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Sexual Assault Response and Investigations for Police

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EXECUTIVE SUMMARY

Sexual assault cases are complicated and victims often face hardship, post-traumatic stress disorder (PTSD), and depression. They deserve timely, effective interventions that help them cope with their victimization and return to normal. Police have a duty to conduct a comprehensive, coordinated investigation and to do so in a compassionate and sensitive manner. This report provides an overview of recent evidence-based research to assist police in capturing the significant and comprehensive details about sexual assaults. Beyond the physical and psychological trauma associated with sexual assaults, the victim's turmoil can be amplified by the very system meant to protect them. Traditional investigative techniques may not be appropriate for many sexual assault victims. It is important that victims are listened to, treated with sensitivity and respect, provided accurate information, and given appropriate referrals. Assisting victim recovery includes improving relations between different police services, justice and community partners.

According to the 2014 GSS, only five percent of sexual assaults are reported (CCJS 2018). The criminal justice system must not only do a better job serving this five percent, it must also evolve to engage the other ninety-five percent, who could not, or would not come forward.

SEXUAL ASSAULT RESPONSE AND INVESTIGATIONS FOR POLICE

INTRODUCTION

This report presents a victim-centered approach to sexual assault investigations and explains why such an approach is not only more compassionate, but more effective and consistent with emerging research findings. This approach helps officers and services to prepare sexual assault cases for successful prosecution through detailed case documentation and a thorough, compassionate investigation. The information is not meant to replace existing departmental policy, but to enhance it by providing context and an evidence-based rationale to support the recommended approach that reflects the most current thinking on sexual assault committed against adult victims. Feedback was solicited in the development of this report, including responses to a 2017 Canadian Association of Chiefs of Police (CACP) informal call for recommendations¹ to improve investigations in cases of sexual assault against adults. Many subject matter experts also contributed, and the Department of Justice provided oversight. The authors have policing experience and doctoral training in criminology and psychology.

In the last 30 years, there has been significant research into policing practices. However, it takes time for scientific research relating to policing to effect change on police operations. For instance, much of the research suggests that expressing compassion is effective, but officers are reluctant to move away from established practices because of a perception that compassion is ineffective and can be mistaken for weakness. Even in light of compelling evidence, the ‘tried-and-true’ investigative approaches are not easily abandoned.

The need for policing to keep pace with advancements can be illustrated through taking this ten-second test. Count how many letter F’s are in the following four-line paragraph.

**FINISHED FILES ARE THE RE
SULT OF YEARS OF SCIENTI
FIC STUDY COMBINED WITH
THE EXPERIENCE OF YEARS...**

How many did you get? The vast majority of people will see three, some four, a few five and a small margin will see six. You should have found six. If you did, congratulations you are among

¹ CACP responding police services were asked what specific challenges they face in investigating cases of adult sexual assault, any promising practices that they know of to respond to those challenges, and what their recommendations were to improve how adult sexual assault is addressed in Canada. Responses were received from the following police services:

- a. **Ontario** - Peel Regional Police, Niagara Regional Police Service, Ontario Provincial Police, Windsor Police, Greater Sudbury Police Service, Halton Police Service, and the Toronto Police Service.
- b. **Québec** - Service de police de la ville de Montréal, Service de police agglomération de Longueuil, Régie intermunicipale de police Thérèse-De Blainville, Service de police de la ville de Lévis, and Sûreté du Québec.
- c. **Saskatchewan** – Regina Police Service
- d. **Alberta** – Calgary Police Service and Edmonton Police Service
- e. **British Columbia** – Vancouver Police Department, West Vancouver Police Department, and Greater Victoria Police Department
- f. **Canada** – Royal Canadian Mounted Police

the top 10%. Now everyone else, go back and find the missing F's. When you are ready, continue.

Many of you will continue to miss letters. This is normal. Here is a hint: count the number of times you see the word "OF" and then recount the letter F, you will likely see all six now.

This letter F exercise is a metaphor for the complexity and the many facets of a sexual assault investigation. Thanks to social and scientific advancements, most clues are now right in front of us, but we have become conditioned not to see them. Until the 1980's, partner abuse was either treated as a family matter rather than a crime or not recognized as being different from any other type of assault. It is the same for sexual assault investigations. There are many aspects that can easily be overlooked. Perhaps it is good that we have finally started to notice errors in the system. Now that we are starting to connect the dots, it is important for victims who may have hesitated in the past to feel comfortable in coming forward.

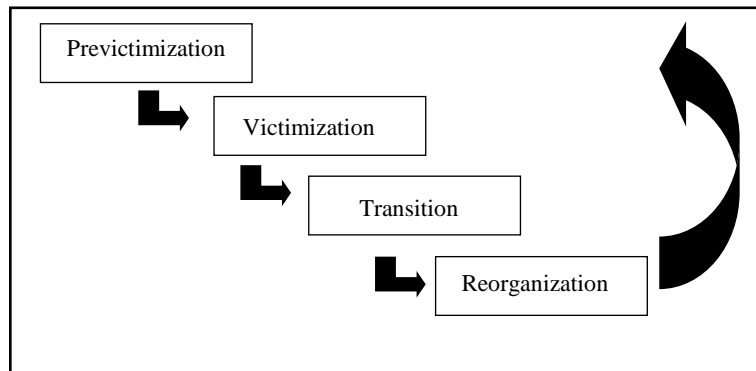
There are three basic requirements that will help improve sexual assault investigations: (1) development of clear policies for proper handling of sexual assault crimes; (2) training for officers on management of sexual assault investigations and police service policy; and (3) development of supervision protocols and accountability systems to ensure that all parties involved act in accordance with policy and training guidelines (US Department of Justice, 2015).

This report is for a generalist police audience and identifies what officers should know according to experts, including the results of a national CACP call for feedback (hence forth CACP responses or respondents). The primary goal is to improve the quality of investigations, prosecutions and post-incident recovery of sexual assault victims. This information can be utilized by first responders and investigators for training or as a resource to confirm that pertinent information has been effectively documented. This report begins with a brief theoretical discussion on the general process of victimization and recovery and then proceeds into an in-depth discussion on the cognitive and physiological response to trauma. How the brain reacts to a highly stressful event must be acknowledged by police in their investigation. Advances in cognitive neuroscience and clinical psychology have upended conventional notions about sexual assault victimization. Understanding the human response to trauma means that officers can be better prepared to interpret unusual and unstable reactions.

GENERAL PROCESS OF VICTIMIZATION AND RECOVERY

According to Casarez-Levison's (1992) straightforward and often cited model of victimization and recovery (Hill, 2009; Pagliaro, 2009; Sungi, 2017), people move from being a member of the general population to being a victim to becoming a survivor. She indicated that people move through four conditions (see Figure 1): 1) Pre-victimization – life as normal; 2) Victimization – the incident (crime or event) takes place; 3) Transition – the individual begins to cope with their victimization and gradually stops fixating on the incident; and 4) Reorganization – the individual is able to cycle back to a pre-victimization state.

Figure 1. The Process of Victimization and Recovery (Casarez-Levison, 1992)



Depending on a number of variables (e.g., time, severity of injury/loss, support networks, positive vs. negative coping strategies) the length of time it takes for victims to return to a pre-victimization state can vary and the process is not always smooth (Hill, 2004). Many crime victims experience a general return to a pre-victimization state in days or weeks, but this is difficult to generalize (Hill, 2009). However, when mapping the progress of sexual assault victimization and recovery, there is significantly greater potential for increased suffering, hardship and prolonged recovery at every stage.

Sexual Assault Pre-victimization: The pre-victimization stage focuses on the victim before the sexual assault, taking into account the victim's personality, appraisals (e.g., coping potential) psychological defenses (e.g., denial, regression), history (e.g., health, previous illness), goals, sexual differences, and likelihood to engage in violence (Pagliaro, 2009). In this stage, victims are living their normal ordinary lives before becoming victimized.

Sexual Assault Victimization: In this stage of Casarez-Levison's model (1992), the individual has been victimized. For sexual assault incidents, the trauma is widely accepted to be severe. Those who have reported being sexually victimized have been found to experience significant mental health issues, physiological symptoms (e.g., headaches, sleep disorder, gastrointestinal ailments) and as many as half of sexual assault victims will develop Post-Traumatic Stress Disorder (PTSD) (Alberta Government, 2013; Ullman and Peter-Hagene, 2014; Au et al., 2013) and/or depression (Au et al., 2013). In addition, those dealing with sexual assault victimization must deal with a chronic misunderstanding of their situation. They often feel dehumanized, blamed and disbelieved (Hattem, 2000; Tomlinson, 1999). Victims often report being re-victimized by a system that fails to understand the reality of sexual assault.

Sexual Assault Transition: Making sense of sexual assault victimization is challenging because victimization often concerns an immutable characteristic of the individual (e.g., gender, race, disability, age) that they have no control over. In contrast, when a bank teller is robbed, they can rationalize the event as being due to luck; they happened to be the random gatekeeper between the robber and the cash. It was not a personal attack and the teller can change jobs if necessary. However, a person who was sexually assaulted because of their gender, race, disability, or age cannot hide or quit those defining features that contributed to their

victimization. Furthermore, the conversion process from the transition stage to the next stage (i.e., reorganization) can easily become derailed through secondary victimization, which occurs when friends, family, confidants and service providers unintentionally exacerbate the situation or fail to adequately respond to victim needs (Littleton, 2010; Campbell and Raja, 1999; Ahrens et al., 2009; Richardson, 2010). This can be caused by officers treating the incident as if the victim is at fault and must justify the complaint, by using inappropriate words, body language or applying a homogenized investigative standard when the situation warrants a customized one. The high number of “regrets” (i.e., those who report a sexual assault and have a change of heart about continuing with the prosecution) demonstrates that the system needs to be improved (CACP responses).

Sexual Assault Reorganization: For this stage of Casarez-Levison’s model (1992), victims focus on rebuilding themselves and normalizing their life. For sexual assault victims there are many roadblocks along the way to this state. Feeling disbelieved, discredited, or discounted, sexual assault victims may find it difficult to reorganize so they may continue to cycle through the recovery process unless provided effective psychological assistance and counselling. It is not uncommon for victims to feel betrayed by the system meant to protect them (Siu, 2017). To begin correcting this perception, there needs to be an understanding of how a sexual assault victim’s brain has been affected by trauma.

PSYCHOLOGICAL AND PHYSIOLOGICAL EFFECTS OF TRAUMA

When a sexual assault victim files a police report, officers may believe that what the victim says did not seem to make sense or it sounded like there was an alternative motive. The way the victim acts may be described as “suspicious”². Meanwhile psychologists, sexual assault advocates, and crisis centre staff accept more readily that there is a wide array of responses to trauma. In short, a victim’s “suspicious” responses make perfect sense to them. What police interpret as inconsistent or fabricated, psychologists attribute to trauma and they bring an enormous amount of hard data to explain the root causes of what may seem to others as odd behaviours. Indeed, behavioural neuroscience and cognitive psychology can scientifically explain why victims act the way they do. The challenge then becomes harnessing this knowledge for the criminal justice system.

It is hoped that some of the police officers who are reading this will recognize that some of their first glance observations are incorrect. Some readers may even recognize how jumping to early conclusions creates a cloud of suspicion around the entire investigation and reinforces sexual assault myths and stereotypes that compromise an officer’s ability to ascertain the facts. The goal is for police officers to conduct open-minded investigations that are full, complete, and impartial. Many police officers find victim behaviours suspicious and even indicative of deceit. Fortunately, the scientifically proven effect of trauma offers a credible explanation for why this happens among sexual assault victims.

² Some investigators believe that they can identify innocent or guilty people based on behavioural cues that can be observed during an interview. Some of these cues can be facial expressions, eye contact, posture, and hand gestures (Moore and Fitzsimmons, 2011).

When a victim reports a sexual assault, it is not uncommon for them to have to describe events multiple times and in excruciating detail (e.g., to a confidant, to the initial responding officer, to the investigator multiple times, etc.). Talking about such violations of one's body and dignity is very difficult and can manifest in a disjointed, disorganized account. Officers frequently attribute these starts, stops, and disordered recounting as suspicious. They wonder why victims recount the experience in a non-linear way or why victims often remember minor things in great detail, but are unable to remember crucial facts. Officers who rely on their standard training tend to go back over the story again and again and try to hone the details. This experience can be very difficult for sexual assault victims and can lead to secondary victimization. The simple explanation for why the victim is not making sense is *trauma*.

It is important to understand what trauma is and how a traumatic event gets processed by the brain. For decades, psychologists have been studying the brain and there have been tremendous technological advancements that now allow it to be imaged with increasingly refined precision. It is possible to now see what areas of the brain are activating when an individual experiences different emotional events such as fear. In fact, a systematic review and analysis of 13 studies that used magnetic resonance imaging (MRI) to examine traumatized victims found significant physiological differences (i.e., smaller left hippocampus) between individuals who have been exposed to substantial trauma in comparison to well-matched control subjects who had not (Smith, 2005). In layman's terms, trauma changes the physical structure of the brain.

We know that when a human being experiences an intensely threatening terrifying event, there are dramatic changes to how the brain functions (Haskell and Randall, 2019). The most fundamental changes compromise core cognitive capacities, such as the ability to think, reason, plan and control emotions. Psychological and physiological changes in traumatic situations are activated by the sympathetic nervous system (SNS). The SNS is triggered involuntarily and discharges a large amount of stress hormones (e.g., adrenaline, noradrenaline, and cortisol). The discharge causes increases in arterial pressure, increased blood flow to large muscles, vasoconstriction of minor blood vessels, changes to the physiology of the eyes, and cessation of the digestive system. In non-stressful conditions, the brain's ability to process information and respond appropriately is managed quickly in the neocortex, which is the area of the brain responsible for higher functioning. But as stress increases, the neocortex's ability to process information slows down and rationale decision-making becomes impaired.³ When someone perceives a deadly threat that is within close proximity, and they have no ability to get out of harm's way, this normally leads to a state of hypervigilance or an enhanced state of sensory sensitivity for the purpose of detecting activity. Hypervigilance is further manifested in several different ways: fight, flight, fixation, and submissive behaviour (Bracha, 2004; Pflugshaupt et al., 2005; Weeks et al., 2011).

To illustrate, let us imagine the different experiences of two rookie officers on their first day on the job. Rookie A has a very challenging day. On her first radio call she gets into a shootout and her core capacity deteriorates very quickly. She experiences tunnel vision, auditory exclusion,

³ This is why Tactical Units and Special Forces teams train to habituate members to traumatic stimuli so they will not become compromised when confronted with a stressful event.

time distortions, loss of fine motor skills, and impaired cognitive functioning. She no longer processes things in context or sequence. Rookie B met her supervisors, took some routine calls and did nothing especially remarkable, but because the first day on the job is special for everyone, she remembers many events vividly and often in chronological order. In non-stressful conditions the brain's ability to process information and respond appropriately is managed quickly in the neocortex, which is the area of the brain responsible for higher functioning. In the case of Rookie A, as stress increases, the neocortex's ability to process information slows down and cognitive functioning becomes impaired. The following day, Rookie A is treated with kid gloves because the other officers understand why she is having difficulty dealing with the trauma of what happened. A sexual assault victim should receive the same understanding as Rookie A.

When the brain is subjected to trauma, rather than remembering and encoding experience in the standard way, experiences are organized in the memory on a non-verbal and perceptual level and is usually encoded in the form of intense sensory fragments, such as sights, sounds and smells (Van der Kolk, 1998). A person who suffered a serious car accident may later experience a strong reaction to a screeching sound, a flash of light, or the smell of gasoline. The brain encodes the event as intense memory fragments. Because the brain has been bombarded by a variety of neurotransmitters (i.e., chemicals in the brain), most people have a great deal of trouble remembering the event as a sequential, fully contextualized event. Instead they may have a jumble of intense fragments and may not be able to remember things in sequence.

In addition, during traumatic experiences people experience a significant narrowing of consciousness (Van der Kolk, 1998) that sometimes evolves into a dissociative amnesia of the experience. The *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V)* refers to dissociative amnesia as the "inability to recall important autobiographical information, usually of a traumatic or stressful nature, that is inconsistent with ordinary forgetting" (American Psychiatric Association, 2013, p. 298). A traumatic event can cause someone to forget something that would ordinarily be remembered.

Memory loss is a cardinal characteristic of severe trauma and the regulation of memories. Post-traumatic stress research with combat veterans has demonstrated clear evidence that memory is affected by trauma and varies between short-term verbal memory deficits (Bremner et al., 1993) to deficits on retroactive interference (e.g., new memories interfere with previous memories) and recall (Yehuda et al., 1995).

This has important implications for how we deal with victims of trauma, in particular sexual assault victims. Thirty years ago, officers may have read about ways to detect deception in their interview and interrogation textbooks, and likely would have learned that an unpracticed liar can be caught through simple investigative questioning. Today, we know that trauma affects the brain's ability to organize, store, and express memories, which can be mistaken for deception. Officers must be sensitive to these issues. They need to gather information that is directly relevant to the case and be more understanding that a victim may not provide consistent statements for events linked to their trauma. Sexual assault investigators are recommended to explore a victim's memory using sensory components of the incident. They

can ask what the victim heard, felt or smelled (as opposed to relying on a sequence of events) to hopefully obtain more accurate information.

Since people encode traumatic experiences in fragments, officers are encouraged to re-consider how they conduct the interview. Rather than saying, "I want you to tell me what happened from the beginning", ask sensory based questions. For example, an investigator can ask, "Where on your body did you feel a sensation, pressure, or pain?" or "Tell me everything you remember about what you could smell." A victim may remember an odour of a deodorant and it may be so vivid that the victim could identify the brand resulting in potentially crucial forensic information (Lisak, 2013).

The scientifically proven effect of trauma explains why sexual assault victims behave a certain way, but nuances are still being researched. For instance, experts still cannot determine why some victims react one way and others respond another, or how this manifests in terms of a police interview, a sexual assault medical exam, and so forth. Complicating this is the fact that in the vast majority of other criminal investigations, detection of abnormalities is a good indicator of deception, but not necessarily when it comes to interviewing a victim who has been exposed to trauma.

To further complicate the investigative process, sexual assault victims may provide answers even when they are not sure because people naturally want to create a favourable impression. This is known as 'social desirable responding' and adds to the complexity of the psychological factors involved in an investigation (Heaton-Armstrong, Shepherd, and Wolchover, 1999). Investigators are recommended to exercise patience while victims piece together their traumatic memories. If a day or two goes by and the victim is again asked the same questions, it is not uncommon for the answers to change because the memories were not properly consolidated in the first place. A serious problem in sexual assault investigations occurs when everything is documented, inconsistencies are noted, and officers conclude that the victim's answers and explanations are suspicious, vague, or deceitful.

Consequently, experts and victim advocates call on police to consider that the standard interview they conduct may be inappropriate for traumatized victims. It is important for frontline responders, investigators, managers, crown attorneys, and judges to understand the dynamics of trauma and memory, a topic they may have never questioned in the past.

VICTIM REPORTING AND INVESTIGATIONS

Critics argue that inadequate police training, dated interviewing techniques, and the persistence of rape myths adversely affect reporting rates and victim confidence in the criminal justice system (Doolittle, 2017). A growing body of research has revealed the complex nature of sexual assault victimization and how this can lead to a misinterpretation of victim reactions,

body language, and statements. These are just some of the reasons why treating sexual assault cases the same as other assault investigations is problematic.

Interviewing with Compassion

The keys to any interview or investigation are empathy, compassion, and developing rapport. Research confirms that the most effective way to get accurate information is to build a rapport with the subject and gain the person's trust (Holmberg, 2004). When this happens, people are more likely to remember and disclose higher quality and more complete information. Some law enforcement people see their role as a neutral fact gatherer, which is accurate, but the question becomes how do you best gather those facts?

The best interviewers are interpersonally competent and skilled at building rapport (Hoare, 2000; Abbe and Brandon, 2014; Vallano et al., 2015). Rapport is a key element in obtaining information (US Department of Justice, 2008) and demonstrates to victims that they are respected and being taken seriously. In general, rapport consists of three core components: (a) mutual attentiveness, (b) feelings of mutual friendliness and warmth, and (c) harmony of interaction (Tickle-Degnen and Rosenthal, 1990). A large study involving 432 victims of crime (including 52 victims of sexual assault and 72 victims of aggravated assault) by Holmberg (2004) found marked differences in victim admissions when investigators used a dominant style of interviewing (i.e., victims' perceptions that the interviewers rushed them, they were aggressive, abrupt, unfriendly, demonstrated little interest, disapproved, and held condemning attitudes) versus a humanitarian style (i.e., victims' perceptions that the interviewer displayed empathy, personal interest, engaged in personal conversation, they were positive, helpful, cooperative, obliging, and friendly). The importance of Holmberg's results is twofold: (1) for the humanitarian interview style there was a statistically significant correlation between feelings of being respected and providing all information available in an interview; and (2) for the dominant style of interviewing there was a statistically significant correlation between the dominant interviewing style and omitting information.

Similarly, a rapport-building approach works on witnesses and suspects. Individuals accused of an offence may mentally brace themselves for a hard-nosed interview, but be less prepared for a professional who uses a rapport-based interview technique. It is important to remember that to be an effective fact gatherer, officers do not have to be robotic. In many cases, being warm, empathic and compassionate yields more information than an adversarial or dominating approach. It is not only more effective to use the humanitarian approach, it is also less likely to cause re-traumatization.

Officers should be compassionate when discussing sensitive issues, such as the need to test for sexually transmitted infections, the potential for pregnancy, or recent consensual sexual activity.⁴

⁴ Just as victims suffer, police too can easily feel the effects of dealing in a fast paced, high volume environment in which decisions happen in real time and often with incomplete information. Becoming desensitized and

Interviews are difficult because they routinely involve intimate, intrusive and disturbing details which are both difficult to disclose and to hear. As an effective, compassionate investigator, officers will want to minimize stressors and instill trust in the criminal justice system. A victim's first contact with police can make or break a case. Only a small percentage of victims formally report to the police, and usually after a delay (Herman, 2003).

Often officers will ask victims why they did not report the incident faster, but this line of questioning is in most part not recommended. Research suggests that victims often weigh the costs against the expected benefits for reporting the crime (e.g., safety vs. the predicted length of incarceration time; public embarrassment vs. retribution). Influence from friends and family as well as fear of potential stigma may affect whether a victim reports an incident of sexual assault.

Officers need to remember that low reporting rates and delays before reporting are indicative of the high stakes of first contact. The cliché "you never have a second chance to make a first impression" is never so true as with sexual assault victims who are recounting their most personal and traumatic experience with a complete stranger. How that officer engages verbally (e.g., the type of questions being asked) or non-verbally (e.g., eye-contact, tone of voice, inflections, etc.) with the victim can influence the victim's decision to go forward with the case. An officer needs to make sure that the victim understands that they are being taken seriously. Since law enforcement has a monopoly on this service, victims cannot shop around at a big box store or alternate franchise for better treatment. Police officers must get it right.

Victim Needs vs. Winning the Case

Start with the premise that the victim's needs are more important than winning a case. The safety and welfare of the victim is of paramount concern at all times and takes priority over evidence gathering or making a case. For example, an investigator may have to allow a victim time to make personal decisions about how to proceed with their cases, which can result in essential DNA evidence being lost. Next, victims have a right to accept or decline all services without negative consequences. Do not pressure the victim to make any decisions regarding participation in the investigation or criminal justice process. Lay out the options and document any information the victim shares. Victims (and their support person if applicable) should be helped to recognize that the role of the police is to conduct an impartial investigation, which means gathering, evaluating and processing information or evidence. If a medical sexual assault kit is required, provide the victim with locations, and as permitted by internal policy, offer to transport them. Attendance is at the discretion of the victim who should be made aware that physical evidence breaks down quickly and can be lost entirely with a delayed exam. Pressuring a reluctant victim to sign a form or duty book to absolve the police of responsibility is also poor practice. Help victims regain control and this can mean allowing them to pick where and when

experiencing workplace burnout are very real risks for sexual assault investigators and was a concern identified by some of the CACP respondents.

to hold an interview, bringing an advocate or support person, and even allowing them to terminate further investigation.

Understanding what questions to ask and in what way to ask them will help produce solid information that investigators can rely upon while minimizing artificially created problems. A key role for law enforcement in the initial interview is to give victims time and space to let it come together. This means changing the way police conduct the interview. Accept that a quality interview takes longer and gaining access to sensory information can be drawn out. There is emerging evidence that people who are involved in traumatic experiences should be permitted to sleep before an interview because it is beneficial for helping people remember and integrate certain facets of an incident more efficiently (Kleim et al., 2016). Some police agencies have recognized the value of sleep and memory and subsequently allow officers in police shootings to go through a sleep cycle before being interviewed intensely (Lisak, 2013).

Making concessions are challenging logistically, legally and in terms of process. For instance, an officer may wish to conduct an interview using the department's distraction-free environment (e.g., an interrogation room), but this type of sterile room may not be consistent with victim's wishes (CACP responses) and cause them to recant or decline prosecution. Consider also how the KGB⁵ statement warning gives victims the impression from the beginning that they may not be believed and even be subjected to criminal charges (CACP responses). This is not to say a KGB warning in an interview should be discontinued; if they are used in sexual assault investigations, however, officers are recommended to articulate the positive benefits of making use of this type of methodology to the victim so that they do not feel threatened or intimidated.

Police services may wish to adopt techniques to increase personal space between themselves and the victim where they may not be able to manage the stress of a traditional face-to-face interview. For example, investigators can consider conducting interviews through video conferencing (e.g., Skype). The use of 'soft rooms' for interviewing victims, which are less daunting, is also growing in acceptance. Likewise, a support person can be a terrific ally, or introduce unexpected variables. For instance, some victims may find strength from a friend, but still not want to reveal all the details in front of someone they are close with or who holds a position of power. In any event, an officer's role is to clearly lay out the benefits of proceeding using police resources and comply with their wishes.

Sexual Assault Investigative Approaches

The cognitive interview (CI) is a method of interviewing eyewitnesses and victims about what they remember from a crime scene (Geiselman and Fisher, 2014). It is designed to minimize both misinterpretation and the uncertainty that is otherwise seen in the questioning process of traditional police interviews (Memon, 1991; Memon 2006; Memon et al., 2010).

The cognitive interview protocol is typically divided into several key sections. First, the interviewer establishes a relationship with the subject. The social dynamics are explained and a

⁵ KGB statements originated from a 1993 Supreme court case, *R v B(KG)* and defines when recanted statements can be used in the court process (i.e., the statement is made under oath and it is videotaped in its entirety). *R v B(KG)*, 1993 1 SCR 740.

victim-centered approach is emphasized. The victim (or witness) is provided an opportunity to give an uninterrupted narration of the incident. Based on the content obtained from the uninterrupted narrative, the witness is encouraged to remember scenes, images, smells, tastes, and other rich sensory memory representations. Near the completion of the interview, the information is reviewed and the interview is closed in such a way to improve memory. For example, investigators will advise victims that they will reach out to them again in a couple days to ask if they can remember anything else or encourage them to call if they remember anything new, which is especially important for traumatized witnesses.

The cognitive interview is one of the most recognized and successful interview techniques in the field of psychology and law. In the last 25 years, there have been over 65 studies published on this technique. A recent meta-analysis by Memon, Meissner, and Fraser (2010) identified the cognitive interview as an effective interview method. Their meta-analysis examined peer-reviewed journals where subjects completed verbal recall of an event and compared recall to participants who received a standard interview, structured-interview, or a free recall task (i.e., control interview). In total, there were 2,887 participants from 46 research articles who demonstrated a substantial increase in recall of correct information when the cognitive interview was used in comparison to a control interview. However, only a small number of these studies included police and civilian witnesses, and in a few instances, additional incorrectly recalled facts were noted.

A real-world example provided by Geiselman and Fisher (2014) highlights the importance of closing the interview in a manner that extends the possibility of obtaining new information:

In one such real-world case described to us recently, a traumatized witness experienced a delayed recollection of a box outside her apartment that had not been there prior to a home invasion. The subsequent latent print analysis of the recovered box revealed the identity of one of the intruders/murderers. (P. 8)

The aim here is not to provide prescriptive interviewing rules but to offer viable approaches for consideration. A complete step-by-step approach of the cognitive interview can be found in *Investigative Interviewing: Handbook of Best Practices* (Geiselman and Fisher, 2014). According to Geiselman and Fisher the cognitive interview (CI) remains somewhat flexible throughout the interview process. Typically, the interview guides the victim through memory records that are the richest and most relevant beginning with open-ended questions and then narrowing further towards specific probing questions. There is no set protocol for the CI because it is more of a general guideline and collection of techniques than a prescriptive recipe on how to conduct an interview. According to Geiselman and Fisher, key ingredients of the CI are:

- A. *Rapport* – Comfort with the victim is key. Interviewers are recommended to remove psychological barriers when possible, engage in rapport building conversations, and acknowledge the potential impact on the victim.
- B. *Transfer Control* – The victim is the subject matter in their own experience, the victim leads the interview, and the interviewer contributes 20 percent while the victim contributes 80 percent.

- C. *Detailed Recall* – Witnesses state everything whether relevant or not, their statement does not have to be chronological, and they should be told not to guess.
- D. *Open-ended narration* – The victim is asked to return to the time and place (i.e., reinstatement), the witness is encouraged to recreate external factors (e.g., the weather, building type), emotional factors (e.g., fear), and the cognitive factors (e.g., thoughts) associated with the event. Also, the open-ended narration is uninterrupted.
- E. *Follow-up questions* – Encourage victims to describe rich sources of information first (e.g., mental images).
- F. *Principle of Detail* – Address the richest scene first, encourage victims to sketch scenes, and address each scene independently. Try not to talk over victims while they are speaking and do not appear motivated to ask a question before the victim completes their answer. Furthermore, ask questions in different ways to probe memories that may be linked to their senses.
- G. *Principle of Momentum* – Ask all questions that are relevant to each scene before moving on.
- H. *Multiple and Varied Recall* – Consider using a reverse-order technique to help generate information after the forward narrative report is complete. Consider requesting the witness to describe the event from the perspective of another person.
- I. *Review* – Clarify uncertainties, discrepancies, read notes back to witnesses, correct errors, add omissions, point out ambiguities and discrepancies in a non-challenging way, and seek clarification.
- J. *Close* – Complete official administrative questions, thank witnesses for cooperating, and encourage witnesses to contact the interviewer if he or she recalls anything new.

Another promising, but not evidence-based interview method for sexual assault investigations is the Forensic Experiential Trauma Interview (FETI), which was introduced in 2010 by retired US Army Special Agent Russell Strand. The FETI is suggested by Blake (2017) to be an improvement on the methods of the cognitive interview because of its focus on trauma. The FETI approach begins with acknowledging that the victim's experience was very traumatic. Interviewers do not dwell on the sequential order of the events and suggest asking victims what they can remember. Interviewers are further recommended to avoid asking when, where, and why questions because they sometimes imply guilt and lead to distress of the victim. High yield questions ask what was the most difficult part of the experience was or ask the victim if there is anything he or she cannot forget (Preston, 2016). In addition, there is a focus on the victim's emotional experiences (Blake, 2017). A literature search was conducted to review any research on the FETI approach within standard scientific peer-reviewed journal databases (e.g., PsycARTICLES, PsycINFO, and Academic Search Premier). Unfortunately, no published peer-

reviewed journal articles were found evaluating this approach or comparing it to other methods. Further searches were also conducted on Google Scholar (a more robust database) with the same results. The FETI is a promising interview method, but there is a lack of empirical or scholarly support for this technique and at this point in time should be viewed with caution until an adequate amount of empirical research has been conducted.

Yet another promising strategy is a hybrid method combining elements from two interview approaches (e.g., cognitive interview and traditional interview). Hirn, Fisher, and Carol (2012) have shown that a hybrid interviewing technique can yield information than more direct investigative methods. As of yet, the hybrid approach still requires additional research to corroborate whether these results can be consistently achieved.

Documentation and Note Taking

A victim's reluctance to participate is neither indicative of a false report, nor a reason to forgo a thorough evidence-based investigation. According to the 2014 General Social Survey on Canadians' Safety (Victimization), 30% of victims did not want other people to find out about their victimization, 12% were concerned that it would bring shame and dishonour to their families, and 43% do not report because they did not believe there was enough evidence to prove a case (Perreault, 2015). Every reported sexual assault should be documented using an assigned case number. Some incidents may not meet the criteria for a criminal offence, but documentation will preserve information, afford potential pattern identification for crime analysts (e.g., documentation could help reveal serial offenders) and the visible process of documentation demonstrates to a victim they are being taken seriously. Information can provide vital data for crime analysts and can be re-examined if new information surfaces even when the victim does not wish to pursue charges.

An evidence-based sexual assault investigation requires an accurate report and detailed note taking in the field. Detailed notes can be critical in ways a first responder might not immediately recognize. They not only demonstrate to the victim they are being taken seriously, they capture details necessary to establish elements such as grooming, premeditation, coercion, and threats. Accurate notes with precise details (e.g., specific information about the scene, diagrams, clothing, sounds, odour, accent) are crucial to reconstructing a victim's statement and can include sketches and diagrams.

Research shows that while officers' notes are often accurate, they are at most times incomplete because they rarely document the officer's questions and utterances, thus, relying almost entirely on the witness' responses. Including a more accurate account of the field interview creates a clearer picture of the actual interview content. A full representation of the field interview questions assists the court and later investigations in developing a more accurate understanding of how the victim's responses were initially elicited and minimize the potential risk of appearing to purposely filter out significant information from the interview. So, while frontline officers require flexibility in how they document information, they also need to weigh how every detail can be used (Gregory et al., 2011).

A standard police report will document the basic information (who, what, where, when, and why), but should also record a victim's physiological and psychological state before, during, and

after the incident to help identify any trauma-based reactions such as PTSD or Acute Stress Disorder⁶. Timelines are effective for demonstrating trauma, especially when post-assault behaviour contrasts with a victim's previously established lifestyle. Officers should therefore chronicle deviations in daily routine, the purchase of security measures, weight loss/gain, changes in relationship and work status, and psychological treatment. Officers need to note the victim's condition as observed (e.g., cuts, abrasions), as well as their emotional state, and other nonverbal indicators (e.g., hand wringing, clenched jaw, intense crying, rocking back and forth). It would be beneficial to ask victims what they thought, felt and feared at the time of the assault. As well, document what the victim experienced before, during, and after the sexual assault. Senses are also a powerful trigger of memory fragments, remember to document what the victim saw, smelled, tasted, heard or felt during the incident.

Reactions to trauma are not all the same and a thorough investigator will capture this in their report. For example, the victims may describe feeling unable to move, being speechless and only able to look away or close their eyes. These would all be important clues in establishing a fight, flight, or freeze reaction and helpful for establishing the legal argument that silence is not consent. Physical "proof" of the victim's subjective state of non-consent is often very difficult to attest to.

Difficulty in remembering details, timelines and blackout periods are not uncommon and can be the result of trauma, alcohol, drugs or a combination of some or all of these things. With the passage of time, trauma may recede and details can emerge. Scheduling a follow-up interview two or three days later could be beneficial as a sleep cycle can enhance recall. Adding an intentional delay generally enhances the quality of information received and is less taxing on a victim's state of being (Lisak, 2013). Investigators must balance this delay against exigent circumstances, such as for suspect identification or to collect physical evidence, which may deteriorate quickly.

Victims may disclose information that does not present them in the best light. Officers can and should be compassionate without passing judgment. Avoid sanitizing unflattering or profane statements and instead document verbatim statements in quotations. Victim memory lapses are normal and sometimes may be triggered by trauma, other times by drugs or alcohol, mental illness, handicap, or some other reason. Avoid filling in gaps for them. Altering a statement may jeopardize a case and bring an officer's credibility into question. Likewise, the words and expression an officer uses to document events in a report can amplify or minimize an incident.

⁶ According to the DSM-5 (2013) Acute Stress Disorder is caused by exposure to actual or threatened death, serious injury, or sexual violation and can result in nine or more of the following symptoms. These symptoms are:

- (1) **intrusion symptoms** - recurrent, involuntary, and intrusive distressing memories, dreams, flashbacks;
- (2) **negative mood** – persistent inability to experience happiness, satisfaction, love;
- (3) **dissociative symptoms** – altered sense of reality, seeing oneself from another perspective, being in a daze, inability to remember important aspects of the traumatic event(s);
- (4) **avoidance symptoms** – efforts to avoid distressing memories, thoughts, or feelings closely related to the traumatic experience, efforts to avoid external reminders of the experience; and
- (5) **arousal symptoms** – difficulty sleeping, irritable behavior, angry outbursts (verbal or physical), hypervigilance, difficulty concentrating, an exaggerated startle response.

Symptoms may persist for a minimum of 3 days and up to one month. Higher rates of acute stress disorder (20-50%) are found following interpersonal traumatic events such as rape, assault, and witnessing mass shootings.

For instance, if the victim was incapacitated because of voluntary drug or alcohol use, an officer's description could document this as either an issue of increased culpability or vulnerability. Documenting "they had sex" implies consent, whereas "he forced his penis into her vagina as he pinned her shoulders with his left elbow" denotes force and a lack of consent. Consider the impression that an officer creates by writing the victim "regretted having sex" or was "promiscuous". An officer's role is to precisely document with a high level of detail. As opposed to rephrasing what was said, interviews or statements should incorporate the victim's words, spontaneous statements, and narratives as much as possible (US Department of Justice, 2015; Missoula Police, 2013).

If force was used by the perpetrator, this needs to be carefully documented as force can take many forms, such as overt, implied, subtle, or threatened. If a consensual encounter turned non-consensual, the victim should be asked to describe how and when the perpetrator's behaviour changed. For instance, documenting that the perpetrator "threatened me" is less descriptive than indicating specifically how this occurred (such as how a weapon was held, the suspect's tone, their expression and gestures, and specific comments).

Officer presence is an integral part of the Use of Force continuum because it can defuse the situation or cause an offender to surrender (National Institute of Justice, 2009). Victims may also freeze or surrender out of fear. Recall the discussion on the sympathetic nervous system? The perception that one has of a deadly threat; that is within close proximity, and has zero ability to get out of harm's way, can lead to a state of hypervigilance. Therefore, if a victim submits to being sexually assaulted because of fear, there is no consent. This level of force (perpetrator presence) needs to be carefully noted to help establish why there may have been a lack of resistance to the sexual assault.

Suspect Interviews

The majority of incidents of alleged sexual assault reported to police involve suspects known to the victim in some capacity such as a casual acquaintance, a date or an intimate partner. Recent Statistics Canada findings reveal that 87% of victims/survivors knew their assailant, while 13% did not (Rotenburg, 2017, 14). This makes identification straightforward, but does not mitigate the need to gather as much evidence on the suspect as possible. Historically, and incorrectly, too little focus has been on the suspect, and too much on the victim's character, behaviour or credibility.

Should a suspect invoke their right to remain silent, investigators will still need to continue gathering evidence and preparing for possible defence strategies. Many suspects will provide accounts to justify their actions. Carefully collect all available evidence, including an electronic-based evidence. In some cases securing a court order for forensic examination may be required.

Sexual assault cases may be portrayed as "he said/she said," but thorough investigators are often able to reveal patterns and a history which corroborate "he said/*they* said" behaviour. Previously unreported offences may be found by interviewing the suspect's social circles, current, former partners, and electronic footprints. All can shed light on patterns that range from the role of alcohol and drugs to stalking. Remember that sexual assault may also be only

one of a cluster of crimes. Theft, property damage, administering an illegal substance, stalking, and domestic abuse are all possibly linked offences.

An assailant may pick their victim because they feel they would be an unreliable witness. Age, disability, culture, and language are among the numerous factors that may influence a predator's selection. Consequently, members of certain vulnerable groups can be disproportionately victimized. When investigating sexual assaults, be aware of why a predator might select, test, isolate, or groom a victim and whether this might make the victim appear less credible and more vulnerable. Indigenous people (Odette, 2012), those with a disability (Perreault, 2015), people dealing with addictions, sex-trade workers (Lowman, 2000), lesbian, gay, bisexual (Beauchamp, 2004) and transgendered individuals, minors and seniors are all at elevated risk. When documenting your report, keep in mind that not all disabilities are visible, for instance, developmental disabilities may make a victim vulnerable.

Phone and GPS records, posts, recordings, photos and deleted files can all serve to corroborate or call into question specific details. Open Source Intelligence (OSINT) is the term for using unclassified electronic data for investigative purposes and involves the collection, processing, analysis, production, classification, and dissemination of information derived from sources openly available and legally accessible to the public. For example, it is not uncommon for sexual assault offenders to brag online about their encounters (AFP, 2016; Gillis, 2013; Steward and Dennett, 2014). Text messages, images, and witness statements that corroborate or refute a victim's charges are routinely available through OSINT. The challenge for investigators today is no longer "connecting the dots," but organizing the information flow, distinguishing between signals and noise, and validating sources in a timely manner.

False Allegations and Fabrications

There are always people who are concerned about fabricated stories. Officers who launch an investigation that turns out to be a false accusation often want to charge the wrongdoer with public mischief as there is a perception that fabricated sexual assault cases are commonplace. However, research shows that false allegations of sexual assault are rare, happening at a rate of between two and eight percent (Clark and Lewis, 1977; Kelly, Lovett, and Regan, 2005; Heenan and Murray, 2006). Yet, because of the behavioural similarities between a traumatized person and a deceitful person, there is the impression that this is much higher. For example, one CACP responding agency wrote,

False allegations have become a scourge and occupy an important place in the files to be dealt with. By remaining very conservative, we believe that more than 50% of cases received in adult sexual assault are false allegations... an alarming police reality.

Being falsely accused of anything can carry a lot of stigma. On the other hand, this concern must be placed into scale. Significant research shows that false and fictitious allegations account for a small percentage of the total number of sexual assault complaints and even the most generous studies put the number at no more than eight percent. The low number of false allegations also makes it hard to form generalizations about why an individual would choose to fabricate a sexual assault allegation. In such instances, officers are recommended to be

cognizant of motives, previous reporting of incidents, and existing court orders (e.g., child custody orders).

The number of false allegations may appear high because of dated investigative techniques. Asking someone to recount what happened, then circling back and asking them to tell the story backwards, or to tell the story starting from a different point for the purposes of determining if a person is lying can be highly inappropriate. This approach may be useful to test the story of someone not suffering the effects of trauma or for nabbing an unprepared culprit. But for individuals whose memories may have been affected by their traumatic experience, whether they are sexual assault victims or officers who were just in a gun battle, this style of questioning is a poor choice. A victim who has suffered trauma will likely have a diminished ability to answer questions. Applying a dated interview approach can easily raise suspicion about the genuineness of an allegation and ultimately contribute to ongoing sexual assault myths and stereotypes, including the perception that false sexual assault allegations are common place ... a “scourge”.

Administrative Coding of Sexual Assault Offences

Across Canada, officers and departments code sexual assault reports differently.

Over the past couple decades, victims/survivors and advocates have argued that far too many cases have been closed by police before a thorough investigation ever took place. A 20-month investigation by the *Globe and Mail*, consisting of data from 870 police services, found that one in five sexual assault allegations is dismissed by police as baseless (Doolittle, 2017).

Subsequently, many police agencies across Canada have started reviewing their unfounded sexual assault files to assess whether the investigations were properly handled, including any coding or scoring errors.

To ensure quality reports and enhanced investigations, the Police Information and Statistics Committee (POLIS) of the CACP, working with partners and independent experts, recently implemented changes to the Uniform Crime Reporting (UCR) Survey (CCJS, 2018). The result is a new standard for reporting founded and unfounded sexual assault incidents in Canada. Training on these new guidelines and categories commenced in 2018 and will assist officers with standardized and consistent reporting.⁷

No officer should rush to conclude an investigation. CACP respondents strongly endorse more time and resources to allow thorough, evidence-based, investigations led by specially trained

⁷ Since the completion of this report, the Canadian Centre for Justice Statistics has released several *Juristat* articles that fully describe the work that has been undertaken to develop new standards for classifying cases as unfounded or founded, along with training and annual reporting. See "Revising the collection of founded and unfounded criminal incidents in the Uniform Crime Reporting Survey." *Juristat*. Statistics Canada Catalogue no. 85-002-X. In addition, the CCJS released the first of what will be an annual release on founded and unfounded criminal incidents. See also Jacob Greenland and Adam Cotter. (2018). "Unfounded criminal incidents in Canada, 2017" *Juristat*. Statistics Canada Catalogue no. 85-002-X. In 2017, 14% of sexual assaults (levels 1, 2 and 3) reported to police were classified as unfounded. The report also notes that, "Overall, certain violent offences were more likely to be classified as unfounded by police, such as criminal harassment (27%), indecent or harassing communications (23%), and uttering threats (17%). In contrast, a lower proportion of incidents of robbery (5%) and extortion (5%) were deemed unfounded."

sexual assault investigative teams. Under no circumstances should a first-response officer decide whether a sexual-assault incident is unfounded or not. Officers who assess the veracity of an incident based on a victim's perceived reaction to the sexual assault are likely to make errors. As already established, the way a victim encodes traumatic information has been demonstrated to create memory gaps, unanticipated reactions, and disjointed accounts. Officers can easily mistake these legitimate reactions as indicators of deceit.

Reports that are later proved to be fictitious or vexatious are important to document and code correctly. They can be of significant evidentiary value should a similar situation arise, but they must first be carefully investigated. A thorough investigation of such cases reveals police transparency, professionalism, and can help expose patterns about why a victim may have chosen the actions they did.

In Philadelphia in the late 1990s, there were also high numbers of cases of sexual assault being classified as unfounded. The Philadelphia Police Department supported a culture where victims of sexual assault were not respected, they were frequently belittled, and their reports were ignored and cleared under a non-criminal classification code. An investigative report by the *Philadelphia Inquirer* found that the Philadelphia Police Department had coded thousands of reported rapes and other sexual assault-related crimes as non-criminal (Rape in the United States, 2010). After a comprehensive reform, a legal centre now reviews the Philadelphia Police Department's sexual assault files for deficiencies and biases. Sometimes the problems are easily-fixed clerical mistakes. Investigators are able to re-open cases with more significant concerns. If the problem reflects more on police behaviour during an investigation, such as an aggressive interrogation of a victim, the commanding officer may choose to take corrective action. This modernization has resulted in Philadelphia's number of unfounded cases plummeting to almost half the national average. A number of CACP survey respondents advocated for or already follow the Philadelphia model. Establishing a one-stop shop designed to both investigate and meet the special needs of sexual assault victims was also identified as a current best practice within the literature albeit one still in need of procedural clarity.⁸

Community engagement was likewise central and the cross section of different stakeholders most frequently identified for police pairing were the medical, academic, recovery/treatment, advocacy, family services, victim support and judicial communities. For instance, academic institutions were considered an untapped source for identifying emerging themes, patterns as well as the latest innovations in social science research and legal precedence. It was agreed that all stakeholders, including judges, should receive similar baseline training that is aligned with legal and prosecution ideologies. Some respondents cautioned that without multi-sectorial agreements, proper management and a sound evaluation component, promising partnerships can quickly deteriorate into window dressing for business as usual. This caution was echoed in the literature (Gaines and Wells, 2016) as were legal, operational and cultural obstacles associated with information sharing and individual privacy (Murphy and Fanslow, 2012).

⁸ See the Women's Law Project, at <https://www.womenslawproject.org/domestic-sexual-violence/> [Accessed 10 June 2019]

Sexual Assault Review Teams (SART)

Sexual assault happens both in rural towns and big cities. If first responders are from a small detachment they may be forced to shoulder additional responsibilities as the lead investigator. In such circumstances, the use of referrals and collaborations may be effective to ensure a robust level of expertise. The unique structure and organizational makeup of each police service inhibits a one-size-fits-all approach to collaborations. Consideration of factors such as multidisciplinary teams, oversight bodies, and the availability of police and community resources, geography and past practices, professional relationships and informal protocols are among the many variables that may have to be explored. Models of information sharing could serve as a starting point between police services and third parties endeavoring to work together. That said, it is preferable, and an industry norm, to have the first responder conduct a preliminary interview to gather sufficient information and evidence to reasonably determine if the elements of a crime are present. In-depth interviewing should be left to a specially trained sexual assault investigator who is part of a dedicated sexual assault team. Specialization has been found to increase the quality of investigations, enhanced victim care, and afford more focused service (Van Staden and Lawrence, 2009). As clearly articulated in CACP responses, effective response to sexual assault requires a coordinated and integrated effort from many professionals and social agencies.

The creation of a Sexual Assault Review Team (SART) made up of key stakeholders such as Criminal Investigations Division supervisors and Violent Crime Linkage Analysis System (ViCLAS) Coordinators is recommended by several of the CACP respondents. SART is a generic name for any team responsible for the review of all completed sexual assault investigations on a monthly basis to ensure they are complete, correctly classified with Uniform Crime Reporting and ViCLAS, and have reached a logical outcome. Transparency and community support can be further enhanced by ensuring that an investigator cannot approve their own file.

Given that policing is so dependent on good relations with community members, a number of Canadian police agencies (e.g., Calgary) who responded to the CACP survey have started to partner with external stakeholders or collaborated with community groups. One of the most promising joint initiatives involves having trained advocacy groups gain unrestricted access to sexual assault cases in order to independently audit random investigations for quality (e.g., the Philadelphia Model). In Canada, police appear reluctant to fully embrace the Philadelphia model due to concerns over privacy. In addition to having to navigate legislation dealing with privacy (e.g., Charter, *Privacy Act*, *Criminal Code of Canada*), there are a host of organizational hurdles around historical separateness, bureaucracy, and resistance to sharing knowledge that can be based on parochial interests, trust, competing needs for data, culture and a general opposition to divulging information (Sanders and Henderson, 2012; Kelty et al, 2013).

A collaborative response better ensures that the emotional, mental and physical health concerns of victims are addressed. A big part of the officer's role therefore is to provide the victim with access to specialized services at the earliest opportunity. Victims need time to digest every stage of the investigative process, therefore we recommend providing them with written contact information and referrals. It is unrealistic and a drain on emergency resources for officers to try to wear too many hats. The process of providing victims with access to victim

service programs is a viable, efficient alternative. By endorsing other specialty services, police officers empower victims by allowing them to take control and personally select from a host of local specialized services. These professionals have a thorough knowledge of the short and long-term impacts of sexual assault, effective intervention strategies, a strong understanding of the court process and access to immediate treatment options. Studies have also shown that while many victims will not take advantage of available resources, knowing they exist actually aids in recovery (Hill, 2009). In other words, just making them aware that a safety net exists may accelerate a victim's recovery. Therefore, officers should ensure that victims are aware of these services and be aware of victim advocacy and support organizations in their community.

VICTIM SUPPORT

Sexual assault cases are complicated and victims often face hardship, post-traumatic stress (Ullman and Peter-Hagene, 2014; Au et al., 2013), and depression (Au et al., 2013). They deserve timely, effective interventions that help them cope with their victimization and return to normal (Hill, 2004). Police have a duty to conduct a comprehensive, coordinated investigation, and to do so in the most compassionate and sensitive manner (RCMP, 2014; Winnipeg Police Service, 2007). According to the 2004 and 2014 General Social Surveys, the prevalence of sexual assaults has remained constant and in general, victims are unlikely to report that they have been sexually assaulted to the police (Conroy and Cotter, 2017). Mounting evidence suggests that police need to evolve in order to better serve citizens (Doolittle, 2017; Hill, 2004; Hitchcock, Holmes, and Sundorph, 2017; Sanders and Henderson, 2012). Strategies to ensure victims are listened to, treated with sensitivity and respect, provided accurate information, and given appropriate referrals are essential.

There are programs for victims of crime (e.g., provincial victim compensation schemes, victim-witness programs, counselling, shelters, rape crisis counselling) that they can access prior to speaking with police officers or afterwards, yet only a small fraction of victims use these services (Sims, Yost, and Abbott, 2005). In most provinces, there are rape crisis centres (e.g., Kalinin Community Health Centre in Winnipeg, Toronto Rape Crisis Centre, Prince Edward Island Rape and Sexual Assault Centre). Staff and volunteers focus entirely on sexual assault offences and they are up to date on applied best practices. Officers need to be fully aware of local resources and make every effort to provide victims access to them. Some services may include peer support counselling, as well as staying with the victim at the hospital, acting as a support person during police interviews, or sitting with the victim at court.

Canada is a multicultural nation and sexual assault may be difficult to address in some immigrant communities. When reporting does occur, often due to a third party, investigators may encounter unexpected hurdles around virginity, honour, and homeland values (Herman, 2003). Instead of aiding in recovery, family members can be especially judgmental. Culture and religion can impose a level of victim culpability or fault (see for example, Hill 2009). Even well-meaning interpreters have been known to mislead investigators because of cultural stigmas (US Department of Justice, 2015). Subsequently, investigators are recommended to consider consulting with culturally-specific organizations within the community, in order to provide

greater insight on the individuals involved in their investigation as well as to provide better support.

Medical personnel who are not specially trained to treat sexual assault victims can sometimes blame victims as well and even confuse their role with law enforcement. This “CSI effect” (a term used to explain how the exaggerated portrayal of forensic science on crime television shows such as *CSI: Crime Scene Investigation* influences public perception; Stojer, 2011) is neither necessary, nor desirable. Hospital personnel should look after the patient’s medical and psychological needs and they can do that by using the same principles: Time, space, and patience in letting victims tell their story in a way they need to (Campbell et al., 2005).

Sexual Assault Nurse Examiners (SANEs) are specially trained and certified in sexual assault care. For three decades, they have been counted on to use the most recognized forensic techniques to meticulously document physical and emotional observations, provide emotional support, test for sexually transmitted infections, and refer victims to appropriate counselling (Horner et al., 2012). SANEs receive special training for providing courtroom testimony and sometimes act as expert witnesses. They are often described by rape victims as helpful and supportive. A study involving a sample of 70 patients, revealed that 85% of respondents found SANEs listened to them and helped them the most during their crisis (Malloy, 1991). A smaller Canadian study (8 victims) found that victims felt that the SANEs and specially trained physicians, were similarly well received across variables that included safety, reassurance, keeping them informed, and providing care (Ericksen et al., 2002).

Training

The success of the SANE program reflects the potential impact of specialized training. In response to the CACP call for recommendations to improve investigations against adult sexual assault victims, the need for training dominated. This took many forms: organization-wide annual training, enhanced investigator training (including mentorship and retention programs for sexual assault investigators), a training curriculum more reflective of brain trauma, and training for both community partners (e.g., medical practitioners, advocates) and all criminal justice stakeholders (including judges). While additional training is commendable and likely to enhance the common baseline knowledge, it is nonetheless expensive and may not be able to correct for experiential learning (Beard, 2010). A course might call for a certain type of police behaviour, but when the culture of an organization is not supportive, training will not impact attitudes because the culture reinforces these deep-rooted beliefs.

Research also shows that effective police training also needs to be complemented with a well-designed sexual assault interview protocol. Training that is distributed over time may be more effective than intensive bursts (Donovan and Radosevich, 1999; Fisher et al., 2013) and great care needs to be taken in identifying properly motivated team members. Training that includes the opportunity to practise skills and receive feedback on performance is preferable (Cyr et al., 2012), as is the need to provide a rationale for doing things a certain way, the use of exemplars and refresher training (Fisher et al., 2013).

Public Awareness

In Canada, little is written about specific publicity or awareness programs to increase sexual assault reporting rates, instead the focus is on improving the system for those who choose to report. The problematic relationship of trust between sexual assault victims and the criminal justice system will not self-correct. Police have worked towards increasing the rates of police-reported sexual assaults by engaging in various training initiatives, zero tolerance policies, “bad date” reporting, internet reporting, anonymous third-party reporting, reporting from hospitals, victim assistance programs, hot-lines and community awareness campaigns. Despite such initiatives, an estimated 95% of sexual assault victims still do not report to police (Perreault, 2015). All outreach initiatives should include a predetermined and quantifiable evaluation strategy to determine effectiveness. Police services need to be seen by their communities as credible and legitimate authorities in enforcing the law and protecting public safety. A public-approved response by law enforcement fosters victim confidence and makes victims more likely to respond in future incidents, and can improve the safety of our communities as a whole (US Department of Justice, 2015). A weak police response has been found to send the opposite message (Hate Crime Solutions, 2007; Canadian Resource Centre for Victims of Crime, 2005; Buzawa and Buzawa, 2003), can contribute to post incident re-victimization (Waller, 2011), and can even condition respondents not to report to police (McCaffery, 2013).

PROSECUTION SUPPORT

The criminal justice system can be intimidating, confusing and frightening. It is common for victims to know little about the investigative process; what they learn from television shows may exacerbate myths. One of the investigator’s roles is to create transparency by explaining each step of the process. The *Canadian Victims Bill of Rights* requires that victims be provided with important information about investigations, trials, sentencing and what happens when an offender is released. Victims have a legal right to be informed upon request of every milestone involving their case and this is best accomplished in a team environment. Victim involvement is essential at every stage of the investigative process in order to increase satisfaction with the criminal justice system, which will theoretically increase cooperation and involvement with investigators and prosecutors (Erez and Tontodonato, 1992). Victim involvement has also been found to decrease feelings of alienation, which at times can be attributed to a lack of control of the court process (Welling, 1987).

When an investigation has reached the trial stage, the need for communicating, supporting, and explaining the legal process is essential. We recommend assisting in the trial stage transition by establishing victim-Crown Counsel communication as early as possible and consideration of establishing a victim liaison officer to act as that key contact point. As the file moves forward, the Crown Counsel, investigator, and victim liaison officer must appear to speak as one, to give the victim confidence and increase the victim’s satisfaction with the justice system.

The Crown’s office holds primary responsibility to argue the case and pursue all post-charge legal options, such as a publication ban, an order for the exclusion of the public, and requesting

testimonial aids to ensure the witness can provide a full and candid account of what happened. Judicial reforms that allow the widespread use of testimonial aids, permission for testifying outside a courtroom, and expediting cases to minimize victim stress would be beneficial. In addition, CACP respondents suggested setting up a special victim's room in the courthouse.

The need for the justice system to be more welcoming and supportive at every stage was seen as a priority among the CACP respondents. Assigning a support person for each sexual assault victim was recommended and has been shown to have a positive impact on the victim's experience with law enforcement (Campbell, 2006). Expediting cases was also identified as a priority. Trials can take so long that a victim may have already attended psychological counselling, only to be re-traumatized from having to recount events during the prosecution. CACP respondents supported the increased use of videotaped victim statements. Starting in 2013, New Zealand began exploring whether to allow the original unedited videotaped police interviews to be used in lieu of having the initial examination-in-chief by Crown Counsel in the trial (Fisher et al., 2013). This is also a standard of practice in Canada for victims / witnesses under the age of 18 at the time of the offence and also for victims / witnesses with a disability (section 715.1(1) and 715.2(1) of the *Criminal Code*, 1985). The content of the video recording must have been recorded within a reasonable time after the offence and it must include a description of the acts that is being complained about.

This has the advantage of preserving the victim's initial memory of the event, instead of relying on fading memory when a case eventually makes it to trial. It might also reduce the traumatic reliving of the sexual assault. However, the victim would still need to be available for cross examination and an unedited video would likely contain significant irrelevant information, which might lengthen the court process. One of the CACP respondents further pointed out that multiple statements from the victim at various points (e.g., to medical staff, written statements to an initial responding officer, a video statement to an investigator, testifying at the preliminary hearing, and testifying at the trial) can all lead to the likelihood of finding inconsistencies that could raise reasonable doubt. If there was an option to present the victim's video recorded statement during the preliminary hearing and examination in Chief by Crown Counsel then inconsistencies would be minimized.

The Crown's case most often relies primarily on the evidence of the victim, who may have been intoxicated, drugged, unconscious, and likely terrified at the time of the assault. Often the exact circumstances of the victim that increased their vulnerability to attack are the same that can affect their credibility or reliability.

Identity of the suspect: Collect and preserve DNA from the victim and suspect, other physical evidence from the crime scene, electronic evidence (e.g., text messages, images, etc.), and witness statements. Remember most sexual assaults involve someone known to the victim and frequently a family member where identity is not contested.

Victim consent / lack of consent: Document evidence of fear, force, threat, coercion and/or inability to consent. The Crown must not only prove that an act happened, but that such an act happened without the consent of the victim.

Inconsistencies during the investigative stage: Carefully document any changes to the victim's statements, this is often related to the effect trauma has on memory. A prosecutor knowledgeable about trauma should be prepared to address apparent inconsistencies. The use of expert witnesses was also endorsed by the CACP respondents as this could help account for memory variations.

Discrediting the victim: Sexual assault trials often bring the victim's prior conduct into issue. Help the victim prepare for this. The defence will attempt to discredit the victim by asking about past sexual behaviour and other personal matters. Private communications may be legally accessed, openly disclosed and analyzed in excruciating detail. Provide direction about how they should respond on social media and help maintain their emotional equilibrium by inoculating them about what to expect.

The investigative and court process is a prime place for re-traumatizing victims and provoking PTSD, which will impact their physical and mental well-being (Campbell and Raja, 1999). The criminal justice system did not cause this directly, but every effort to prevent and guard against this reality needs to be taken.

CONCLUSION

Sexual assault cases are complicated and victims often face extraordinary hardship including post-traumatic stress and depression. There is a great variability in how victims react to traumatic events and scientific research is currently being undertaken to clarify the factors associated with victims' psychological resilience. In some instances, victims may exhibit strange behaviours or even recall inconsistent memories. Police officers should be wary of confounding these signs of psychological distress with lying and deception. Police officers have a duty to conduct a comprehensive coordinated investigation, and to do so in a compassionate and sensitive manner so that victims can return to normal in the shortest amount of time.

To assist law enforcement and sexual assault victims, this report has highlighted innovative thinking and supported it with evidence-based research to ensure police reports capture significant and comprehensive details about the totality of crimes that occurred. Having established a baseline understanding of the psychology of trauma, one must appreciate how a victim's turmoil can be amplified by the very system meant to protect it and why dated investigative techniques are not appropriate for many sexual assault victims.

In this report we discussed the cycle of victimization, which involves four stages: (1) a pre-victimization stage (life is normal), (2) a victimization stage (the incident), (3) a transition stage (victim begins to cope with the victimization and slowly reduces fixation on the incident), and (4) a reorganization stage (victim hopefully cycles back to the pre-victimization state). The most current research tells us that an intensely threatening terrifying event will cause dramatic changes to how the brain functions. During a traumatic experience, incoming information is organized in the memory at a non-verbal and perceptual level and is usually encoded in the form of intense sensory fragments, such as sights, sounds and smells. In addition, there is clear evidence that memory is affected by trauma and varies between short-term verbal memory deficits to deficits on retroactive interference and recall. As a result, investigators are advised to

exercise patience while victims piece together their traumatic memories. Further, the key to any interview or investigation is empathy, compassion, and developing rapport. Research by Holmberg (2004) demonstrated that there was a significant positive correlation between feelings of being respected and providing more information in an interview. Holmberg also demonstrated that there was a relationship between the dominant interviewing style and omitting information (i.e., the more domineering an interviewer is, the less information they will obtain).

It is recommended that police officers start with the premise that the victim's needs are more important than winning a case and that the safety and welfare of the victim are of paramount concern. Police should employ evidence-based interview methods such as the cognitive interview, which can be especially effective for interviewing victims of sexual assault. The cognitive interview is one of the most recognized and successful interview techniques in the field of psychology and law. Another promising interview method for sexual assault investigations is the Forensic Experiential Trauma Interview, which is believed by some to be an improvement on the methods of the cognitive interview because of its focus on trauma. However, this is yet to be confirmed through scientific research and therefore not recommended for use in applied settings.

It is further recommended that officers take detailed notes since they can be critical in ways a first responder might not immediately recognize. Detailed notes should also include a full representation of the field interview's questions in order to assist the court and future investigators in developing a more accurate understanding of how the victim's responses were initially elicited and minimize the potential risk of appearing to purposely filter out significant information from the interview.

Victims of sexual assault deserve timely, effective interventions that help them cope with their victimization. There are many programs available for victims of crime that can be accessed prior to speaking with police officers or afterwards, yet only a small fraction of victims use these services.

In some communities where there are Sexual Assault Nurse Examiners (SANEs), victims may receive additional support from medical services. SANEs are specially trained and certified in sexual assault care and for the last three decades have been a solid resource for referring victims to appropriate counselling, providing emotional support, and making use of sound forensic techniques. Several studies have demonstrated that victims found that SANEs listened to them and helped them the most during their crisis. In remote areas, where there may not be access to specialized medical or police personnel, consideration should be made to contact specialized teams or other resources as needed. In addition, in cases where there is a concern that culture, religion, or any other factor may interfere with the investigator's understanding of the case (e.g., victim, accused, etc.), we recommend that efforts are made to consult with internal or external subject matter experts.

The criminal justice system can be intimidating, confusing, and frightening. Victim involvement is essential at every stage of the investigative process to increase satisfaction with the criminal justice system, which will theoretically increase cooperation and involvement with investigators and prosecutors. In cases where there is the possibility that an experience is perceived as traumatic it is recommended that victims are assigned a support person and cases are

expedited. CACP respondents supported the increased use of videotaped victim statements and in some jurisdictions (e.g., New Zealand) criminal justice systems are exploring whether to allow the original unedited videotaped police interviews to be used in lieu of having the initial Examination in Chief by Crown Counsel.

The creation of a Sexual Assault Review Team (SART), made up of key stakeholders such as Criminal Investigations Division supervisors and ViCLAS Coordinators, is also recommended. SART is a generic name for any team responsible for the review of all completed sexual assault investigations on a monthly basis to ensure they are complete, correctly classified, added to ViCLAS, and have reached a logical outcome.

The importance of investigative strategies that ensure victims are listened to, treated with sensitivity and respect, provided accurate information, and given appropriate referrals cannot be understated. Assisting victim recovery includes improving relations between different police services, justice and community partners. Engagement cannot be superficial, but requires the capacity to overhaul an outdated system. Only one in twenty victims currently reports (Perrault, 2015). The criminal justice system must not only do a better job serving this five percent, it must also evolve to engage the other ninety-five percent, who could not, or would not come forward.

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