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VAW – Violence Against Women

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First, the Bad News:

In a recent study of the factors that influence a prosecutor’s decision to charge in a sexual assault case, researchers validated what many experienced investigators already know – that charging decisions are primarily if not exclusively determined by the victim’s perceived character and her behaviour at the time of the assault.¹

Results of this study revealed that:

- Prosecutors were over 5 times more likely to file charges if there were no questions about the victim's moral character.
- They were also nearly 2 ½ times more likely to charge if the victim did not engage in any risky behaviour at the time of the assault.
- Finally, prosecutors were almost 4 times as likely to file charges if the victim reported her sexual assault to police within one hour.

Clearly, prosecutors – like other members of the criminal justice system and the rest of society – base their judgments of sexual assault victims and cases on the stereotypes of “real rape” that were discussed in the previous chapter on dynamics.

- In other words, the judgment of a rape case rests on the victim rather than the offender, based on her background and reputation, her relationship to the accused, and her behaviour at the time of the incident.
- In this particular study, none of the evidence factors or other measures of case seriousness affected the prosecutor's decision to charge or not.

So what do we conclude from this?

Of course we could conclude on this basis that law enforcement should just give up on thoroughly investigating sexual assault cases – or focus only on those cases that fit the stereotype of “real rape,” where the victim has an untarnished moral character and impeccable behaviour at the time of the assault.

However, we think that the opposite is actually true. We think that this study shows the importance of good police investigation and the crucial role that police play in corroborating the victim's allegations.

How so?

Specifically, if the decision to charge in a sexual assault case depends on the victim's character and behaviour – essentially her credibility -- then we think it is the job of law enforcement to focus their investigative efforts on corroborating every possible aspect of the victim's story and overcoming the challenges to credibility that come from societal misconceptions.

- In other words, police must focus their efforts – from the initial response to their testimony in court – on supporting the victim's credibility and proving that events took place as she described them.
- Police must also use an awareness of the societal stereotypes regarding “real rape” to overcome common challenges to the victim's credibility. This will include an awareness of how police themselves might be susceptible to believing the stereotypes of “real rape.”

By overcoming challenges to the victim's credibility and corroborating every possible aspect of her story, police can make the case "prosecutable" and at the same time facilitate victim rapport, cooperation, and even successful emotional recovery.

In this module, we will first discuss some of the common challenges to victim credibility and explore how the officer can approach and overcome these challenges during the victim interview.

Credibility Challenge #1: Lack of Physical Resistance

In the dynamics module we discussed how the stereotype of "real rape" suggests that "genuine victims" will resist their assailant to their utmost capacity. Because of this stereotype, victims who report little or no physical resistance are often viewed by police and society with suspicion. After all, "If she didn't resist, maybe she really wanted it."

Yet we also discussed in the dynamics module that most sexual assault victims exhibit little or no physical resistance. This is true for a variety of reasons.

- Victims may not resist because they are too surprised or confused to do so, or because they fear resistance will anger the rapist and increase their risk of injury or death.
- Other victims do not resist because the man's greater size and strength are sufficiently threatening to induce compliance – even in the absence of actual force or threats.
- Finally, victims may not resist because they are experiencing dissociation or frozen fright, or because they are under the influence of drugs or alcohol.

All of these reasons were discussed in the module on victim impact as possible reactions to sexual assault victimization. However, they are relevant here because these reactions – although typical and completely understandable – are used against victims as a challenge to their credibility because they make it unlikely that the victim will physically resist.

The role of gender socialization

In addition to these traumatic responses, there is another reason why many women do not resist during a sexual assault – based on a lifetime of female gender socialization. Although many men have a difficult time understanding this aspect, it is true that many victims do not resist someone who is sexually assaulting them because they are afraid of embarrassing themselves or him. Since birth, girls and women are socialized to be polite, to not offend people, and to never say "no" because that could hurt someone's feelings. The following scenario illustrates this point.

Although individuals will of course react differently to situations, the fact is that most women would get into the elevator with him despite their discomfort. Is this unwise? Perhaps. However, in some sense women are trained their entire lives to get into that elevator car – because girls and women are socialized to be polite and cooperative, to trust people, and to never say "no" or otherwise hurt someone else's feelings.

- In a wide range of circumstances, women do get into the elevator (or accept the ride, or the date, etc.) because they are afraid of misjudging or overreacting in the situation, and because they fear looking ridiculous or hurting the man's feelings.
- Most men – especially police officers – cannot understand this dilemma because men have been socialized to think and act differently. However, assuming that this dilemma is experienced very similarly by most women, imagine how much more powerful this discomfort and confusion must be when the situation is sexual and the man is someone she knows.

For all of these reasons, therefore, victims of sexual assault often display little or no physical resistance, and this will often be used to challenge their credibility as well as the validity of their claim. After all, victims of “real rape” resist to the utmost, don’t they?

Overcoming this challenge

To overcome credibility challenge #1, officers must carefully elicit from the victim exactly how she responded to the situation and what she was thinking and feeling while she did so. When doing so, it is critically important that officers use open ended questions that allow the victim to describe the experience in her own words.

For example, interviewers should never ask the victim questions like:

- Did you fight the suspect?
- Why didn't you try to run or escape?
- Did you scream for help?

Questions like this imply to the victim that there is a correct response to rape – because we all know that victims of “real rape” try to run, scream, or fight their assailant. However, for the majority of victims who demonstrate little or no physical resistance, this type of question can make them feel that they are being judged and/or that their claim is viewed with suspicion.

Instead, interviewers should provide the victim with open-ended prompts such as:

- What did you do next?
- Tell me what you were thinking at that point.
- Tell me what you were feeling when he did that.

This type of questioning will provide the victim with the opportunity to talk about her thoughts, feelings, and experiences during the assault. Officers are often surprised by the information that victims provide in response to such open-ended prompts, with details that would not have been elicited if the question had been posed differently.

When the victim responds by describing all of her thoughts and feelings during the incident, the officer can reconstruct the reality of her experience in its entirety. This can be very powerful in getting both prosecutors and jurors to understand why she responded the way she did – including why she did not physically resist in the situation.

Any spontaneous statements made by the victim to others in the aftermath of the assault are also important to document when overcoming this challenge to victim credibility. For example, the first person to whom the victim disclosed the assault is critically important to interview because this person will provide unique information regarding the victim's initial demeanor, behaviour, and statements.

Credibility Challenge #2: Delayed Reporting

Another common challenge to the credibility of sexual assault victims is that they typically do not report the crime, and if they do report it is only after some delay. As discussed in the dynamics module, there are myriad reasons why victims delay reporting but this typical reaction is nonetheless seen as cause for suspicion. After all, the stereotype tells us that victims of “real rape” report the crime immediately to authorities.

Delayed reporting is also a factor that often differs between victims of stranger and nonstranger sexual assault, and officers can perhaps better understand this difference by considering how children might react to an assault by a stranger versus nonstranger.

Similar dynamics are at work with adult victims. Adult victims of nonstranger sexual assault – as with the child victim -- are likely to be frozen with fear, paralyzed by the concern that they are to blame, and confused by the friendship, love, or trust that they feel for their assailant.

- They will often delay reporting because they are afraid that no one will believe them, afraid that family members and friends will side with the offender rather than themselves, afraid for what will happen to the offender if the abuse is reported, and afraid for what will happen to their own lives after disclosing such a secret.
- Many victims also do not report their assault if it is committed by someone they know, either because they do not label it as a crime or because they have not yet had time to process the information themselves.

As we stated in the module on dynamics, police are not the only ones to hold stereotypes about “real rape.” Victims also often believe that sexual assault can only happen between strangers, involving physical force, weapons, and injury. They often believe the societal myth that sexual assault cannot happen if the victim knew the offender, drank or took drugs, or invited him into her home. Victims have also often internalized the victim blaming attitudes of our society, which further decreases the likelihood of disclosure.

Overcoming this challenge

For all of these reasons, it is understandable that most victims of sexual assault – but especially those with known offenders – will not report the crime or will only report after some delay. To overcome this issue as a challenge to the victim’s credibility, the interviewing officer should therefore:

- Provide the victim with open-ended prompts to elicit her thoughts and actions during and after the rape. These thoughts and actions will often explain why the report was delayed, given the trauma of victimization and the stigma associated with disclosure.
- Document these thoughts and actions very thoroughly. They will be used to explain to the prosecutor and jurors why the victim's behaviour was understandable and reasonable, again given the trauma of rape victimization and the stigma of disclosing.
- Reassure the victim that delayed reporting is common and understandable given the circumstances of rape victimization.
- Interview any others with whom the victim has discussed the assault, especially the first person to whom she disclosed. These statements, especially to the "outcry witness" (the first person told of the assault) can be critically important in both documenting the victim's behaviour in the aftermath of the assault and explaining her reasons for not reporting immediately.

Astute readers might have noticed that the response to credibility challenge #2 is essentially the same as #1. This is because the general approach for overcoming challenges to victim credibility is to allow her to tell her story in its entirety – with all of the sensory and peripheral details that a traditional police investigation might overlook.

- Using open-ended questions and cognitive interviewing techniques to be discussed later, interviewers can elicit a wealth of detail from the victim.
- Thorough documentation and effective report writing can then communicate this reality to prosecutors and jurors.

Only when prosecutors and jurors can be made to understand the victim's experience – in its entirety and from the victim's perspective – can they begin to understand responses that first appear to be unreasonable or suspicious (e.g., not physically resisting or not reporting immediately to police).

- For credibility challenge #1, the underlying belief of police and society is that victims who do not resist may have actually consented to the sexual activity. By documenting that the victim was paralyzed with fright, or surprised, or confused by the situation, this can help to explain her response in a way that prosecutors and jurors can hopefully understand.
- For credibility challenge #2, the underlying belief similarly suggests that victims who report a sexual assault after some delay have either fabricated or exaggerated the event. By documenting the reasons why she delayed reporting – perhaps out of fear, or confusion, or a failure to label the trauma as "rape" – this can hopefully make sense to prosecutors and jurors and overcome the underlying (mistaken) beliefs pertaining to victim credibility.

Credibility Challenge #3: Inconsistent or Untrue Statements

There are a number of reasons why victims sometimes make statements to police that are inconsistent or untrue:

Trauma and disorganization

First, because victims are likely to be in the acute phase of rape trauma syndrome when reporting to police – even after a delay of several days – their thinking may be disorganized. Out of trauma and disorientation, victims might make statements that are not true or that contradict earlier statements. This response is understandable given what we know about rape trauma syndrome from the module on victim impact.

Discomfort with sexual details

A second reason why victims might make inconsistent or untrue statements is because they are justifiably uncomfortable in the situation of the police interview. Even when the officer responds competently and compassionately, the situation inevitably adds to the victim's trauma by demanding that they tell a stranger -- one with a uniform and gun – about the details of a very upsetting sexual assault.

Officers should try to remember this discomfort each and every time they investigate a sexual assault and interview a victim. It is also important to keep in mind that once a person discloses that they have been the victim of a sexual assault, he or she will tell their story in detail not only to police but also to friends, family members, and professionals responsible for working with victim's issues.

As an example, a typical sexual assault victim might first speak to (1) a friend or family member who encourages her to call the police. If she does contact the police and follow through with the investigation and prosecution, the list of people she has to tell about the assault will grow:

- The victim then tells (2) a dispatcher who sends a patrol officer to respond.
- The victim has to tell (3) the patrol officer what happened, and if the officer requests assistance from (4) a supervisor she will likely have to go over her story again.
- The victim is then transported to a hospital where she has to identify to (5) the clerk or nurse on duty.
- The victim is again interviewed by either (6) a physician or nurse, and (7) a rape crisis advocate might also be present for support.
- The preliminary report is sent to investigations, and (8) the detective assigned to the case will contact the victim for a follow-up interview.
- The detective arranges for an interview with (9) the prosecuting attorney.
- At this time (10) a victim-witness specialist might also be present.
- If the suspect is charged, the victim will be required to again tell her story in a courtroom in the presence of a (11) judge, (12) bailiff, (13) court reporter, (14) court clerk, (15) the defendant, (16) defense counsel, jury (17-28) and (29-??) any citizens who might be curious enough to attend a rape trial.

None of this even begins to estimate the number of people who will become aware of the event if it is picked up by the media. It also doesn't take into account the other friends, family members, counsellors, and other support people who will inevitably find out about the rape and want an explanation from the victim.

Of course, the number of people with whom the victim discusses her sexual assault will vary dramatically, from those who never tell anyone to those whose cases go to trial. However, for victims who do cooperate with the police investigation and subsequent prosecution, it is easy to understand why inconsistencies often arise given the number of people who must be told the details of the assault.

Fear of doubt or blame

Finally, victims might also make statements that are inconsistent or untrue because they are afraid they will be doubted or blamed for the assault. In order to be believed and taken seriously, victims sometimes make untrue statements to make their experience sound more like “real rape.”

In these cases, it is important for police to reassure victims that nothing they did could have given permission for someone to sexually assault them.

- This will hopefully alleviate the victim’s concern that her behaviour will be used to judge the seriousness of the incident or the validity of her claim.
- Equally important, police should emphasize to victims that they must tell the truth or their credibility will be later be questioned.

By making the environment safe and nonjudgmental, this will remove the incentive to be untruthful. Police officers should explicitly state that they are not there to judge the victim’s behaviour but to find out exactly what happened. Open-ended prompts can then be used to elicit the whole story – including those behaviours by the victim that might be seen as unflattering or illegal.

Method of documentation

Finally, a major reason for inconsistencies in the victim's statement is the method of documentation. For example, if the interviewer is using a tape recorder or video camera to record the interview, this must be consistent with the written report. Many of the inconsistencies in victim statements thus arise because the interviewer failed to record the information accurately.

Overcoming this challenge

For all of these reasons, it is understandable and perhaps inevitable that victims will give information that is either inconsistent or untrue. However, any inconsistencies or untruths are likely to destroy the victim’s credibility if not handled appropriately by police. In the case of inconsistencies or suspected untruths:

- It is critically important that officers realize these inconsistencies or untruths are understandable and should not be confused with a “false” allegation.

This is so significant that it bears repeating.

- It is critically important that officers realize these inconsistencies or untruths are understandable and should not be confused with a “false” allegation.

Rather, officers should address inconsistencies in the victim’s statement by exploring the issue gently and non-judgmentally with the victim.

- When an inconsistency does arise, the most immediate response should be to point it out to the victim and ask her to clarify it. It is entirely possible that the victim simply made a mistake or the officer misheard or misunderstood what the victim was saying.
- It is also important to fully explain to victims the impact of inconsistencies on their credibility and the police investigation.

If the inconsistency remains, officers can explain that conflicting information has arisen and ask for the victim’s assistance in making sense of it. For example, an officer could say:

- I need to ask these questions because I have to write a report on this, and I want to get every detail correct.

If the inconsistency seems to result from the victim’s attempt to make her assault sound more like “real rape,” officers should address her underlying fear of being doubted or blamed. Officers can also:

- Reassure the victim that her assault was serious and that she did nothing to deserve it.
- Emphasize the importance of complete truthfulness and create a safe, nonjudgmental environment that encourages honesty even regarding unflattering or illegal behaviour.

Victims should be reassured that they will not be arrested for illegal behaviour such as underage drinking or drug use – but this promise must only be made if it can be guaranteed to be true. Departments should never arrest sexual assault victims for such behaviour given the priority that must be placed on the criminal victimization.

Additional strategies for clarifying inconsistencies

If these more direct strategies do not work in clarifying information with the victim, there are some alternative approaches. For example, the officer can blame someone else for needing to clarify the information. This can help take the heat off the officer and facilitate victim cooperation. For example, the officer could say:

- I understand why you didn’t call for help that night, but I need to know what you are going to say when the defense attorney asks about it in court.

Or, officers can blame themselves. This technique might work best with victims who continuously change their story. For example:

- I'm sorry, but I'm confused. I thought you said you didn't call for help that night.

How NOT to respond: The polygraph

Although polygraphs are used with sexual assault victims in some areas of the country, we advise that it is NEVER appropriate to use the polygraph with sexual assault victims.

- For one thing, this will decimate any trust the victim has for law enforcement -- along with any real chance for successful prosecution.
- Second, using the polygraph communicates to sexual assault victims that their story is somehow suspicious – in a way that is not true for victims of any other crime. Again, this has a deleterious effect on victim rapport and cooperation, but it also negatively affects her recovery by reinforcing harmful societal myths.
- Third, the polygraph is known to be unreliable when used with individuals who are experiencing crisis. By combining the trauma of sexual assault victimization with the obvious message of doubt communicated with the polygraph, this creates a recipe for disaster. The victim's anxiety in the situation is likely to be misinterpreted by the machine as dissimulation, thereby destroying the victim's credibility and unjustifiably providing evidence for the harmful societal belief that victims routinely fabricate charges of sexual assault.

In conclusion, there are a number of laws that have been enacted in many states to outlaw the use of the polygraph with sexual assault victims, and the evidence is inadmissible in many other jurisdictions. We therefore advocate that the polygraph should never be used with victims of sexual assault – even if the victim requests it. Moreover, because new technologies such as computerized voice stress analysis (CVSA) operate on similar principles, the same advisories apply.

Reducing the number of interviews

The likelihood of inconsistent statements from the victim can also be reduced – and her well-being enhanced – by reducing the number of interviews that are conducted. This will also address some of the concerns arising from the method of documentation by increasing the likelihood of accurate recording.

Once it is determined that a sexual assault has occurred, an officer capable of completing the investigation should be assigned to interview the victim. The specific location of the assault should also be determined as soon as possible to avoid having multiple police agencies involved. Because it takes time to develop rapport and trust with sexual assault victims, officers should never “hand off” a sexual assault investigation in mid-stream.

In addition, some jurisdictions allow for the officer and the physician or nurse to conduct a joint interview (this issue is discussed further in the module on forensic-medical exams).

- Although this can be intimidating because more people are involved in the interview, there is considerable benefit in reducing the number of interviews, improving the quality of communication, and reducing the likelihood of inconsistent statements.
- In other jurisdictions, prosecutors make themselves available for follow-up interviews with the police investigator. Again, this can benefit the quality of the investigation and well-being of victims, and reduce the likelihood of inconsistent statements.

To tape or not to tape?

As a final issue, agencies should carefully consider the possibility of audiotaping or videotaping interviews with sexual assault victims. This is a controversial issue, and agencies should weigh the advantages and disadvantages before implementing a policy.

- The primary advantage of taping a victim interview is that it provides a reliable method of documentation and can therefore reduce the number of interviews needed.
- Taping can also record more details than those summarized in a police report, which benefits the quality of information and reduces the likelihood of inconsistencies.
- Because taping more accurately records all of the details of an interview, it can have the additional benefit of protecting the interviewer if a complaint or misunderstanding should arise as a result of what was said.
- Finally, taping can better convey to prosecutors and jurors the immediate response of victims to sexual assault. Police officers and investigators have the unique opportunity to talk with the victim while her emotions are raw. Her words and demeanor -- whether she is angry, withdrawn, in shock, etc. -- can be important in conveying the victim's response and bolstering her credibility.²

Victims often act very different when encountering prosecutors or jurors -- months after the assault and perhaps after the benefit of counselling. Taping can reliably document the immediate response to traumatic victimization.

- The primary disadvantage of taping is that it can be used against victims, because it is in a form that is unmediated by police investigators. For example, if the victim's demeanor does not fit the stereotype of "real rape," this can be held against her as reason to challenge her credibility.
- The victim may also make statements in the immediate aftermath of trauma that could be used to challenge her credibility. For example, the victim might omit important information or provide partial truths in order to make her assault sound more like "real rape." Victims sometimes make a statement that they caused or somehow deserved the rape, because they have internalized the societal myths that blame victims rather than perpetrators of rape.
- In these cases, it rests with police to help prosecutors and jurors understand the victim's behaviour and contextualize it within the framework of rape trauma syndrome and societal myths about rape.

If agencies do implement a policy of taping victim interviews, it is critically important to obtain informed consent from victims.

- The advantages and disadvantages of taping should be summarized for victims, and it should only be conducted with the full knowledge and consent of victims.
- Sexual assault victims should never be taped without their awareness or permission, as this constitutes a severe betrayal of trust that can negatively affect the investigation. (It may constitute a violation of eavesdropping statutes.)
- Whenever an interview is to be audiotaped, it is especially helpful to have a victim advocate involved to explain the procedure and ensure that victims are fully informed of the advantages and disadvantages of doing so.

If victim interviews are taped, police must also be especially vigilant in their interviewing techniques and documentation. Victims will ultimately pay the price if their credibility is later questioned. This can happen when police fail to effectively explore inconsistent or untrue statements, when they fail to appropriately contextualize the victim's response and statements, or when they document any information that is inconsistent with the taped interview. Guidelines for conducting such a successful interview follow.

How to Conduct a Successful Victim Interview

The victim interview is perhaps the most important element of a sexual assault investigation, and it is absolutely essential for successful prosecution.

- When law enforcement first began to receive training on how to conduct victim-sensitive interviews in the 1970's, the recurring theme and underlying message was simple: Police officers should not treat victims like pieces of evidence.
- This early message helped officers recognize that their actions and communications with victims were important, and that inappropriate treatment could result in additional trauma to the victim.

Unfortunately, what may have been lost in that early training message was the fact that the victim is in fact "evidence" – actually, the best evidence if approached with the right interviewing techniques, handled with competence and compassion, and provided with appropriate information and referrals.

Of course, this means that the opposite is also true. Given the importance of the victim as evidence, any mistake made by an officer during the interview can have a disastrous effect on the victim's credibility and cooperation. Unfortunately, it is the victim who pays the price when an investigating officer makes a mistake due to a lack of knowledge, poor interviewing skills, or insufficient documentation.

Barriers to effective interviewing

Given the importance of victim interviewing for successful investigation, it is especially discouraging that police receive so little formal training in how to interview victims and witnesses.⁴ As one detective stated to a researcher, “Basically, you just ask them who, what, when, where, and why”⁵

- As we’ll see, this is quite inaccurate – there is a great deal more to interviewing victims of any crime than simply asking them “who, what, when, where, and why.”

In addition, some have noted that there are motivational, structural, and other barriers to conducting effective victim interviews.

- For example, some have suggested that some aspects of the police personality make it difficult to conduct successful interviews with the sexual assault victim. Police officers are typically action oriented people, yet sexual assault cases require patience for a long, detailed, and emotionally difficult interview.⁶
- An additional barrier is the tough exterior that many officers assume because they are nervous and uncomfortable when responding to sexual assault cases. Police sometimes try to remain detached from cases that involve difficult emotions such as sexual assault, because they are unsure of how to respond effectively to victims.⁷

A third barrier to effective interviewing stems from the typical career path of a police officer from patrol to investigations. Given that officers typically begin their career patrolling the streets they learn about interviewing in the worst imaginable circumstances, in chaos or confusion with a great deal of noise, anxiety, and time pressure. In addition, there is very little incentive for doing a thorough investigation, because they need to file their reports quickly and get back on the streets to prepare for the next call. ⁸

In contrast, detectives have more time and resources to conduct a more relaxed interview with the victim, designed to elicit a greater level of detail. However, nothing on the streets has prepared them for this situation. In fact, the "rapid-fire" style they may have learned as patrol officers could actually decrease their effectiveness as an investigator if they continue to use the approach with sexual assault victims. For this reason, it is understandable that many police investigators have not yet developed the philosophy and skill required for successful sexual assault interviews. We therefore begin this discussion by outlining the very purpose for these efforts.

Purpose of victim interviews

Detective Scott Keenan of the Chicago Police Department has succinctly yet effectively characterized the difference in purpose between police officers and rape crisis advocates when responding to a sexual assault victim. The job of advocates is to believe the victim’s story whereas the job of the investigator is to prove it.

- Throughout the interview, good investigators will thus carefully examine the victim's story for any aspect that can be corroborated. Even if the detail is not relevant for establishing an element of the offense, anything that the victim states as a fact can be corroborated to establish the validity of the claim and bolster her credibility.

The focus of a good investigator should therefore be on corroborating as many aspects of the victim's story as possible, rather than emphasizing only the problems in a case.

- Most sexual assault investigations do not provide overwhelming positive medical findings and most suspects do not confess to the rape. This means that all of the skills as an officer or investigator are required to thoroughly investigate the case, corroborate the victim's story, and work at all times to protect and support her credibility as a potential witness.

These themes will be reiterated in the specific guidelines to follow.

Preliminary Interview

Responding to an assault that occurred recently

Although we have discussed how most sexual assault cases are only reported to police after some delay, there will of course be instances where the victim contacts authorities immediately. When responding to these calls it is important to begin by reassuring the victim of her immediate safety.

- Victims are often confused and upset following a sexual assault, and they may not become aware of the fact that they are safe even after a police officer has arrived on the scene.
- Officers can reassure the victim of her current safety by stating, "I am here now. You are safe now," or "The police are here now. We have officers in the area now, and you are safe."

The use of the word "now" can be helpful because it brings the victim back to the current reality of the situation by reassuring her that the assault is over and she is safe.

A note for responding officers

Although patrol officers don't always recognize this, the initial contact with the victim of a sexual assault is extremely important to the entire course of the investigation. In those departments where patrol officers conduct only the initial response, there is often a tendency to minimize the importance of this contact by saying that "the detectives can deal with it."

- However, as one detective remarked, "A patrol officer can bungle that 5-minute interview so badly that it takes me weeks to pick up the pieces with the victim."
- Even if the preliminary interview only does take 5 minutes, it still needs to be conducted in a compassionate and caring manner or the case may be irreparably damaged by the loss of victim trust and rapport.

Patrol officers are often required to conduct the preliminary investigation of sexual assault both in cases when the report is immediate and when it is delayed. In both cases, the interview must

be conducted in a compassionate manner, keeping in mind that delayed reporting is a typical reaction to sexual assault.

Information to obtain

Regardless of whether the call is immediate or delayed, the preliminary interview with the victim should be brief. The responding officer needs to ask enough questions to:

- Establish that a sexual assault has occurred.
- Evaluate the need for a forensic-medical examination.
- Identify the crime scene and any related evidence, witnesses, and the suspect(s).
- Identify the current location of the suspect(s).

This is not the time to establish the number of counts or to obtain an extremely detailed account of the assault. After collecting enough information to achieve these three goals, the victim should be transported to the hospital for medical attention and a forensic-medical examination, if it is deemed necessary. A rape crisis advocate and/or other support person should be contacted, and the officer should make sure that the victim will have a change of clothes for afterward. Of course, local protocol will dictate when detectives will be contacted if the responding officer will not be handling the ongoing investigation.

Before the Interview

Whether or not the report is delayed, a comprehensive interview should be conducted with all victims of sexual assault. For this interview to be successful, officers must address a number of critically important issues even before they make contact with the victim.

Decide whether to postpone the interview

For victims who report the assault immediately, this interview is typically conducted after they have received medical attention and participated in the forensic examination.

However, given the circumstances of the assault and the length of time required to conduct a preliminary investigation and forensic examination, the victim may be exhausted. In this case, the comprehensive interview should be postponed until the following day when the victim has had time to rest.

- Obviously, the decision of whether to delay a comprehensive interview will depend on whether suspect is still outstanding and whether immediate follow-up is necessary to protect the community from further threat.

With victims who report their assault after some delay the interview is typically conducted immediately. Of course, some accommodations can be made for the convenience of the victim or interviewer, but there is always an advantage in conducting the interview as soon as possible to maximize the likelihood of recovering evidence.

Find out as much as possible about the case

Regardless of when a sexual assault is reported, it is imperative that officers find out as much as possible about the case before making contact with the victim.

If the victim reports to police after some delay and does not complete the forensic examination, the investigator is limited in the information that can be collected before conducting the interview.

However, if the victim is transported to the hospital for a forensic examination, the interviewer should consult with anyone who has made contact with the victim in a professional capacity, including police and medical personnel. This allows both professionals to maximize their knowledge of the case and promotes comprehensive evidence collection based on the victim's account of events.

- Because victims are concerned about their physical well-being, they are sometimes more likely to disclose sensitive information about the assault to nurses or doctors rather than police. For example, victims might report only penile-vaginal penetration to police but inform the nurse that oral copulation or sodomy was also involved in the assault.
- For this reason, police should meet with medical personnel as soon as possible to exchange information.
- If a discrepancy is found between the details given to police and medical personnel, these must be clarified (in a gentle and non-judgmental way) with the victim.

The officer can communicate to the victim that the details of a sexual assault can be very difficult to disclose, but she should also be reminded that it is absolutely necessary to determine potential sites of evidence, appropriate charges, and modus operandi. Ultimately, discrepancies must be clarified in order to determine the truth of what happened and protect the victim's credibility.

Find out about the victim's demeanor

When police are not the first to make contact with the victim, the officer should ask hospital or rape crisis personnel about the victim's general demeanor before conducting the interview. Police must keep in mind that victim response can vary dramatically, as discussed in the module on victim impact, so the information on demeanor should not be used in any way to judge the validity of the claim. However, the officer might approach victims somewhat differently depending on their demeanor, so the information may be helpful to obtain before making contact.

- For example, if the victim is responding in a very expressive style (e.g., anxiety, grief, anger) the officer will need to deescalate the situation before proceeding with the interview. This can be done by providing calm reassurance, information, and assuring that adequate support is available.

- If the victim's traumatic state is such that a successful interview is impossible, then preliminary information should be collected and the interview postponed.

Officers should also find out whether the victim contacted police or whether this was done by someone else, such as a well-meaning friend or family member.

- This information should not be used in any way to assess the validity of the claim, but it might indicate a different motivation of the victim and orientation toward cooperating with police.
- It will also indicate an additional person to interview, as the person to whom the victim first disclosed is important as an "outcry witness."

In some cases, police are dispatched to evaluate a sexual assault that was reported to police by a mandated reporter, such as child protective services or medical personnel. It is very important to understand that this type of victim will often present differently from someone who consciously made the decision to call police.

Anticipate a defense strategy

It is never too early to begin anticipating a defense strategy and conduct an investigation that will effectively undermine the defense claims.

- For example, if the assailant was a stranger to the victim, the defense strategy is likely to center on identification. This means that the interview and subsequent investigation should focus on establishing the identity of the suspect and protecting the victim's credibility as an eyewitness.
- If the case involves nonstrangers, however, the focus of a defense strategy and police investigation should be on the issues of consent. Identification evidence should still be collected, in case the suspect tries to claim that the police have "got the wrong guy." However, the much more likely defense of consent will require police investigation to document the lack of consent present in the assault.

Clearly, it is critically important that the officer understand what type of offense has been committed because this will influence every aspect of the investigation. By recognizing the type of offense, officers can tailor their interview with the victim to document the elements and begin accumulating evidence to counter a likely defense strategy. (See the module on law and investigative strategy for further discussion.)

A Note on Interviewer Gender

Because of the nature of sexual assault, some law enforcement agencies prefer to assign female officers to these cases. Although this might be possible for agencies with enough female officers to accommodate the policy, it is nonetheless important for all police officers to receive appropriate training in how to respond effectively. For one thing, a female officer is not always going to be available to take the call. In addition, it is clear that effectiveness and compassion are more important than gender in determining success. ⁹ However, there are a number of issues that merit consideration.

- First, as the vast majority of sexual assaults are committed by men, it is possible that the presence of a male officer – especially one that is uniformed and armed – can be upsetting for some victims.
- On the other hand, some victims feel safer and calmer in the presence of a male officer. Given that the suspect was likely a man, it can be important for the recovery of some victims to have positive contact with a man in the aftermath of the assault.

The bottom line is that both male and female officers can conduct effective sexual assault investigations, as long as they are aware of the issues unique to their gender and follow guidelines for successful interviewing as outlined in this module.

For male officers

For male officers, it can be difficult to identify with the victim of a sexual assault, because women's reality and behaviour often differ from men's.

- For example, it can be particularly challenging for men to make sense of victim behaviour such as not resisting or reporting immediately.
- Male officers may also find it difficult to relate to the victim's behaviour, because women and men have very different scripts for socially acceptable behaviour in sexual situations.
- Finally, male officers may be more likely than female officers to believe that women routinely fabricate charges of sexual assault. Some male officers (especially those who are younger) may even fear being falsely accused of rape, or at least identify with the threatening possibility.

For all of these reasons, male officers face unique challenges when responding to sexual assault cases involving female victims. However, successful investigation requires that interviewing officers take the perspective of the victim when seeking to understand the situation and her response.

For female officers

Female officers often share with their male counterparts a difficulty in understanding the behaviour of sexual assault victims.

- Female officers also have a unique challenge based on their gender, given their heightened motivation to distance themselves from the threat of sexual victimization. Because women face a daily threat of sexual violence not experienced by men, women have an interest in protecting their own sense of safety that men do not share.
- As a result, women sometimes focus on reasons to blame the victim for the rape because doing so distances them from the possibility of similar victimization. In other words, if women can convince themselves this victim somehow brought on her rape by something she said or did, they can convince themselves that avoiding such behaviour will guarantee that they will never be similarly assaulted.

- Another potential barrier for female officers exists for those who have personally experienced sexual assault victimization. By comparing other experiences with their own, female officers who have been sexually assaulted may sometimes perceive that a case does not represent a "real rape" like their own.

Female officers must be aware of this inherent motivation to distance themselves from sexual assault victimization and ensure that they communicate effectively and empathetically with victims.

What to do about interviewer gender

Because it is unlikely – and perhaps inadvisable – that departments would implement a policy of assigning female officers to investigate all sexual assault cases, all officers must be trained to effectively handle sexual assault investigation. However, we caution that male and female officers must be aware of their unique challenges and benefits based solely on their gender.

- As a matter of policy, any victim who requests a female officer should be accommodated whenever possible. Given the sensitivity of the issues and the importance of regaining control, it is significant that the victim made this request and successful investigation would be greatly enhanced by accommodating it.
- However, victims who do not spontaneously request a female officer should not be explicitly presented with that option. By having a male officer ask victims if they would prefer a female officer, this can be perceived as a rejection or desire to avoid handling the case. (In fact, this question is sometimes used by male officers as an effective way of avoiding these cases.)

Male and female officers should both be trained and equipped to conduct a successful sexual assault investigation, based on the guidelines in this manual and their basic human compassion.

Beginning the Interview

Once all of these issues have been satisfactorily addressed and the officer knows as much as possible about the victim and case presented, it is time to focus on efforts to begin the interview. This process begins by selecting an appropriate location and environment, determining who will be present, and initiating the interview itself.

Select an appropriate location

Officers should conduct the interview in a location where the victim will feel safe and comfortable.

- The location must be quiet, private, and free from distractions.
- It is best to try to avoid interviewing the victim in the hospital examining room.
- If the victim is interviewed in a hospital or other medical facility, ensure that the suspect is not in the same area at the same time.

- Officers should strive to provide the victim with small comforts such as a beverage or tissues whenever possible. However, they must also be aware that offering a beverage prior to a forensic-medical examination may destroy evidence.

Interviewers should always ensure that the environment not only feels safe for victims – but that it actually is safe. There are certainly examples of suspects showing up at the hospital while a victim is being treated, and this is especially likely if he is a boyfriend or husband.

Determine who will be present

After selecting the appropriate location, officers should talk with the victim privately to determine who should be included or excluded from the interview.

- Sometimes having a support person in the room can help a victim provide better information during a police interview.
- In other cases, the inclusion of a friend or family member will hinder the interview if the victim feels unable to disclose certain details about the assault.
- In general, anyone who could potentially serve as a witness in the case should not be allowed to be present during the interview. This situation compromises the credibility of the witness' testimony.

Whenever possible, the decision regarding who will be present during a police interview should be left to the victim. If the victim privately requests that she would like a support person present, this request should be accommodated whenever possible. Usually the benefit in victim cooperation is well worth the presence of a support person – as long as they remain non-disruptive.

- However, support people should be excluded from the interview if they are likely to become disruptive. For example, friends or family members sometimes want to tell the investigator what happened, rather than having the victim do so.¹⁰
- Support people should also be excluded from an interview if they appear to develop antagonistic feelings toward the officer. This can happen because support people know how difficult it is for the victim to relay painful details of the assault, and they can begin to think of the detective as the enemy for exacerbating the victim's trauma.¹¹ This reaction is understandable on the part of support people, but should be gently explained as unhelpful for the victim's cooperation in the police investigation.

In these cases, when someone is to be excluded from the interview it is important for the officer to assume responsibility for the decision by asking the person to leave and explaining how this benefits the victim and the investigation.

Additionally, victims may request the presence of a victim advocate during the interview.

- If a victim advocate is to be included, she may need to sign a written waiver of confidentiality. It is imperative that officers be aware of state and local procedures governing advocate presence during police interviews and the confidentiality of information.

Otherwise the advocate and/or other support people will remain on site and can be advised to remain available for the victim after the conclusion of the interview.

Acknowledge the victim's ordeal

It is best for officers to begin the interview by introducing themselves and acknowledging the ordeal that the victim has endured. Although officers need to remain unbiased in their presentation, they can also relay sympathy by stating: "I'm sorry that this happened to you."

- By acknowledging the victim's trauma in this way, the officer establishes sympathy and creates an open and non-judgmental demeanor. As a result, it is likely that the victim will provide better information to enhance the investigation.

This is also an appropriate time to address any self-blame exhibited by the victim. Officers can stress that the incident was serious and that the victim did nothing to deserve the assault.¹²

Allow the victim to vent emotions

When victims express emotions in an interview, it is appropriate to use "psychological first aid" that allows them to vent that emotion while the officer validates that these emotions are both normal and appropriate.¹³ As retired NYPD detective Harry O'Reilly describes,

The victim should be allowed to ventilate her feelings, these have got to come out, and she needs a caring environment in which to express them. Let her ventilate her anger, and whatever you do, don't interrupt it by saying she's going too fast for you to get it all down in your notebook. Let her purge herself, there is a need for her to bring herself back to reality by getting some of this stuff off her chest. Let her talk and then later start taking notes.¹⁴

Using a calm, reassuring voice, the officer can thus apply psychological first aid and communicate empathy by opening the interview with "you" statements and questions. Examples of this include:

- How are you feeling?
- I'm sorry this happened to you.
- May I call you by your first name, or do you prefer that I use your last name?
- Where would you like to do this interview?
- Do you have any questions?

Asking these types of question first and focusing on the victim's well-being may help her to relax and may aid in enabling the investigator to build a rapport with the victim. However, once the officer moves into the content of the interview it is best to avoid questions like this that are unrelated to the investigation. When these unrelated questions are asked during the actual

interview it can appear to the victim that the officer is side-tracked or distracted and not taking the case seriously.

Communicate empathy

Empathy is crucial to communicate during a sexual assault interview, because it establishes rapport with the victim, facilitates cooperation, and ultimately creates an environment that will yield the most information for a police investigation.¹⁵ Empathy communicated from an officer in the aftermath of sexual assault can even be a powerful force in assisting the victim's recovery.

- Perhaps the single most important thing an officer can do to communicate empathy is to simply ask the victim how she is doing and **REALLY LISTEN** to the answer.¹⁶
- Officers should **NOT** say to the victim, "I know how you feel," in an effort to communicate empathy.¹⁷ This is likely to make victims angry or withdraw, thinking that the officer cannot possibly have any idea how they feel. Even if the officer has personally experienced sexual assault victimization, it is better to communicate empathy by taking the victim's response seriously and responding with compassion.

Other things **NOT TO SAY** to the victim to communicate empathy include:

- Everything is going to be all right.
- Don't cry.
- You shouldn't feel that way.
- You must get on with your life.
- Time heals all wounds.
- It could have been worse.
- At least you're not injured.

Even though these sentiments might be well intentioned, they are not helpful for victims and can interfere with rapport. In general, empathy is communicated not only in what is said but how the officer acts toward the victim. If the officer acts in a way that is compassionate and professional, this communicates that the officer takes the crime seriously and cares about its impact on the victim. Again, Detective Harry O'Reilly describes:

Let's say I've got this kid lying in the street. He was knocked off his bicycle and got a compound fracture with a bone sticking out of his leg. I'm going to pick up that kid and hold him close and maybe pat his face or even give him a little peck on the cheek. I might even cry a bit and not be ashamed, because it's OK to be tender here. When I'm making a death notification to a mother that her daughter has been killed in a car accident, I know intuitively that it's right to be soft and gentle with this woman. When I get someone who has been physically injured, they're bleeding all over the place and scared out of their wits, I know to be gentle and reassuring and speak quietly and softly. Now I must learn to include the rape victim, who may not have visible scars, but who has some horrible slashes all over her psyche. The first step towards helping this woman is to open up and be understanding, gentle, reassuring to her, just as I have been able to with these other people.¹⁸

Build rapport

By acknowledging the victim's ordeal and communicating empathy, the officer will have gone a long way toward building rapport.

- Although some have traditionally suggested that rapport be established by seeking some area of commonality between officer and victim,¹⁹ others caution that this can offend adult victims by focusing on trivialities.

Another way to build rapport that has already been mentioned throughout this module is explaining the purpose of the interview and other police procedures to victims. By providing information to the victim, this approach can build rapport and establish the victim's role as a team member in the sexual assault investigation.

Pose simple choices to help the victim regain control

It is important to remember that all crime victims experience some loss of control over the environment. In the case of sexual assault, however, this sense of powerlessness is acute and one of the hallmark characteristics that leads to post traumatic **stress** disorder.

- To help the victim regain some sense of control over her environment, the officer should pose simple choices for how the interview will proceed.
- For example, officers can ask the victim where she would like to sit, and whether she would like to have an advocate or other support person present.
- Officers can also ask whether they can make a call for the victim or contact a friend to bring clothes if the victim is responding immediately to the hospital.

Such questions -- and the opportunities they represent for regaining control -- are important for victims in the aftermath of sexual assault victimization. They also help to facilitate the rapport that is critical to the success of police interviews with sexual assault victims.

Explain the purpose of the police interview

Officers can help the victim regain control by posing simple questions, but the primary means for assisting victim recovery is by making the victim an active partner in the process of the police investigation. One way of doing this is by providing the victim with information at every stage of the process. At the beginning of the interview, officers can thus provide victims with information by explaining the purpose of the interview and their role in it.

The purpose of the interview is to collect information for police to determine exactly what happened. However, victims are often concerned at this point that providing a statement to police means that the offender will be arrested and put in prison.

- It is therefore helpful to explain that the purpose of the interview is to collect information, and that decisions about prosecution will be made later. The victim can decide later whether or not to follow through with investigation and prosecution.
- During the initial stages of an investigation, it is important to collect as much information as possible, thereby leaving the door open to pursue whatever course of action the victim chooses – including cooperating with criminal prosecution.

At the beginning of the interview, victims should also be told that they can feel free to stop the interview at any time to take a break or ask a question.

- Because the purpose of the interview is to get all the facts of what happened, victims should be encouraged to interrupt at any time to ask about a particular question, include a fact, or correct a mistake.

Some officers find it helpful to keep the victim informed with “we” statements. For example:

- We are going to talk about the incident
- We need to review this information together.

Use of the word “we” provides the victim a sense that this is a team effort, that she has a vital role to play in the police investigation, and that she has a sense of control.

When requesting the assistance of the victim, however, it is best to use “I” statements and questions. For example:

- I am going to write this report, and then I would like for you to review it for accuracy.
- I am going to talk with your friend who saw the two of you leave the bar together.
- I have talked to many victims who have the same concerns that you do.

By focusing on the investigator’s experience and role, this can help the victim to know that her complaint is being taken seriously and handled professionally.

Address questions the victim can’t answer

In the course of any police interview, the victim will likely be asked some question that he or she cannot answer. Sexual assault victims can react uniquely to this situation, however, because they are concerned that the officer might doubt or blame them.

- To address this issue, officers should inform the victim at the beginning of the interview that they may ask some questions that she doesn’t know how to answer. Victims should be explicitly told that it is appropriate for them to say, "I don't know," or "I don't remember."
- Victims should be cautioned against guessing. Officers can reassure the victim that she might not know the answers to all of the questions, but remind her that the purpose of the police interview is to obtain as much accurate information as possible.

During the course of the interview, officers should strive to avoid asking several questions in a row that the victim doesn't know how to answer. If she doesn't know the answer to two consecutive questions, officers should ask a third question that she will know how to answer.

Address concerns regarding prosecution

If the victim is unwilling to follow through with prosecution or unsure about whether she wants to, the officer should respond by explaining the importance of making a report and the need to respond quickly to collect the appropriate evidence.

- Officers should never tell the victim that she should follow through with prosecution in order to prevent future similar assaults, because this puts an inappropriate burden upon the victim for the assailant's behaviour.
- In general, victims should not be pressured into cooperating with the police investigation and prosecution. Although officers can and should do everything to make the process as sensitive and competent as possible, successful prosecution may not be in the best interest of all victims.

Ultimately, the decision regarding whether or not to cooperate with investigation and prosecution is the victim's and the reasons for this decision must be respected. As Mills (1989) wrote in the Police Chief:

The victim, of course, is the main concern and the investigator should not try to cajole her into pursuing legal action against the identified offender. Arrest and prosecution are major goals during rape investigation, but pursuing these goals should not take precedence over the psychological welfare of victims.²⁰

If the victim refuses to give a statement

If the victim refuses to give a statement, she should be advised of the right to file a complaint at a later time and the procedure for doing so. The officer should explain, however, that critical evidence will be lost with the passage of time and may not be available at a later date. The victim should then be given information to contact the police department and referred for medical treatment and rape crisis services.

First Stage: The Victim's Narrative

In the first stage of the interview, the officer should begin by asking the victim to describe what happened in her own words and at her own pace. Some of the most common errors that police make when interviewing victims and other witnesses are that they interrupt too often and ask too many questions.²¹ Not only do these errors disconcert the victim, thereby disrupting rapport, but they can also decrease the amount and accuracy of information obtained during the interview.

Use open-ended prompts

It is therefore important that the first stage of the interview begin with open-ended prompts and sufficient time for the victim to tell her story in her own words and at her own pace. The officer should avoid interrupting and ask questions only to clarify details or to prompt further narrative. During this first stage, the officer should ask open-ended questions such as:

- And then what happened?
- Tell me more about that.

The officer should listen carefully to the victim's response and take accurate notes for inclusion in the report.

The officer should also be prepared for long pauses by the victim, as she collects her thoughts and regains composure to continue her narrative.²² Although it is difficult for officers, it is important to allow the victims these silent pauses and not leap in with a question. Victims should be allowed to complete their narratives before moving into the second stage of the interview where follow-up questions are appropriate.

Allow the victim control

Because it is the victim rather than the officer who has information about the sexual assault being investigated, the victim should be the one with primary control during the interview – especially during this first stage.

- Unfortunately, the reverse is typically true, as the officer assumes control of the process and the victim waits passively for the next question.
- Instead, officers should induce the victim to take a more active role in the interview “by explicitly requesting them to do so, asking open-ended questions, permitting them to engage in tangential narration, and not interrupting their narrative answers.”²³

Most errors in witness recall are due to external influence rather than failure to accurately remember events. In a police interview, this means that the vast majority of details produced by a victim or witness will be accurate unless the officer disrupts this process by encouraging the victim to guess or asking leading questions.²⁴ Officers can avoid this temptation by allowing the victim control over the initial stage of the interview, and providing her the opportunity to recount events in her own words and at her own pace.

Avoid leading questions

People in crisis are especially susceptible to the influence of others, so it is important that police avoid leading questions in their interview with sexual assault victims.²⁵ For example, officers should NOT ask victims questions like:

- Did he use physical force to restrain you?

- Was he bigger than you?
- Did you resist?

Questions like this imply to victims what the answer is – or should be. The single best way to avoid leading questions is to use open-ended prompts of the type that have already been described. Better options to elicit this type of information would include:

- What did he do?
- How tall was he? How much did he weigh?
- What did you do or say?

Throughout the Interview

Explain the questions asked

One of the most consistent complaints that sexual assault victims have about police is that they were not provided enough information about the process of the investigation. It is critically important that victims feel like “partners” in the process of police investigation, and one of the best ways of doing this is by keeping them informed.

- This issue has been raised previously and will be reiterated throughout the module. Thus, victims should be informed at the beginning of the interview regarding its purpose and their role in it.
- Throughout the interview, however, officers should explain some of the questions that are asked, especially those dealing with sensitive information such as sexual acts or high risk activity on the part of the victim.

When asking the victim about specific details regarding the sexual acts involved in the assault, it is sometimes helpful for police to explain the law because it illustrates why the information is necessary.²⁶

- For example, if the officer needs to establish whether penetration or contact occurred between the suspect’s penis and victim’s vagina, this question can be preceded with an explanation of how the law treats these instances differently.
- Another example is when separate counts of sexual assault can be charged every time the offender removes and reinserts his penis into the victim’s vagina. Officers can explain this fact before asking whether the suspect penetrated the victim more than once.²⁷

Another area where this principle can be helpful is when the officer needs to ask about high risk behaviour – such as drug use or hitchhiking -- on the part of the victim. When the officer asks about such behaviours this can be seen by the victim as evidence that the officer doubts or blames her for what happened.

- It is therefore helpful for officers to explain the need for such information and to reassure the victim that the questions are not asked out of doubt or blame (nor will the victim be prosecuted for any illegal conduct).

- Rather, the role of law enforcement is to collect all of the facts of what happened and to corroborate the victim's story. The officer can perhaps explain what the defense will likely say about any high risk behaviour on the part of the victim, and emphasize how important it is to have the behaviour explained from the victim's perspective.

This is also a helpful time for officers to reassure the victim that they did not deserve the assault, because they are likely blaming themselves and looking to the officer for signs that they are also seen as culpable by the police. As Latts and Geiselman (1991) summarize:

The detective will explain to the victim that whether she was drunk, a prostitute, or on drugs, it does not matter. It does not negate the fact that she was raped. The responsibility for the rape lies with the rapist, the person who used force. Hence whatever the victim was doing before or during the crime does not matter as long as the investigator knows about it.²⁸

Finally, officers may sometimes want to explain to victims that the truth will eventually come out – especially if the victim was engaging in any high risk or illegal behaviour – and that it is important for this to come out immediately from the victim rather than someone else.

- It can be very damaging to the victim's credibility for information regarding high risk or illegal behaviour to come out later during the investigation, so it is in the victim's interest to provide this information up front.
- In many cases, the information can even be used to strengthen rather than diminish the victim's credibility. For example, if the victim was using drugs, this can go a long way toward explaining her vulnerability to the sexual assault.

For the victim to be completely honest, the officer needs to create an environment that is safe and comfortable for disclosing even unflattering or illegal behaviour.

Avoid and explain repeated questions

Officers should also explain to victims that they will sometimes ask questions in several different ways and that this does not mean that they do not believe the victim or that they doubt her response.

- By reminding the victim that the officer's job is to make sure that all of the information is being recorded correctly and completely, this should explain why the officer sometimes needs to repeat a question.
- However, officers must keep in mind that repeating a question often implies to victims that their previous answer was somehow unsatisfactory. As a result, questions should only be repeated when absolutely necessary, and they should be accompanied by an explanation of why they are being repeated to avoid encouraging the victim to guess or change a response.

The underlying theme is that police must keep victims informed of what is happening during the police investigation and why. When officers ask victims about sensitive topics, they need to explain to victims why this information is needed and how it is helpful in interpreting physical evidence from the assault.

- Police must always remember that victims are carefully watching them for signs that they are being doubted or blamed, and any question or procedure that might play into this suspicion needs to be carefully explained to victims to reassure them and ensure their continued cooperation.
- This is another reason why victim advocates can be helpful to the police investigation, because they can explain police procedures and the reason for particular questions.

Maintain eye contact

Police officers should always look directly at the person they are interviewing, even if that individual is unable to return the eye contact. This is also true for sexual assault victims and communicates that the officer is comfortable with the victim and the information she is relaying. Of course, officers should avoid staring, peering, or glaring, but try through open and comfortable eye contact to communicate that they are “there” in a strong yet relatively stable manner.

An exception might be made for those victims who come from a cultural background that teaches avoidance of direct eye contact. (See the module on special populations for further discussion of cultural issues affecting the approach to sexual assault investigation.)

Use effective body language

Citizens are always influenced by the appearance and demeanor of police officers, but for sexual assault victims this can be especially pronounced. It is easy to imagine how the appearance of an officer in uniform, with full leather gear and weaponry, can be intimidating – but especially so with victims who are experiencing trauma.

Fortunately, there are a variety of techniques officers can use to create a comfortable environment to encourage victim cooperation. These techniques include:

- Sitting down with the victim, rather than standing over her. Officers should sit in a relaxed manner, turned toward the victim.
- Whenever possible, officers should interview victims in plain clothes as the full uniform can be intimidating. Of course, this is generally only feasible for detectives and not preliminary responding officers.
- If possible, the victim should be allowed to sit in a position that is physically higher than the officer’s. Steps provide a perfect opportunity for this technique, but it can also be accomplished by having the officer sit in a chair while the victim is sitting on the hospital examining table, etc.

If sitting down is inappropriate in the situation, the police officer should stand close enough to the victim to express concern yet remain far back enough to avoid being threatening. In general, when standing near the victim, the officer is best advised to retain an informal demeanor to make the victim feel as comfortable as possible.

- Attention and interest should be expressed through the officer's body language, by nodding or otherwise indicating that he/she is following what the victim is saying. However, it is best to avoid feedback that might be interpreted as being evaluative (e.g., “good,” or “right”).
- Officers should use smooth movements and speech style, thereby expressing patience, friendliness, and support. Officers must take care to ensure that their voice remains calm and reassuring throughout the interview.

Avoid touching the victim

In general, we recommend against physically touching the victim – even though this is sometimes difficult for officers who respond empathetically. We believe that the risk for violating the victim’s personal space outweighs the potential benefit of physical touch by the officer.²⁹

- This is yet another reason for officers to ensure that the victim has access to rape crisis advocates or other support people – comforting the victim with physical touch is a role that is more appropriate for these support people than the officer.
- The officer could consider placing their hand on the table or otherwise near the victim, to give the victim the option of initiating physical touch.

If the officer does decide to touch the victim in order to provide comfort, it is best to check with the victim before doing so. Although this may seem awkward, it is worth asking because it allows the victim important control over her physical body and personal space. Victims will often visibly respond to the gesture and the respect it communicates.³⁰

Monitor the victim’s body language

As for the victim’s body language, officers can watch this as an additional source of information about the victim’s level of comfort during the interview.

- When the victim communicates with her body language that she is uncomfortable or upset, it may be an appropriate time to ask if she would like to take a break.
- The officer can allow the victim to skip certain questions if they become too difficult, and return to them later when the victim appears to be more comfortable.

This is also a good time to reassure the victim how important her cooperation is and how vital her role is in the police investigation.

Using sexual language

As with body language, it is crucial that the officer use verbal expression that communicates effectively with the sexual assault victim. This can be especially challenging when it comes to using sexual language.

- One suggestion is to avoid using police terminology with the victim. Clearly, very few sexual assault victims will use terms like “digital penetration” or “oral copulation.” These terms should only be used in the police report and have no place in the victim interview.
- When talking with the victim, it is best to begin using medical terminology (e.g., penis, vagina, anus).
- However, if the victim uses other terms these should be mimicked by the officer – they will be the words and phrases with which the victim is most familiar and comfortable. In other words, if the victim uses the term “pussy” instead of vagina, the officer should follow her lead.
- When establishing the words and phrases to use when describing sexual acts, these terms can be used in open-ended prompts to encourage the victim to continue in her response. For example: “So he stuck his finger in your vagina. What happened next?”
- When a victim does use a word or phrase to describe an act, the exact language should be preserved in the police report. Officers should not sanitize the victim's statement, or replace it with police terminology. In this example, if the victim states, “he made me give him head,” the report should document these exact words.
- When a victim does use a word or phrase to describe a particular act, officers must also clarify what she means by it. For example, if the victim states that “he made me give him head,” this exact wording should be recorded, as previously described. However, the officer should also ask the victim if this means that the suspect forced her to put her mouth on his penis. The report should then document that the officer asked questions to clarify the specific act(s) described.

Although it may be difficult, officers must not appear shocked or embarrassed by the language a victim uses to describe a particular act. This will immediately convey to victims that the officer is uncomfortable and make the situation even more difficult.

- If the victim appears to be uncomfortable with sexual language and details, it is sometimes helpful for officers to reassure the victim that they have heard these things before and to reiterate the importance of getting all the information about the assault.
- Officers must make equally sure that they are comfortable using graphic sexual language. This may require practice, if necessary. It may seem silly, but an officer’s discomfort with sexual language will clearly communicate to the victim and make her less comfortable and less willing to cooperate with the police investigation.

Engage in active listening

Officers should demonstrate active listening at all times. This is especially important at the beginning of the interview when victims should be given the opportunity to tell their account of events in their own words and at their own pace.

- By allowing victims to take the lead in telling their story and not interrupting them while they do so, officers increase the amount of information obtained to assist in their investigation. 31

- If the victim pauses in her narrative, officers should remain silent or provide an encouraging prompt for her to continue – rather than asking a question that may sidetrack or discourage the victim from telling her story in its entirety.

Silence often allows the victim a moment to collect her thoughts, which is especially important for anyone experiencing trauma. As Olsen and Wells describe in the Police Chief, investigators should allow the victim to focus on one topic “until the mental picture becomes clear and the retrieved information complete.”³²

Use reflective comments

Officers should use reflective comments to encourage continued disclosures by the victim. Officers should reflect back to the victim some of what she said, in summary form. This reflecting will encourage the victim to keep talking, as long as it is conveyed in a tone that clearly expects continued narrative rather than a closed-ended response. For example:

Victim: “So I had met him at a few parties, but I didn’t really know his name.”

Officer: “He was someone you knew casually?”

Victim: “Yeah, he must have been friends with some of my friends because we would see each other at all of the same parties even though we never really met, you know, officially.”

In this example, the officer has reflected back to the victim the essence of what she said, in order to focus attention and encourage her to elaborate upon the point.

Clarify and summarize

To make sure the officer is following the victim’s story, clarifications and occasional summaries can be used during pauses in the victim’s narrative.

- Officers should clarify and summarize what they have heard from a victim after she has finished telling a segment of her story. Officers should not interrupt the victim to clarify points, but when the victim pauses after completing a segment of her narrative the officer can use this opportunity to clarify a particular issue or summarize the events and facts in that segment. To do this successfully, officers must make notes of their questions while listening.
- After summarizing the victim’s account, the officer should ask a question to invite clarification or elaboration by the victim. For example the officer’s summary of events could be followed with a question like, “Do I have that part right?” or “Is that the way it happened?” This process ensures that the officer understands the victim’s account and allows victims the opportunity to make sure that they are communicating clearly.

However, detailed follow-up questions should not be used until the next stage of the interview, after victims have completed telling their story in their own words.

Taking breaks

If a rape crisis advocate or other support person is present during the interview, they can help the officer monitor the victim's demeanor to determine when it might be helpful to take a break.

- In most instances, however, the actual decision to take a break should be left to the victim. If the officer suspects that a break might be useful, it is appropriate to ask the victim if she would like to take a break.

Victims might want to take a break after particularly difficult sections of the interview, for example, after describing the details of the sexual acts involved in the assault. Breaks are often useful for the victim to regain her composure and prepare for the remaining questions. They can also be used to facilitate rapport between the officer and victim.

Second Stage: Follow-Up Questions

After allowing the victim to tell her story in her own words and without interruptions during the first stage of the interview, it is then appropriate to move into the second stage where the officer uses follow up questions to elicit additional information.

Continue using open-ended prompts and avoid interrupting

It is still important, however, for officers to use open-ended questions and prompts and to allow the victim to answer fully before asking the next question. Officers should also continue to avoid interrupting and never follow one question with another before providing enough time for the victim to respond.³³

In the same study of police interviewing that was previously mentioned, it was reported that the typical interview contained only 3 open-ended questions and 26 short, closed-ended questions. "Furthermore, these direct questions were asked in a staccato, rapid-fire style" with less than one second of pause between the witness' response and the next question.³⁴

- For example, detectives were found to interrupt the response to an open-ended question after only 7.5 seconds; this was an average of four interruptions per response.
- Furthermore, "in none of the interviews was the witness permitted to complete his or her narration without being interrupted."³⁵

Victims must be allowed to describe what happened in their own words and at their own pace -- avoiding any break in the narrative until they have finished. Rather than interrupting during this narrative, officers should focus their attention on documenting everything the victim says. Then when the victim has finished describing what happened, the officer can go back to clarify and elicit additional details with open-ended follow-up questions.

Avoid inappropriate sequencing

In the same study on police interviewing described previously, another almost universal error was the inappropriate sequencing of questions.

- First, officers typically asked questions in the order in which they appear on the form for reporting criminal offenses. Obviously, this may not represent the order in which information is stored in the victim's memory -- or the order in which events happened.
- Second, interviewers usually asked questions in a "lagging order," addressing something indicated in a previous response rather than the current one. This likely happens either because officers lag behind in taking notes or because they want the victim to elaborate on a previous point. However, these questions too frequently "appeared in the middle of the witness's description of another component of the crime, so that the follow-up question interrupted the witness's train of thought and cut short any possible elaboration on the current topic."³⁶

To correct these errors, follow-up questions should be asked in a way that reflects the victim's memory of events.³⁷

- For example, questions about the suspect should be asked together rather than interspersed throughout the interview.
- If the victim skips over sexual details in her initial account of events, the officer should not delve into these issues immediately but rather follow up with more specific questions later.

In other words, "interviewers may therefore have to defer questions they are currently thinking about to another time, when they are more appropriate for the witness."³⁸

This doesn't come naturally to officers – and it takes extra mental effort – but the payoff can be great in victim comfort and rapport as well as the amount and accuracy of information obtained.

Cognitive Interviewing Techniques

As many officers are already aware, the cognitive interview technique was developed by Geiselman and Fisher. It consists of four general methods for jogging memory – along with a host of additional specific techniques. These techniques are summarized below, based on a publication by the National Institute of Justice,³⁹ and they should be used in the first stage of the interview, when victims are relaying their account of events in their own words.

Technique #1: Reconstruct the circumstances

During the cognitive interview, victims are first asked to reconstruct the circumstances of the assault, the environment, location of furniture, lighting, people or objects, etc. They are also asked to reconstruct how they felt at the time of the assault and describe their reactions. This kind of reconstruction has been shown to be very powerful in assisting memory.⁴⁰ Suggested wording for this is as follows:

Try to reconstruct in your mind the context that surrounded the incident. Think about what the surrounding environment looked like at the scene, such as rooms, the lighting, the weather, any smells, any nearby people or objects. Also think about how you were feeling at the time and think about your reactions to the incident. Mentally, put yourself back there at the time this happened.⁴¹

Technique #2: Be complete

In a traditional police interview, investigators often interrupt victims and allow only brief responses to closed-ended questions. By doing so, officers convey to victims that they should provide only minimal information during the interview.

- This is, of course, exactly the opposite of the goal to obtain as much information as possible.

In addition, this interviewing style communicates to victims that they should edit themselves and provide only that information that they believe is relevant for the police investigation.

- Unfortunately, victims are not necessarily very good at knowing what will be helpful for the police investigation. Clearly, it should be the police investigator's role to edit the information and decide what is significant rather than the victim's.

For the purposes of the interview, victims should therefore be advised to provide as much information as possible. Officers should explicitly ask victims to provide extensive and detailed responses and not to hold back anything no matter how trivial or irrelevant it might seem. This provides more information, not only because victims do so without editing but also because they sometimes remember an important detail only when thinking about something that is not relevant.⁴² Suggested wording for this is as follows:

Some people hold back information because they are not quite sure that the information is important. Please do not edit anything out of your report, even things you think may not be important.⁴³

Technique #3: Recalling in reverse order

After the victim has completed relaying her account of events, the investigator using cognitive interviewing techniques will ask her to recall the events of the assault in a different order.

- Since most victims will describe the events in chronological order during their first telling, the investigator should ask the victim to recall them in reverse order, from the last thing that happened backward to the first.
- This process of recalling events backwards in time forces the victim to examine her actual memory of the event, rather than relying on a narrative that may have already become somewhat rote after telling it to several individuals.

When events are recalled in chronological order, we all have a tendency to reconstruct in our minds what must have happened based on prior knowledge or assumptions. This can lead to

incomplete or inaccurate reports. By reporting events in a different order, it is possible to elicit more details from the actual memory. Suggested wording for this is as follows:

It is natural to go through the incident from beginning to end. However, you also should try to go through the events in reverse order. Alternatively, try starting with the thing that impressed you the most in the incident and then go from there, going both forward in time and backward.⁴⁴

Technique #4: Change perspectives

Fourth, investigators should ask victims to recall the event chronologically, but from a different perspective.

- For example, if the victim was assaulted in a car the investigator could ask for a description of the events as they might have appeared from outside the car.
- If the victim was assaulted on a bed, the investigator could ask what might have been observed from the perspective of the ceiling.

This can be especially useful for victims who dissociate, because it sometimes feels to them as if they truly did observe the assault from that external perspective. Suggested wording for this is as follows:

Try to recall the incident from different perspectives that you may have had, or adopt the perspective of others who were present during [parts of] the incident. For example, try to place yourself in the role of a prominent character in the incident and think about what he or she must have seen.⁴⁵

A note of caution

Obviously, the use of the cognitive interview with sexual assault victims demands that they relive the experience to some extent, and investigators therefore need to be aware that using this method may be extremely difficult for victims.

- Some have even suggested that cognitive interviewing techniques are inappropriate for use with sexual assault victims, because it creates unnecessary trauma.
- It is important to keep in mind, however, that the cognitive interview is based on psychological principles and designed to elicit as much information as possible. Moreover, all police interviews require that the victim relive the crime to some extent and so this is not a concern that is unique to any particular technique.

Ultimately, the investigator should decide when cognitive interviewing techniques are appropriate, based on the victim's individual character and traumatic response. In addition, it is always recommended that a rape crisis advocate or other support person be available for the victim either during or immediately following the interview, in order to address emotional needs and other concerns that arise.

Additional techniques for eliciting information

In addition to these general methods for eliciting details in the victim's account of events, there are a variety of specific techniques that are useful. These are quoted or adapted from Geiselman (1987).

(1) Suspect descriptions:

If the suspect was unknown to the victim, investigators can supplement typical descriptive information by asking the victim whether he reminded her of anyone. If so, why? Victims can be asked if there was anything unusual about the suspect's physical appearance or clothing – and again, victims should be reminded not to edit their statement but to provide any details no matter how silly or trivial they might seem.

(2) Remembering names:

If the victim is trying to come up with a name that was spoken or other verbal information, investigators can ask the victim to try to think of the first letter by going through the alphabet. Then the investigator can ask the victim to try to think of the number of syllables to see if this elicits additional information.

(3) Remembering numbers:

If the victim is trying to come up with a number, perhaps from a license plate or other written material, investigators can ask the victim:

- Was the number high or low?
- How many digits were in the number?
- Were there any letters in the sequence?

(4) Recalling speech characteristics:

If an investigator is trying to elicit additional information about the speech characteristics of the suspect, the victim can be asked:

- Did the **voice** remind you of someone else's **voice**? (e.g., movie or TV star)
- If so, why?
- Was there anything unusual about the **voice**?

(5) Recalling conversational details:

When trying to generate details about the conversation that took place with the suspect, investigators can ask the victim to think not only of what was said but also how the victim or others present reacted to what was said. It is also helpful to ask whether any unusual words or phrases were used.

Benefits of the cognitive interview

Many investigators have been using some of these techniques for years. However, research has demonstrated that their using all of the techniques in combination can effectively enhance the memory of eyewitnesses.⁴⁶

- A large number of studies have demonstrated that cognitive interviewing techniques can enhance the amount of information recalled by victims and witnesses of crime, without similar costs in accuracy.
- Specifically, studies demonstrate a 25-70% increase in the amount of correct information obtained using cognitive interviewing rather than standard police techniques.⁴⁷
- There is also substantial evidence that cognitive interviewing techniques do not produce any increases in suggestibility or confidence, which greatly increases the reliability of testimony.

The primary cost of using cognitive interviewing techniques is that they take longer and require greater mental effort and flexibility on the part of the interviewer. However, given the payoffs -- not only in the information obtained but also the rapport and trust established with the victim -- this extended time is well spent in sexual assault cases.

A note on hypnosis

Finally, a note about hypnosis is justified – especially in comparison with the cognitive interviewing techniques. Some have noted that hypnosis can increase the amount of information recalled by victims and witnesses of crime, and there is some research evidence to support the idea. However, there are also a number of documented problems with memory enhanced through hypnosis.

- For example, although victims and witnesses are sometimes seen to recall more information after hypnosis, more of the information is incorrect than with standard interviewing techniques.
- Furthermore, the *heightened suggestibility* experienced during hypnosis causes victims and witnesses to be more influenced by leading questions, and they report greater confidence in their memories – even when they are incorrect.

For all of these reasons, American courts generally exclude testimony that is either produced during hypnosis or any interview following the use of hypnosis. We also recommend against using hypnosis with sexual assault victims. Interestingly, however, cognitive interviewing techniques share many of the advantages of hypnosis without the disadvantages.

Information to Obtain During the Interview

In the comprehensive interview, police should obtain information in a variety of areas. If this information is not provided by the victim in the first stage of the interview during her initial account of events, it should be addressed with follow-up questions in the second stage of the interview.

Describing the victim's behaviour and relationship with the suspect

The interviewer should ask the victim about her behaviour and relationship with the suspect. These questions should address:

- The victim's activity prior to the assault
- Any past relationship or contact with the suspect
- How the victim and suspect initially came into contact
- When the victim last had consensual sexual intercourse, and with whom (this question must be prefaced by an explanation of why this information is important)
- Who the victim first told about the assault
- Any witnesses with information about the assault, the suspect, or prior assaults

When asking the victim about other potential witnesses, the officer should assess who she told, what she told them, and when she did so.

- It is important to get information on anyone who may have seen or heard anything before, during, or after the assault.
- It is especially important to determine who she told first of the assault (sometimes referred to as an "outcry witness") because this person can provide critical information regarding the victim's appearance, demeanor, behaviour, and spontaneous statements following the assault.

When describing the behaviour of the victim during the assault, it is important for officers to distinguish between the victim's submission (giving-in) and consent (freely participating).

- For example, victims who submit out of fear should be asked about their thoughts and feelings during the assault so their behaviour is clearly characterized as merely giving in rather than consenting.

In other cases, a victim may have consented to certain acts such as kissing or fondling but not consented to other acts such as sexual intercourse. It is therefore important to ask the victim about what she said and did during the assault, especially with respect to consent for each specific sexual act.

Describing the suspect's behaviour

Regarding the suspect's behaviour, the interviewer should establish:

- How the suspect entered and exited the crime scene
- Whether the suspect brought anything or left anything at the scene
- Whether the suspect touched or moved anything
- Whether the suspect took any pictures or videos
- Whether the suspect showed any videos or magazines to the victim
- If the suspect used any objects during the assault
- If the suspect moved or transported the victim
- Whether the suspect made any threats to the victim, and specific language used

- Whether the suspect committed any other crimes in connection with the sexual assault (e.g., whether the suspect took or damaged anything belonging to the victim)

Documenting the specific acts committed

To determine which specific sexual acts were committed, the interviewer will need to assess whether each of the following occurred:

- Penile-vaginal intercourse (degree of contact or penetration)
- Sodomy (anal intercourse)
- Oral copulation (cunnilingus or fellatio)
- Digital penetration of the genitals
- Other foreign penetration of the genitals
- Sexual contact other than penetration

In addition to determining which specific acts were committed, it is also important to document their sequence and whether any acts were repeated. Officers will of course need to make sure that the information they collect will allow them to determine whether the sexual acts involved meet the elements of the offense in their state.

Describing the suspect's sexual behaviour

With respect to the suspect's sexual behaviour, it is also important to ask the victim:

- Whether a condom was used
- Type of condom used or description of packaging
- Whether the condom was provided by the victim or suspect
- The location of the used condom
- Whether a lubricant was used
- Whether the suspect ejaculated, and if so, where (explain that this is not an element of the offense but indicative of where evidence might be located)
- Whether the suspect wiped his genitals with a tissue, sheet or item of clothing

Establishing force or threat of force

To establish the elements of the offense in a case of forcible sexual assault, the officer needs to document not only the details of the sexual acts but also the circumstances of force or threat of force. Given that the majority of sexual assaults are committed by known offenders, the issue in most investigations is going to be consent rather than identity. It is therefore crucial that officers hone in on any detail that speaks to force or threat of force. For example, the officer should find out from the victim:

- Whether any physical force was used
- Whether any real or simulated weapons were used
- Whether the suspect used his body to restrain or intimidate the victim
- What the physical positioning of the suspect was in relation to the victim
- Whether any threats were made

- Information regarding the size and strength of the suspect
- Circumstances that made the victim feel threatened, including isolation
- Whether the victim was incapacitated or otherwise vulnerable

Officers must remember not to ask these questions directly (i.e., “Did he use a weapon?”) because this can communicate to victims that the assault wasn’t serious if a weapon was not used. Rather, interviewers should listen to the victim’s narrative for the details, and ask open-ended prompts to elicit information about the victim’s and suspect’s behaviour and the victim’s thoughts and feelings during the assault.

Officers must also recall that the force or threat of force experienced by victims is likely to result from the totality of the circumstances during the assault. It may not be a single element that created a threatening environment, but a combination of elements that must be established during a comprehensive and sensitive interview.

Obtaining a description of suspects

If the victim does not know the identity of her assailant, police will need to get a detailed description, including information pertaining to:

- Clothing
- Jewellery
- Earrings or other piercings
- Glasses (type)
- Tattoos
- Accents
- Body and facial hair
- Body odor
- Circumcision
- Scars
- Masks
- Gloves
- Items or weapons carried

Police should evaluate whether the victim could potentially identify the suspect or assist in constructing a composite or artist’s sketch of the suspect. However, this should NEVER be done by directly asking the victim whether she can identify the suspect.

- If she says that she is able to identify him and later fails to do so this will erode her credibility.
- Similarly, if she suggests that she cannot identify him or is unsure if she can, this limits the potential utility of any future identification.

Rather, police should simply ask whether the victim can assist with creating a composite or artist’s sketch. Officers should also document anything relevant to the victim's ability to identify the suspect, including the length of contact, lighting, or presence of any other obstacles to viewing the suspect (e.g., if the suspect was wearing a mask during the assault).

Establishing a modus operandi or signature

To determine whether a modus operandi or signature pattern of behaviour can be established, investigators should also assess:

- Whether the suspect had an erection or had difficulty maintaining an erection
- Any statements or words used by the suspect
- Any specific threats made by the suspect
- Any weapons or other items used by the suspect
- Any contact with the suspect before or after the assault

Concluding the Interview

When concluding the interview, it is always important to ask the victim if she has any additional information that she would like to offer. Sometimes details come to mind during the course of the information that the victim should be invited to share before concluding.

At the conclusion of the interview, the victim is also likely to look to the officer for a reaction to her story or assessment of her credibility. The officer can therefore take this opportunity to reassure the victim, by stating that the assault was not her fault, by praising her courage in surviving, and thanking her for her vital cooperation.

Explain future procedures

Explaining the procedures involved in a police investigation is a critical element in crisis management for the victim. All too often police officers forget that victims have no realistic awareness of police procedures and the reasons underlying them. Although the officers deal with these procedures on a daily basis this may be the first time victims have ever had meaningful contact with law enforcement.

- For this reason, officers must take the time to explain these procedures to victims as well as outlining the reasons underlying these procedures. For example, officers should always explain to victims the process of police investigation, including what steps will be taken next and why.

Officers should also address any questions or concerns the victim might have about what is and is not part of the police investigation.

- For example, one victim might be very concerned about the fact that her criminal history is checked. In this case, the victim can be reassured that everyone who comes into contact with police is checked for a criminal history and that this does not in any way represent that she is being doubted or blamed for the assault.
- Another victim might be concerned about why she is being fingerprinted after reporting a sexual assault by a stranger who broke into her apartment. In this case, officers should explain to victims that they are providing elimination prints and how these are used to rule out those from the victim when looking for those of the suspect.

Victims can also be informed that the officer will interview the suspect, and that information about this contact may come back to the victim. For example, officers will often “go along” with things that the suspect says in an interview just to keep him talking. Victims should be informed that this is used as a technique for collecting information from the suspect and does not indicate that the officer has “taken the suspect’s side” or view of events.

- The officer can explain the crime laboratory procedures and the process for releasing any of the victim’s property that was taken for investigative purposes.
- In particular, any questions about prior sexual experience and recent sexual activity should be explained, because these can sound blaming if victims do not understand their purpose and relevance for the police investigation.

When explaining the police procedures, it is important to avoid false assurances or unrealistic expectations for the process. For example, victims should not be told: “Don’t worry, we’ll have the suspect in custody before you know it and he’ll go to prison for a long time.” Instead, victims should be provided with honest information about the process and likely outcomes. As with other stages of the interview, advocates can be especially helpful in ensuring that all of the victim's questions and concerns are addressed, and that she understands what will happen next in the police investigation.

Address safety concerns

At the conclusion of the interview, officers can explore safety concerns with victims and help them formulate a plan for maintaining their physical well-being. Given that most victims know their offenders, they understandably have concerns about what will happen when the suspect is contacted by police about the assault. In cases where the suspect is a stranger, victims are also concerned that he will remain at large and pose a threat for repeated victimization. It is therefore important for officers to explore a safety plan with victims, and explain the procedures for obtaining an order of protection if appropriate.

Acknowledge that disclosure is a process

It is said that disclosure of sexual assault is a process rather than an event, and officers must keep this in mind themselves as well as passing it along to victims. In other words, victims are likely to remember additional details or feel comfortable disclosing them at some point after the initial police interview.

- Officers should provide victims with information about who to contact if she has any questions or recalls any additional information. Victims may also want to contact someone to clarify details in her statement.
- To make sure that victims can actually get in contact with the officer who responded to their case, the responding officer should provide victims with his/her name, badge or identification number, and the victim's case number.

- If an officer has a business card, this can also be provided to victims with information about who to contact for any questions or concerns that may arise.

Obtain contact information

Because victims are often reluctant to stay at their own home after a sexual assault (especially if the assault took place there), it is important to get the address and phone number where the victim will actually be staying.

- In addition, it is advisable to get the name, address, and phone number for another contact person in case the investigator has difficulty locating the victim.

After the interview, officers should stay in touch with the victim and keep her apprised of the status of the case. Even though officers often withhold information to protect the victim from unpleasant news, victims want to be kept informed of the status of their case. Especially if their case is being closed or inactivated, victims need to be notified of this fact to achieve some closure in their own lives. Because it can sometimes be difficult for police to keep in contact with victims as often as victims would like, advocates can play an important role in keeping the victim informed regarding the police investigation.

Assist with notification if possible

Although it is not always possible, it can be extremely helpful for victims to receive assistance in the immediate notification of family, friends, or employers. This is another area where victim advocates can be of assistance for victims, thereby relieving officers of the duty to deal with notification and responses of others.

- Notification of friends and family regarding a sexual assault can be tricky because many will respond with anger and a desire for revenge. They must be reminded that, although this reaction is understandable, it does not help the victim but causes yet another source of anxiety for her.
- In contrast, some friends or family members will respond by blaming the victim for any high risk behaviour she exhibited. Again, this is very destructive for the victim and should be discouraged to whatever extent possible. The officer can emphasize to these support people
- how important it is that they be just that – support – for the victim during her experience of crisis. Whatever she did prior to the assault, nothing justifies this kind of victimization and the focus needs to remain on victim recovery.⁴⁸

Support people can also be provided with the same information and referrals as the victim, in order to address their own questions and concerns regarding the sexual assault. For example, many rape crisis centers now offer services and support groups for friends and family members who are affected by the sexual assault of a loved one. Advocates can also address the questions and concerns of significant others both during the immediate response to a sexual assault (e.g., at the hospital or police department) and in the longer-term aftermath of victimization.

Provide written information and referrals

Officers should provide the victim with written information about her rights as a crime victim in the state. Some of these rights might include confidentiality, anonymity, and the right to an advocate or support person during follow-up interviews with law enforcement.

Finally, the victim should be provided with referrals and information about community resources and agencies that are trained to work with survivors of sexual assault and their significant others.

- Either the officer or advocate should have printed material that can be made available to victims so they have it in their possession for whenever they might need it.
- These materials should address topics such as recovery from sexual assault, medical issues, what to expect during the legal process, and community resources.

When leaving the victim, police should make sure that she has support personnel and transportation, especially if she is at the hospital. Turning one last time to retired NYPD detective Harry O'Reilly:

You might be wondering, if you are police officers reading this, 'Why should we be doing all of this? We aren't social workers.' This is one of the most common comments made to me in this **training** job. I say that we most certainly are social workers. We are in the people business, and we must learn how to deal with and relate to all kinds of people. We should be relating with a much greater degree of sensitivity than in the past. If you cannot be moved by the humanity of the argument, then maybe you can relate to the practical advantage of it – if we want the victim's cooperation in the prosecution we have to treat her with the same dignity we afford any other victim of crime. Only we should treat her much more sensitively, because she has had the most heinous crime next to murder perpetrated against her.⁴⁹

Yet Another Option for Victims: Blind Reporting

Blind reporting, or information reporting as it is sometimes called, is yet another option for victims that can be instituted by law enforcement agencies. Because the issue is one of policy, we include this material as supplementary information. However, we advocate strongly that individual officers and departments implement the policy of accepting blind or informational reports – that is, taking a police report from victims without recording their names and/or without the possibility of criminal investigation and prosecution. Some departments even allow victims to use a pseudonym when filing a police report for sexual assault and/or to report the incident to rape crisis rather than law enforcement personnel.⁵⁰

The following is excerpted from:

Garcia, S. & Henderson, M. (1999). Blind reporting of sexual violence. FBI Law Enforcement Bulletin, 68 (6), p. 12-16.

Imagine a woman having car trouble. She accepts a ride with a man, and he rapes her. What if she never tells anyone about the assault? What if the assailant rapes again? Now imagine that she has an option that allows her to share critical information with law enforcement without requiring her to sacrifice the confidentiality she deserves. In fact, an anonymous reporting system enables law enforcement investigators to gain information about crimes of sexual violence that likely otherwise will go unreported, while it allows victims an opportunity to gather legal information from law enforcement without having to commit immediately to an investigation. Victims have a chance to find out what the process is like, what chance they have of filing successful charges, and what it will be like to work with the investigator. In the long run, victims, investigators, and the community all benefit from blind reporting.

Benefiting from a blind reporting system

When law enforcement officers review the reported incidents within the community, the numbers reflect only a fraction of the violence that actually occurs. Law enforcement may not have the most important information about local offenders' patterns of behaviours or the characteristics of emerging high-risk situations or locations. Therefore, law enforcement benefits from accepting blind reports because investigators have a clearer picture of sexual violence in their communities. Moreover, when investigators can pinpoint dangerous scenarios, they can better educate the public, thus improving community relations and possibly garnering information on other neighborhood crime problems.

Blind reporting also provides other benefits. In the immediate aftermath of a trauma, a victim simply may not have the emotional or physical capacity to make a commitment to a full investigation and a court trial. Blind reporting lets victims take the investigative process one step at a time, allowing time to build trust between the investigator and the victim and making the whole process feel more manageable. Describing the assault to a law enforcement professional gives the victim an opportunity to affirm that the assailant did, in fact, commit a crime, which helps in the personal process of healing from the trauma and can help build the victim's confidence in filing charges against the rapist.

In some states, victims who file blind reports can receive rape victim's assistance, which provides compensation for the costs associated with an emergency rape examination or other related expenses. ... Even victims who decide not to pursue legal charges alone may come forward willingly to support other victims of the same assailant. Victims who initially hesitate to file a formal report at the time of the assault may change their minds when given the option of supporting or being supported by other victims of the same assailant. The testimony of a prior victim can help the investigator build the case and the district attorney prove it by establishing a pattern of behaviour by the accused.

Establishing a blind reporting system

To develop a successful blind reporting system, law enforcement agencies should:

- Establish a policy of confidentiality.

The law enforcement agency must define clearly and uphold unconditionally its policy of confidentiality.

- Accept the amount of information offered.

Any amount of information given, even if less than the investigator prefers, represents more than would otherwise be available and may prove useful in building other cases.

- Accept the information whenever the victim might offer it.
- Accept information from third parties.
- Clarify options for future contact.

Victims may prefer to be contacted again under specific conditions or not at all. For example, if the offender later is charged with another assault, would the victim want to be notified to consider filing a formal report? ... On the blind report, investigators should document where, how, and under what circumstances the victim may be contacted. The report should specify clearly whether officers can leave messages on answering machines or with other people who may answer the phone.

- Maintain blind reports in separate files.

The blind report is not an official police report. Keeping it in a separate file within the investigative division or with a designated sexual assault investigator avoids inappropriate use of the information it contains and maintains the confidentiality promised the victim. The blind report should not become available to the records division until the victim chooses to file a formal report. Until that time, only officers assigned specifically to sexual assault cases should have access to the blind report.

- Categorize the information contained in the blind report.

Analyzing the information in the report helps the investigator identify specific case and offender characteristics – such as names of perpetrators, locations and times of assaults, types of lures, traits of offenders, and processes of victim selection – and categorize this information in a way that eases retrieval and helps to match case aspects to other investigations.

Overcoming resistance to blind reporting

Law enforcement agencies initially may feel inclined to dismiss the benefits of establishing a blind reporting system solely because of the time investment it requires. Yet, the 1 hour or so that it takes to talk to a victim and complete a 2-page report pales in comparison to the potential benefits. Sex offenders tend to be repeat offenders. Depending on the typology of the offender, behaviour may escalate in intensity and frequency over time. Building a case against an assailant becomes much easier when officers have information about three incidents instead of one or if

officers recognize that the actions of a nameless stranger seem similar to those described by another victim who provides identifying information.

Conclusion

All officers want to close out their cases, both for their own satisfaction and to meet the department's need to document its workload. Investigators who work in an environment in which effectiveness is measured only by immediate quantifiable gain may be reluctant to institute a blind reporting system. However, some blind reports become full reports and lead to investigations and successful prosecutions. Others provide useful information for investigation in other cases. All of them help officers build relationships and gain a true picture of sexually violent crimes committed in the community.

Officers who accept the potential for delayed gratification may become the most ardent supporters of blind reporting systems. The payoff for the effort eventually will be demonstrated through improved community relations and, over time, more effective investigations and prosecutions.

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