimony and with your appearance. Wear clothing that will not distract the judge or jury from your testimony.
- BRING FRIENDS AND FAMILY** - You will only be present in the courtroom for your testimony and the closing arguments. This is to insure that the testimony of one witness will not influence that of another, and is called "invoking the rule." The support

of friends and family is helpful at this time, although they cannot relate actual proceedings to you. A coordinator from the victim witness office or an advocate from the sexual assault program will also accompany you, if called.

- BE AWARE THAT THE DEFENDANT WILL BE IN THE COURTROOM AT ALL TIMES AND THAT YOU WILL BE ASKED TO IDENTIFY HIM -** This is easier to deal with if you prepare beforehand. Remember that the defendant is on trial; you are not!
- TAKE A POSITIVE ATTITUDE WITH YOU -** It is not a good idea to go into trial with revenge in mind as no amount of punishment for the defendant can atone for what you have gone through. By going through the ordeal of testifying you have shown a great deal of courage and concern for others by hopefully preventing this from happening to someone else.