



INFORMATION FOR VICTIMS/SURVIVORS OF SEXUAL ASSAULT

HAMILTON POLICE SERVICE
VICTIM SERVICES BRANCH
www.hamiltonpolice.on.ca

Sexual Assault Is A Crime

MESSAGE FOR VICTIMS / SURVIVORS OF SEXUAL ASSAULT

We recognize this is a very difficult time for you. It's important for you to know that the Hamilton Police Service is here to provide assistance and support to you. Our duty is to bring an appropriate resolution to the case by conducting a professional and thorough investigation and to provide you with the necessary information and resources to assist you as you move forward in your recovery from this crime and trauma.

Enclosed in this resource guide is information on sexual assault investigations, possible outcomes and the criminal court process. We have also included information on financial compensation programs and how to access professional counselling and support in Hamilton.

It can be overwhelming to look at a list of organizations and phone numbers and you may be confused as to who you should call first. Please know that this is normal. Our Victim Services Branch (VSB) with the Hamilton Police Service is a great starting point and are here to help you with these first steps. The Staff and Volunteers with Victim Services will be able to offer support and help you find the best service match for your personal needs and situation. They are knowledgeable about all of the community programs and financial options and can talk to you on the phone 24 / 7 at (905) 546-4904 or are available to meet you in person.

The Hamilton Police will complete a thorough and professional investigation. Ongoing support will also be provided throughout the entire process. Our goal is to identify, arrest and prosecute the person(s) responsible.

We hope that the information in this booklet helps to answer some of your questions and provides you with options of where to call to obtain additional assistance and support.



WHAT IS SEXUAL ASSAULT?

A sexual assault is any unwanted sexual touching. It includes unwanted kissing, hugging, molestation, rape and attempted rape. It can happen to someone once, more than once or even over many years. It could be someone you know or it could be a stranger.

Incidents such as a sexual assault can cause trauma. These types of situations can result in unpleasant feelings, thoughts, sensations and emotions both during and after such incidents. Responses to highly stressful situations vary from person to person and not all people will experience the same reactions at the same level of intensity, nor for the same length of time. However, it is important to recognize that whatever the reaction is, it is a normal human response to an overwhelmingly stressful situation.





WHAT DOES IT MEAN TO CONSENT TO SEXUAL ACTIVITY?

To consent to sexual activity means to agree freely. The law requires that a person take reasonable steps to find out whether the other person is consenting before engaging in sexual activity.



IS SAYING “NO” THE ONLY WAY TO SHOW THAT I DO NOT CONSENT?

No. You can show by your words OR actions that you do not consent. Actions, such as struggling, trying to leave or freezing, show that you do not consent. The police will not charge you with assault if the force you use is reasonable. You can use the force that is necessary to protect yourself from the attacker.



WHAT IF I AGREE TO THE SEXUAL ACTIVITY AT FIRST, AND THEN I CHANGE MY MIND?

Once you indicate that you no longer agree to the sexual activity, there is no longer consent. In other words, you can take back your consent. Also, consenting to one kind of sexual activity does not mean you consent to any other sexual activity.

You can say NO to anything at any time.



CAN A PERSON SAY THAT I CONSENTED IF I WAS DRUNK OR HIGH ON DRUGS?

No. If you are drinking or high on drugs and unable to make a decision, the law does not consider that you consented.



SEXUAL ASSAULT SUPPORT PROGRAM

Victim Services offers support to victims / survivors of sexual violence. Sexual Assault Support Program (SASP) coordinator can:

- ▶ Support victim / survivor throughout the investigative process in collaboration with the Sex Crimes Unit Detective or Criminal Investigations Division (CID)
- ▶ Be present for the interview with the detective
- ▶ Support individuals who decline to proceed with investigation and/or charges

Supports can include:

- ▶ Emotional support.
- ▶ Safety planning.
- ▶ Practical assistance.
- ▶ Referrals to community resources / agencies.





FREQUENTLY ASKED QUESTIONS ABOUT SEXUAL ASSAULT INVESTIGATIONS

What are my choices after a sexual assault?

The impact of sexual assault is unique to each survivor. Preference for next steps may differ from one individual to another. With this in mind, the following choices are available to victims/survivors of sexual assault. As a victim/survivor, you may:

► Do nothing

- Have a Sexual Assault Evidence Kit (SAEK) done at the hospital (the kit can be held for up to 6 months)
- Seek medical attention but do not have a Sexual Assault Evidence Kit (SAEK) done.

MEDICAL

- Give a statement to the police by calling or attending.
- If you are not in immediate danger and the incident is not recent, you can report online through the Hamilton Police Website
- Complete an anonymous report of sexual assault

REPORTING

- Contact Victim Services/SASP Coordinator to discuss supports, safety planning and/or resources, regardless of reporting to police
- Seek supports through a community agency, medical professional or Employment Assistance Program (EAP)

SUPPORT

** These options may vary depending on the nature of your relationship with the suspect.*

► **What is a Sexual Assault Evidence Kit (SAEK)?**

- SAEK is a kit (box) that contains various supplies used to collect evidence off of your body which may be analyzed by the Centre of Forensic Sciences. This evidence can be helpful in the Police investigation and potential prosecution of your case. This evidence is collected at hospital by a specially trained sexual assault nurse examiner (SANE). She will meet you at the Juravinski or Hamilton General Hospital emergency departments and move you to a quiet room elsewhere in the hospital where your care will take place. You will be informed of all the samples that are required and are able to guide this process (e.g. you can decide to stop at any time).

► **If I do call the Police, what happens next?**

- Once dispatched to a report of a recent sexual assault, the uniformed officer will:
- Upon arriving at the location of the victim / survivor, assess their physical and emotional condition and request attendance of an ambulance if required;
- Secure the scene and preserve and protect all physical evidence;
- Conduct a brief interview with the victim / survivor to ascertain basic details about the incident (this interview will be conducted in a private environment);
- Notify their supervisor;
- Advise the victim / survivor of the option of having the Hamilton Police Service Victim Services Branch (VSB) respond to the scene to assist in providing support and crisis intervention;
- If the suspect is present and grounds exist to arrest, the officer will arrest the suspect and transport them to the police station;

- ▶ Encourage the victim / survivor to preserve physical evidence by avoiding showering, bathing, cleaning up the crime scene or washing clothing worn at the time of the assault. They will provide information on the SAEK, its importance to the investigation as well as the importance of receiving medical attention.
- ▶ Advise that the SAEK kit can be stored up to 6 months at the hospital – (If the victim chooses not to proceed with the investigation but wishes to have a SAEK completed, Victim Services Branch or a community sexual assault resource person can provide support and accompaniment for you while you are at the hospital).
- ▶ Transport the victim / survivor, if required, for medical attention, SAEK kit and a place of safety.
- ▶ Ensure the victim / survivor is advised of the services of the Hamilton Police Service Victim Services Branch, including the SASP Coordinator and community sexual assault services available.
- ▶ Contact a Sex Crimes Unit Detective for follow up.
- ▶ Dispatch an Officer of the same gender as the victim upon the victims / survivor's request.
- ▶ Only a Detective in the Sex Crimes Unit is able to determine if a charge will not be laid in a sexual assault case.
- ▶ When dispatched to a sexual assault that did not just happen or a historical sexual assault, the Officer will:
- ▶ Attend promptly and gather pertinent facts for the purpose of completing an Incident Report. The report will be forwarded to the Sex Crimes Unit.attention, SAEK kit and a place of safety.

Who will investigate my case?

A Sexual Crimes or Criminal Investigations Investigator / Detective will be assigned to your case and will:

- ▶ Investigate the incident fully.
- ▶ Lay charges when appropriate as per Provincial Policing Standards.
- ▶ Ensure the victim / survivor has access to medical care.
- ▶ Encourage the collection of all evidence including a SAEK, as necessary.
- ▶ Consult with the Victim Services Branch.
- ▶ Assess and discuss with the victim / survivor where and when an in-depth interview will take place.
- ▶ Advise the victim / survivor of the right to have a support person of their choice present; (this could include SASP Coordinator from Victim Services or a community sexual assault service).
- ▶ Keep the victim / survivor informed of the progress of the investigation in a timely manner.
- ▶ If charges are laid, allow the victim / survivor input as to the possible conditions of release at a bail hearing.

What if the sexual assault involved my former or current intimate partner?

If, in the course of a domestic violence investigation, it's determined that a sexual assault has been committed and reasonable grounds are established to lay charges, the police shall proceed with charges regardless of the victim's wishes. This occurs because there is a Provincial mandate that directs all Police Officers in Ontario to proceed with charges specifically related to domestic violence.

Officers will explain to the victim and the accused that it is the duty of the police to lay a charge where there are reasonable grounds to believe an offence has been committed. They will also explain that only a Crown Attorney can withdraw the charge.

Domestic violence is any use of physical or sexual force, actual or threatened, in an intimate relationship (current and former). It also includes emotional / psychological abuse or harassing behaviour. Although all genders can be victims of domestic violence the overwhelming majority of this violence involves men abusing women.

Intimate relationships include those between the opposite sex and same-sex partners. These relationships vary in duration and legal formality and include current and former dating, common-law and married couples.



What happens after the arrest?

Once a person has been arrested and charged with a crime, they become the 'accused'. Depending on the circumstances the police can hold the accused in custody for a bail hearing or release them with conditions.

If the Police have not released the accused, the accused must go before a Justice of the Peace (JP) or a Judge within 24 hours of the arrest for a bail hearing.

At the bail hearing, the Judge or JP doesn't decide whether or not someone is guilty or innocent. They are only deciding if the accused can be released into the community while the matter continues through criminal court. For a bail plan, the accused may promise a sum of money as an assurance that they will continue to obey certain conditions and attend future court dates while they are released. The accused may also have a surety as part of their bail plan, who would promise a similar sum of money and agree to supervise the accused while they're out on release.

The accused will make many court appearances throughout the judicial process. The victim / survivor will only have to attend court if there is a preliminary hearing or a trial.

What if the offender is not caught?

Unsolved sexual assault cases are never closed. They remain active. If further information is received, investigation will occur that may lead to an arrest.

Do Police always charge an accused?

Sometimes the police will decide not to lay a charge. This does not mean that the police do not believe you or that the sexual assault did not happen. It may mean that there is not enough evidence to prove a criminal charge in court. If this does occur, the investigators can explain why this has happened in your case. The investigators can tell you of other options available to you, some of which are listed in this booklet.

What happens in Court?

Your case will be referred to a worker in the Victim / Witness Assistance Program (V/WAP) located at: 45 Main Street East, Suite 478, Hamilton (905) 645-5272. They are based in the court house for the purpose of guiding you through the court process. The role of your worker will be to inform you of the status of the criminal court case and answer your questions about the criminal justice system, courtroom procedures and your role in court. They will:

- ▶ Explain the court process and what to expect at each court date.
- ▶ Provide you with copies of court papers such as bail conditions and probation orders.
- ▶ Offer ongoing emotional support throughout the court process.
- ▶ Support you to complete a Victim Impact Statement, if you choose to submit one.
- ▶ Act as a liaison between you and the Crown Attorney's Office.
- ▶ Coordinate with the Crown Attorney's office to have you meet with the Crown Attorney, should you be required to testify.

Upon setting a date for a preliminary hearing or trial, a Crown Attorney will be assigned as soon as possible. It is their responsibility to meet with you and prepare you for the trial process. The preparation is usually done with the investigating officer and representatives from the Victim Witness Assistance Program.

The assigned Crown, in most cases, will apply for an Order banning the publication of any evidence that may tend to identify the victim / survivor which includes not publishing your name.

If there is a finding of guilt or a firm indication of a guilty plea and prior to sentencing, the Crown Attorney, Victim / Witness Assistance Program, or Investigating Officer will advise the victim that a victim impact statement may be prepared for consideration at the time of sentencing.

Will I need a lawyer?

As the victim/survivor of a sexual assault, you do not require a lawyer. If charges are laid and the matter goes to trial, the Crown and/or VWAP will explain your role. If you are interested in legal advice related to a sexual assault, you are entitled to a four voucher which allows you to speak with a lawyer for free. This program is offered through the Ontario Government and they can be contacted at 1-855-226-3904 or by visiting <https://www.ontario.ca/page/independent-legal-advice-sexual-assault-victims>.

What is a Preliminary Hearing?

A preliminary hearing is a mini trial in front of a judge. It is not required in every case but it is very common when sexual assault charges are laid. In a preliminary hearing, the Judge will decide if the Crown Attorney has enough evidence to proceed to trial. You will have to testify in a preliminary hearing. A few other witnesses may have to testify as well but not all witnesses will testify at this time. The accused and their lawyer will also attend and the accused may testify. No judgement or sentencing happens at a preliminary hearing.

Will I have to testify in Court?

If the accused chooses to plead not guilty, you will likely be required to testify at the preliminary hearing and at the trial.

What is a Victim Impact Statement?

If the court finds the accused guilty, the Crown Attorney will ask if you'd like to complete a Victim Impact Statement. This form is your opportunity to say how the sexual assault has affected your life. This statement is taken into consideration by the Judge for sentencing. Your worker at the Victim / Witness Assistance Program can help you with completing this form. Completion of a Victim Impact Statement is optional. You have the option of reading it in court.

What is a Publication Ban?

Under section 486 of the Criminal Code, a judge may prohibit the publication of identifying information about a complainant or witnesses in certain proceedings related to sexual offences (among other things). The Criminal Code also includes a passage allowing a judge to safeguard the interests of witnesses under the age of 18 years in all proceedings. The presiding judge may order the exclusion of all or any members of the public from the court room for all or part of the proceedings if they believe that such an order is in the interest of public morals, the maintenance of order or the proper administration of justice.

How long does the court process take?

Depending on the case, it might take between a couple of months to a couple of years. This long wait may be difficult for you. It is important to get support during this time.



HOW CAN I COPE?

It is important to remember that a traumatic incident falls outside of normal everyday life. You may need some new strategies to cope with traumatic experience.

Helpful things to do may include:

- ▶ Talk to someone you trust
- ▶ Give yourself permission to reach out for professional help (e.g. community sexual assault services (see end of booklet for listings), trained professional counsellors, Employment Assistance Program (EAP) and/or family doctor
- ▶ Spend time with supportive family and friends
- ▶ Try to avoid over use of alcohol, drugs, caffeine

- ▶ Acknowledge your response to the situation and give yourself permission to have difficult moments
- ▶ Try to reframe self-defeating thoughts (e.g. I can't manage... this is too painful) and remind yourself to take things one day at a time, one minute at a time, etc.
- ▶ Resist making life changing decisions following a serious incident
- ▶ Give yourself time to heal
- ▶ Write out or journal your experiences, thoughts and feelings – this may be especially useful through sleepless nights
- ▶ Try to maintain your regular routine
- ▶ Try to eat healthy foods and exercise
- ▶ Be aware that traumatic events can sometimes bring back memories of other traumatic events that have happened in your life
- ▶ Practice deep breathing. Try Box Breathing, sit in a comfortable position with your back supported and your feet on the ground.
 - Step 1: Inhale slowly through your nose to the count of 4.
 - Step 2: Gently hold your breath to the count of 4.
 - Step 3: Gradually exhale through your mouth to the count of 4.
 - Step 4: Repeat steps 1 to 3 at least three times.
- ▶ Flashbacks and nightmares can be common following a traumatic experience. Usually they will become less intense and painful over time. If they do not appear to be decreasing over time, you may need to seek assistance as there are many useful strategies to work through these.

For some people, the traumatic event can get stuck in the brain and body and you may need assistance from a trained professional counsellor to move through this experience.

Why did I freeze during the assault?

Freezing is a common response when someone is in danger or overwhelmed with fear. When we are scared, our brain reacts by shutting down non-essential parts so it can channel all its energy into keeping us alive. This reaction happens automatically and is not voluntary. Because of this, you may describe “blanking out” or having fuzzy memories after the incident. This is all perfectly normal and does not mean that you were consenting to the assault.



ON-LINE SEXUAL ASSAULT REPORTING

An On-Line Sexual Assault report can be filed on line via the Hamilton Police Website at www.hamiltonpolice.on.ca. This will allow you to complete a report in the privacy of your own home and print a copy of the report immediately. A Sex Crimes Unit Detective will then be in contact with you within one week.

An On- Line Sexual Assault report must be filed by the victim / survivor or a parent / guardian. You must have a valid email address and you must complete the contact address information.

An On - Line Sexual Assault Report must not be used if the offence just occurred or the suspect is nearby. If you are in danger, call 911. It also cannot be used if your report is related to any form of personal violence where you need emergency care or your email is not secure. If you are in doubt as to whether you meet the criteria to fill out an On-Line Report please call the Detective / Sergeant at 905-546-4962.



ANONYMOUS REPORT FOR SURVIVORS OF RAPE / SEXUAL ASSAULT

If you are a person, age 16 or over, who has been sexually assaulted and do not wish to be identified, ANONYMOUS REPORTING may be an option for you.

What is the purpose of this Report?

The purpose of this report is to give survivors of sexual assault the opportunity to give information to the Hamilton Police Service without being identified or making a formal complaint. The information you give will be sent to the Provincial ViCLAS Centre in Orillia and will assist Police in identifying repeat sexual offenders.

Where can you complete this Report?

Any victim of sexual assault can complete this report. Four agencies in Hamilton are available to support individuals in filling out an anonymous report:

- ▶ Centre de Santé Communautaire
Hamilton / Niagara (CSC Hamilton)
- ▶ Sexual Assault / Domestic Violence Care
Centre - McMaster Site (SA/DVCC)
- ▶ Sexual Assault Centre - Hamilton & Area
(SACHA)
- ▶ Elizabeth Fry Society - Hamilton Branch
(E-Fry)



WHERE CAN I FIND HELP AND COUNSELLING IN HAMILTON?

There are a number of options for you to obtain counselling in the City of Hamilton, including services that have a specific mandate to support victims of sexual assault.

In addition to these services, you may find assistance through your Family Health Team (family physicians who have a Social Worker on staff) or Employment Assistance Program (EAP) through your employer's benefits if applicable.

SACHA, Sexual Assault Centre (Hamilton and Area)

(905) 525-4162 24/7 • sacha.ca

If you have experienced sexual violence, including sexual assault, childhood sexual abuse or sexual harassment, at any time in your life, you are not alone. SACHA is here to help. SACHA services are free, confidential, non-judgmental and based on the belief that survivors are the experts of their own experiences.

Programs include:

- ▶ 24 Hour Support Line
- ▶ Counselling and Advocacy
- ▶ Diverse Communities Outreach
- ▶ Public Education

Sexual Assault / Domestic Violence Care Centre

(905) 521-2100 ext 73557

hamiltonhealthsciences.ca/sadv

If you have been sexually assaulted by anyone or have been hurt by your partner, our emergency departments have 24 / 7 care via the Hamilton General and Juravinski Hospital Emergency Departments for adults and McMaster Children's Hospital for those 17 and under. A specially trained sexual assault nurse examiner will be called to assist you. Services include emergency medical care for adolescents, women, transgender persons and men who have been recently sexually assaulted. Emergency services provided by the sexual assault nurse examiner include physical examinations, information and preventative treatment for pregnancy and sexually transmitted infections; possible forensic evidence collection; safety planning and support.

Our follow-up clinic at McMaster University Medical Centre for non-urgent cases is available to men; women or transgender persons aged 13 or older who have experienced sexual assault and / or domestic violence.

Counselling services are also available by social workers specifically trained in the area of sexual assault, abuse, intimate partner violence and trauma. Social workers work in partnership with you to assist you through your healing process at your own pace.

Centre de Santé Communautaire Hamilton / Niagara (905) 528-0163 • www.cschn.ca

Le Centre de santé communautaire Hamilton / Niagara is a Francophone Community Health Centre established in 1992. Our Centre is a multi-service agency providing health and social services to French-speaking clients. Individual or group counselling is also available for women who have experienced physical, sexual or emotional abuse. The CSC H/N is a partner with Femaide (1-877-336-2433) a 24 hour French-language crisis line for victims and survivors of abuse. Le Centre de Santé Communautaire Hamilton / Niagara (CSC) offers health, social and community services in order to improve the health and quality of life of the francophone population of Hamilton and Niagara Regions. Individual services for victims of sexual assault includes: information, safety planning, referrals and advocacy and legal support, accompaniment to hospital, police and the court. We also provide transportation and assistance in completing anonymous reports and Criminal Injuries Compensation forms. The CSC also offers assistance to male victims of sexual abuse.



AM I ELIGIBLE FOR ANY FINANCIAL SUPPORTS?

As a victim/survivor of a sexual assault there are a few options available regarding financial compensation. They are listed below:

**Victim Quick Response Program+
Ministry of Children, Community and
Social Services c/o Victim Services
Branch, Hamilton Police Service
(905) 546-4904 24/7**

The Victim Quick Response Program (VQRP) provides short-term assistance to victims in the immediate aftermath of violent crime. Eligible Criminal Code offences include sexual assault. All applications will be reviewed to determine if the applicant meets all of the required eligibility for the program.

This program is one of last resort meaning that the applicant lacks the personal resources to pay for the service or that publicly funded counselling services have a waiting list for counselling that is greater than 20 days and the individual has an urgent need for counselling.

Other options may include: home safety items, cell phone, basic need items, among others. Serious injury support: if you have sustained a serious physical injury, you may be eligible for support. There are strict eligibility guidelines. Please contact the Victim Services Branch at (905) 546-4904 to ask if this program may be helpful to you.

Criminal Injuries Compensation Board (CICB)

As of September 30, 2019 - No longer accepting applications for injury compensation.

Civil Sexual Assault Lawyer

Lawyer Referral Service

1-800-268-8326

There are lawyers who specialize in working with survivors of childhood sexual abuse and adult sexual assault. The purpose of obtaining a civil sexual assault Lawyer is for financial compensation. You can sue the offender and you can sue an institution if one was involved. The Hamilton Police Service is unable to recommend a specific lawyer.

Independent Legal Advice Program for Sexual Assault Victims Ministry of the Attorney General, Ontario Government

1-855-226-3904

<https://www.ontario.ca/page/independent-legal-advice-sexual-assault-victims>.

If you are a victim of sexual assault living in Ontario and would like to speak to a lawyer, you may be eligible for up to four hours of free legal advice by phone or video conversation (for example, Skype or Zoom). This service does not include legal representation in court.

This service is confidential and is available any time after a sexual assault has occurred.





CONTACT INFORMATION

Uniform patrol officer name:

Contact phone number:

Sexual assault detective / investigator name:

Contact phone number:

Hamilton Police Service incident number:

Additional Information:



FOR MORE INFORMATION CONTACT:

**VICTIM SERVICES BRANCH
905.546.4904 (24/7/365)**

Hamilton Police Service
Central Police Station
155 King William Street
Hamilton, Ontario L8R 1A7



**HAMILTON POLICE SERVICE
VICTIM SERVICES BRANCH**

www.hamiltonpolice.on.ca