



The Centre promotes the development of community- centred, action research on violence against women and children.

The Centre's role is to facilitate the cooperation of individuals, groups and institutions representing the diversity of the community to pursue research questions and training opportunities to understand and prevent abuse.

It serves local, national and international communities by producing useful information and tools to assist in the daily work against violence toward women and children.

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Surviving the System Handbook: **Advice on Using the Legal System if you are a Survivor** **of Sexual Violence**

PART 1: Introduction

What is the purpose of this handbook?

If you have experienced sexual violence you face a choice: do you take legal action or not? The information that follows discusses:

- Your choices
- Making decisions that are good for you
- Making decisions that will help you heal from the experience of sexual violence

This handbook is designed as a resource guide for women. It also provides information to individuals and organizations supporting women who are survivors of sexual violence.

We aim to give you a balanced picture of the legal system and alternatives to the legal system. This includes warnings about the challenges and barriers women are likely to encounter since there are both advantages and disadvantages to taking legal action. There are also advantages and disadvantages to taking action that is outside the legal system. We discuss this in the handbook.

Who is a "survivor of sexual violence"?

This handbook deals with four broad areas of sexual violence:

- Sexual assault
- Childhood sexual abuse
- Sexual harassment
- Criminal harassment (stalking)
 - Note: Stalking may or may not include offensive behavior that is sexualized

In *Part 2: Defining Sexual Violence* we give detailed definitions, including legal definitions.

What if I don't "fit" the definition?

Throughout the handbook we include stories from women who have identified themselves as survivors of sexual violence. Through these stories you will sometimes see that the law defines sexual violence in limited terms.

If you do not see your experience in the narrow, legal definitions, you may be able to connect with the experience of the women whose stories you read. These are women who have faced the choice of taking or not taking legal action.

If you think you do not "fit" the legal definitions, we still encourage you to talk with a lawyer, therapist / counsellor, or support worker. They can give you advice based on your specific situation.

You always have the choice of non-legal action that may help you heal from your experience of sexual violence.

How can I use this handbook?

If you are a survivor of sexual violence, we suggest that you use the handbook to:

- Help you look at your options as you make the difficult but important decision about whether to use the legal system.
- Prepare you before you meet with professionals, such as lawyers, therapists / counsellors, Crown attorneys, etc.
- Identify some of the questions you may want to ask your lawyer, doctor, therapist / counsellor, support worker, support group, Victim / Witness Assistance Program staff, Crown attorney, employer, union and others. Who you talk with will depend upon your situation, needs and options.
- Identify local resources that may help you.

What are the limitations of this handbook?

First, this handbook is provided as an information resource only and does not constitute legal or professional advice. *The information in this handbook is not a substitute for good legal advice.* Whether you decide to take some form of legal action or choose to deal with your experience of sexual violence in another way, we hope this handbook will help you better understand and alert you to some of the issues and challenges you may face.

Seek the advice of a competent lawyer, therapist / counsellor or other professional so that you will be able to make the most informed decisions possible - decisions that are best for you.

Second, while much of the handbook offers general advice that will apply regardless of where you live in Canada; we focus on the legal options available to you in Ontario. If you live in another province or territory, be sure to check the options open to you in that legal jurisdiction.

Why can using the legal system be challenging?

Once you decide to take legal action, you are faced with making more decisions about your legal options. It may be the case that you will only be able to pursue one option. Sometimes there is more than one option open to you. In some instances it may be

possible to opt for two or more options at the same time. You must keep in mind, however, that certain things may have to be done in a particular order, and that some legal options have strict timeframes.

These choices can be confusing. Dealing with the legal system may be discouraging. It takes a lot of your time, energy and money. You will face obstacles. Some women - expecting the legal system to help them - have found it is not very helpful and sometimes harmful. This is why it is said that the "victims" of sexual violence are often "re-victimized" by the legal system.

What is my single most important choice?

Choosing to get support is the single most important thing you can do to help yourself heal from your experience of sexual violence. *Part 3: First, Take Care of Yourself* talks about the many ways you can get support and from whom. *Whether you take legal action or not, you need to take care of yourself.*

What is the "legal system"?

The legal system - or justice system - consists of criminal, civil and administrative laws. Each has a different purpose. Each gives you different outcomes. Each uses different processes.

For example, usually your starting point with the *criminal system* is to report the sexual violence to the police. In the *civil system* you start by going to your lawyer. For the *administrative system* you notify the institution or organization responsible for the rules, regulations or laws you want to use.

Generally speaking, you use the criminal system to address sexual assault, childhood sexual abuse, and criminal harassment (stalking). You will use civil law to address sexual harassment. Depending on your situation, however, you may have the option to bring action under two areas of law, for example, criminal and civil, or criminal and administrative, or under all three.

In the legal system you may have contact with police, lawyers, crown attorneys, and judges. In *Part 4: If You Take Legal Action* we provide information about the roles these individuals play and discuss the options, issues and concerns associated with taking legal action.

What if you are uncertain if you wish to report your sexual assault to the Police?

If you are a victim of a recent sexual assault but are unsure if you wish to proceed with a criminal investigation at the time, you are able to attend the Domestic Violence and Sexual Assault Centre. If the sexual assault occurred within the preceding 72 hrs. A sexual assault examination can be conducted and includes a brief synopsis of the incident. The results of the examination can then be forwarded to the local Police Service as an anonymous victim and will remain with the Service for one year. A police investigation will not be commenced until the victim contacts police.

Further, if you are a victim of a sexual assault but are unsure of what action you wish, you may also file a report with the police and request that no action is taken until you are certain of your intentions. This report will include your name and the subject of the incident if known. Safety issues and other options will be made available.

However, depending on the information provided, police may be obligated to proceed due to risk factors and community safety.

What is considered to be "outside" the legal system?

The above discussion of the "third party report" is a good example of the choices open to you within the legal system, as well as the help that is available from organizations and services outside of the legal system.

Key people and services outside the legal system are therapists / counsellors, medical professionals, and support workers in women's organizations.

There are many different organizations and services that may be of help. In *Part 5: Who Can Help Outside the Legal System* we outline the services provided by women's organizations, Sexual Assault or Rape Crisis Centres, the Sexual Assault and Domestic Violence Care and Treatment Centres in thirty Ontario hospitals, and the Victim / Witness Assistance Program set up by the Ontario government. In *Part 3: First, Take Care of Yourself* we also discuss the role of therapists / counsellor and how to find a good therapist / counsellor.

Why does the handbook have information on the workplace?

Sexual violence such as sexual assault and criminal harassment (stalking) can take place at work. In this case you would look at your legal options under the criminal law system.

If your concern is about sexual harassment in your workplace, then you have the option to look for a remedy under the civil law system, specifically, the *Human Rights Code* in Ontario. The starting point is usually to try to deal with it through your employer's policies or, if you are unionized, through a grievance under the union-management collective agreement. This is why we have devoted Part 6 of the handbook to the workplace.

As we discuss at length in *Part 6: Help for Workplace Sexual Harassment*, however, there may be other options for you to consider, including the Ontario Labour Relations Board, the Workplace Safety and Insurance Board, Employment Standards, and Employment Insurance under Human Resources Development Canada.

PART 2: Defining Sexual Violence

The law defines sexual violence in limited terms. You may or may not see your experience reflected in the narrow legal definitions. However, you may be able to connect with the experiences of the women whose stories are in this handbook. We encourage you to seek advice from a competent lawyer, therapist or other professional. Women's organizations and other community resources may be able to refer you or provide information. See *Part 10: Resources*.

Sexual assault

What is legally defined as sexual assault?

In legal terms, sexual assault occurs when a person touches you in a sexual manner without your consent. More specifically, sexual assault can involve anything from unwanted touching of a sexual nature to forced penetration. It is always a violent act that has negative emotional effects, whether or not there are physical injuries.

A sexual assault can also occur when someone threatens to sexually assault you and has the ability to follow through on that threat immediately.

Sexual assault also includes sexual abuse that happened in the past.

Sexual contact may be illegal in relationships where:

- one person is in a position of authority over the other (i.e. doctor)
- there is a relationship where one person is dependent on the other (i.e. babysitter)

The penalties for committing these different types of sexual offences vary. Here is how the *Criminal Code* describes adult sexual assault. There are three levels:

- Sexual assault (level 1) - involves minor physical injuries or no injuries to the victim
- Sexual assault (level 2) - involves sexual assault with a weapon, threats or causing bodily harm
- Sexual assault (level 3) - results in wounding, maiming, disfiguring or endangering the life of the victim

Who commits sexual assault and where?

You may be sexually assaulted by different individuals in your life:

- A stranger
- An acquaintance
- A supervisor or co-worker at work
- An intimate or former intimate partner (husband, girl / boyfriend, lover, etc.)
- A family member
- A person in a position of authority (doctors and other health care professionals,

lawyers, teachers, religious leaders, etc.)

You may be sexually assaulted in a variety of settings:

- In the street
- In your home
- In someone else's home
- In a public place
- At work
- In an institutional setting (such as at school, in a hospital or health care facility, a correctional facility, etc.)
- On a date

Should I report that I've been sexually assaulted?

Whether you report your assault to the authorities is your decision. There is no right or wrong answer. Every woman must make the decision that is best for her. This handbook discusses your options.

Some women choose to report their experiences of sexual assault to the police or to a doctor (such as their own physician, a family physician in a clinic, or an emergency room doctor at a hospital).

Other women choose not to report to the police but seek support from and talk about their experience with a friend, family member or therapist /counsellor. Some will file an anonymous "third party report" with the police through a Sexual Assault or Rape Crisis Centre.

Some women are unable to report because of fear, self-blame, or an inability to recognize that they have been sexually assaulted and have experienced an act of sexual violence.

Women who are particularly vulnerable to abuse often do not report because they fear they will not be believed or taken seriously. This may include women with disabilities, women who are drug and alcohol dependent, and women in the sex trade.

Did you know...

According to Statistics Canada, police statistics represent a fraction of the total number of sexual offences. Surveys of victims indicate that only 1 in 10 victims report their sexual assault to the police.

Childhood sexual abuse

What is legally defined as childhood sexual abuse?

Some women are subjected to sexual abuse as children and are unable to seek help for those experiences until they become adults.

Childhood sexual abuse is defined legally as a range of sexual experiences which occur in childhood. This can range from sexually explicit conversations and exposure to pornographic materials, to sexual touching and rape.

I am now an adult. Should I report that I was sexually abused as a child?

Some individuals have clear and continuous memories of their abuse but simply are unable to deal with it until they are adults and receive help and support.

Others experience memories of childhood sexual abuse as adults, memories they did not retain from the time of the abuse. This is called "recovered memories of childhood sexual abuse". If you are a woman who has recovered memories of childhood sexual abuse as an adult, please read "Should I talk to my therapist / counsellor about 'recovered memory'?" found in *Part 3: First, Take Care of Yourself*.

Women who have "recovered" memories of childhood sexual abuse often face a very difficult time if they report their recovered memories to the police. They are often accused of suffering from "false memory syndrome". This implies that the memories they have recovered are false and were planted in their minds from suggestions by others, usually a therapist / counsellor.

There is a great deal of controversy about "false memory syndrome", but it is much more difficult for women with recovered memories to "prove" that they have been abused. As a result, these women find that police may be reluctant to lay charges.

Criminal harassment (stalking)

What is legally defined as criminal harassment?

Criminal harassment, which includes stalking, is a crime. In 1993 and 1996 the *Criminal Code* was amended to create and strengthen the offence of criminal harassment. Prior to 1993 "stalkers" might have been charged with one or more of the following: intimidation, uttering threats, mischief, indecent or harassing phone calls, trespassing at night, and breach of recognizance.

Criminal harassment generally consists of repeated conduct that is carried out over a period of time which causes victims to reasonably fear for their safety but does not necessarily result in physical injury. More violent acts may happen as the harassment continues.

The 1993 *Criminal Code* amendments which created the new offence of criminal harassment were introduced to respond to violence against women and, in particular, to domestic violence against women.

Sexual harassment

What is legally defined as sexual harassment?

Sexual harassment is often difficult to define. In fact, many people would not define sexual harassment as a form of sexual violence. It remains, however, one of the most common forms of sexual violence experienced by women.

In law, sexual harassment has come to be defined as any sexual or gender related comment, or behaviour which has the effect of interfering with a woman's dignity as a worker, her work performance or her safety in the workplace. You can be sexually harassed by an employer, a supervisor, a coworker or any other person connected with your workplace, including a supplier or a customer.

- The harassment may take the form of one comment or behaviour, but is more likely to be experienced as a pattern of conduct. The behaviour need not be overtly "sexual", but will be based on gender.
- Sexual harassment can dramatically affect a woman and create a hostile, intimidating work environment for other employees.

Legal action regarding sexual harassment is taken under the human rights law. In Ontario this is the Human Rights Code. It is administered by the Ontario Human Rights Commission. See *Part 6: Help for Workplace Sexual Harassment* for more information.

PART 3: First, Take Care of Yourself

Getting support: Nine things we strongly urge you to consider

The single most important thing that you can do to heal from your experience of sexual violence is to get support. Whether you do, or do not take legal action, here are nine things we strongly urge you to consider:

1. Tell someone you trust what has happened to you.

- They can help you deal with the decisions you must make. Their support will help you heal from the experience of sexual violence, whatever your decisions are.

2. If you have been sexually assaulted, seek medical assistance to address your medical concerns and questions.

- Take someone with you to support you through this process and to help you disclose the assault to the doctor who examines you.
- There is a protocol in place in every hospital in Ontario for dealing with sexual assault. Part of the protocol involves questioning you about the nature of your injuries to determine whether you have been assaulted.
- At thirty hospitals in Ontario there are Sexual Assault and Domestic Violence Care and Treatment Centres that provide specialized medical, nursing and counseling services. All services are dependent on the client's consent. Each individual can decide if they wish to inform the police of the assault or have a police investigation initiated, if they have not already done so, prior to coming to the hospital. *If the individual is under the age of 16, however, and they are deemed to be at a risk of further assault the Children's Aid Society may be contacted and then in turn may contact the police.*
- A doctor may contact police even if you indicate that you are not interested in giving the police a statement, or even if you fail to tell the doctor the truth about your injuries.

3. If you have been sexually assaulted, sexually abused as a child or sexually harassed, contact the Sexual Assault or Rape Crisis centre nearest to you.

- All centres have a 24-hour crisis and support telephone line. Check your telephone book or see the listings in *Part 10: Resources* of this handbook for phone numbers and addresses.
- You can talk to someone immediately after you have been sexually assaulted or harassed, or at any time in the future when you are struggling with the effects of the sexual violence you have experienced.

4. Report any ongoing safety concerns.

- If you have immediate concerns about your safety, report these concerns to your family, to your employer and to the police.
- Get legal advice about legal orders which may be used to prevent someone from having ongoing contact with you, such as restraining orders (if the person is a current or former intimate partner) and peace bonds.

5. Get therapeutic support.

- We believe that the best thing you can do for yourself is to find an experienced, professional therapist/counsellor to help you come to terms with your feelings about your experience of sexual violation. See “How can I find a good therapist/counsellor?” found in this section.

6. Make contact with women's organizations in your community that provide support services to women who are victims of sexual violence.

- The services vary between communities. Some centres offer individual and group counseling services or opportunities to connect in a less formal environment with women who have been through similar experiences.
- Most centres provide referrals to other organizations in the community and to individual therapists / counsellors, doctors and lawyers.

7. Contact public authorities responsible for supporting victims of violence.

- If you are involved in a criminal case as a victim of a sexual assault or because you have been called as a witness to testify in a case, find out if there is a Victim/Witness Assistance Program in your community. The Province of Ontario funds this program to help you while you are going through the court process.

8. If you are working, find out whether your employer has an Employee Assistance Program (EAP) which offers counseling services to employees.

- If the person who violated you (the “offender”, “stalker”, or “harasser”) works in the same workplace, ask the EAP counselor whether that person is also receiving counseling from the same office. Make sure that your EAP counselor knows that you do not want to meet this person by chance while you are in the EAP office. The offender may, for example, be receiving counseling for emotional issues, or for alcohol or substance abuse.
- Ask the EAP counselor about their level of expertise in cases involving sexual

violence.

- Be aware that your EAP benefit coverage may limit the number of counseling visits. Ask your EAP provider or your human resources department about your coverage.

9. If you are working, find out whether your benefits include short and long-term disability coverage.

- This may help you take time off work to deal with the effects of the sexual violence you have experienced.

Claiming, Naming and Healing

When you have experienced sexual violence the first step in “claiming” access to the legal system is “naming” that experience. It may be a challenge for you to name your own experiences of sexual violation. As a result, you may choose to remain silent. This is a very common response to many forms of sexual victimization. We strongly recommend that you seek therapeutic support. Therapy / counselling can enable you to move toward naming your experience and ultimately toward holding someone other than yourself accountable. The legal system is society’s way of holding offenders accountable, but you may also go through a more personal process of holding an individual or group of individuals accountable for your violation.

What will I be feeling?

When you first begin “facing and feeling” the effects of sexual violence, you may long for validation and support from an outside authority. The violation happened to you in a context of an abuse of power by another human being and you may find yourself seeking an authority figure to “right the wrong”. Like many survivors of sexual violence, you may initially believe that the legal system is where healing and justice will take place.

If you have been silent about your experience of sexual violence, especially for many years, you may have an intense need to speak the truth and be believed. It is only when a woman finds that her story is received with respect and compassion that she can feel validated and has the courage to continue to speak the unspeakable. At some point you may find yourself considering legal action as a way to break the silence and speak the truth about your experience in a public way.

Before you make that decision, you should think about what you will be facing and how you can take care of yourself through that process.

Why do I need a therapist / counsellor?

Sexual violation happens in isolation. You will not be able to heal in isolation. A knowledgeable therapist can:

- Help you bring your buried feelings to the surface and work through them
- Help to “normalize” your responses
- Help you to feel strong and confident
- Help you to reconnect with your own feelings and with others in your life
- Act as an “informed witness” to support you, validate your experience, help you to “name” your experience of sexual violence
- Provide information and insight
- Give you an opportunity to trust again if you were hurt by the people closest to you

These are the core experiences of recovery.

If you decide to take legal action:

- It will be important that you do so from a personal place of empowerment, support and clarity. Good therapy / counselling can help you get there. Your therapist / counsellor can provide validation of your experience.

How can I find a good therapist / counsellor?

Step 1:

Ask for recommendations from friends, other survivors of sexual violence, shelters, sexual assault centres and other women’s programs and organizations.

Step 2:

Ask preliminary questions and do some preliminary screening by telephone:

- What is this therapist’s / counsellor’s experience working with individuals who have experienced sexual assault, childhood sexual abuse, sexual harassment?
- What formal training / education does she or he have?
- Do they have experience with the issues that are particularly important to you? For example, you may want someone familiar with alcoholism or eating difficulties.
- Many survivors prefer working with a woman because they feel safer, if they were assaulted by a man, or because they feel more comfortable discussing intimate feelings with a woman.
- You may also prefer to have a counsellor of your race, sexual orientation, religion, or economic background.
- If you are considering talking any legal action, either through the courts (criminal or civil) or by applying to the Criminal Injuries Compensation Board, ask your therapist / counsellor if they have had any experience with these systems.

- Ask about fees. Ask if they have a sliding scale. Often community counseling programs have funding to provide services for free or at a minimal cost, although these services are usually time-limited.

Step 3:

Interview possible therapists / counsellors. Once you have completed the initial screening and explored the options in your geographical area, take the time to interview two or three possible therapists. It is important your potential counselor:

- Has information and experience in the area of sexual violence and the healing process
- Does not minimize your feelings or experience
- Does not talk about his or her personal problems
- Does not push you for reconciliation or forgiveness
- Does not want a friendship or sexual relationship with you now or in the future
- Does not force you to do anything you do not want to do
- Encourages you to build a support system outside of therapy
- Teaches you skills for taking care of yourself
- Is willing to discuss problems that arise and is accountable for mistakes that he or she makes

Remember that you are the consumer. Making an informed choice to enter or end a therapeutic relationship is your right.

Should I talk to my therapist / counsellor about “recovered memory”?

Ask your therapist / counsellor to explain to you the concept of “recovered memory” and what she or he knows about “false memory” claims.

If you are doing memory uncovering work and thinking of taking legal action, talk to your therapist / counsellor about the ways in which some therapeutic processes have been used to discredit victims of sexual violence in some court cases (i.e. EMDR - Eye Movement Desensitization Reprocessing). Work with your therapist /counsellor to decide whether it is more important for you to maximize your therapeutic experience, even if that experience could undermine your ability to access the legal system.

What do I need to know about record keeping?

Most therapists / counsellors are required to keep some record of your therapy sessions. A record is any form of information, file or material regarding a client’s therapy process (handwritten, electronic, audio tape, video tape).

A client’s record usually contains the following:

- personal information (ie. name, address, phone number and emergency contact)
- client issues (ie. sexual abuse, relationships, etc.)
- discussions you have with your therapist/counsellor
- agreements concerning fees and payment

- informed consent agreement – how your client record will be shared with a third party (ie. insurance company, your therapist's/counsellor's supervisor)
- interruption of service or termination process (ie. how your file will be transferred to another service provider if the therapy relationship ends)
- evaluation process (ie. how and when you assess the services your therapist/counsellor provides)

Most government-regulated professionals providing therapy or counselling services are required to keep client records. Therapists/counsellors who are not regulated can choose to keep records or not. Some therapists/counsellors believe it is in the best interest of the client to not document the therapy process. They believe this is the most effective way of maintaining a client's confidentiality. Other therapists/counsellors believe that documenting a client's therapy is of benefit to the client because the record can be used as a tool to evaluate how the therapy is progressing or in the event you are considering future legal action. Before starting to work with a therapist/counsellor, decide if you would like your therapy process documented. It's important when interviewing a therapist/counsellor to ask if they keep client records, and why.

It is also important to know what rights you have with regards to your therapy records. When a therapist/counsellor takes notes or keeps a record about what is discussed in your therapy sessions they must uphold a client's right to:

- the ownership of the content of the therapy record
- access and the right to make changes to the therapy record
- a process of informed consent when the record is transferred or parts of the record shared with a third party
- confidentiality

As a client, you can negotiate with your therapist/counsellor how and when you review your record as you go through your therapeutic process. You may also negotiate what structure will be used for making changes to the record, if needed, and whether you would require a copy of the changed record. Language used in your record should be clear and understandable to you as a client. Working through these discussions at the beginning of the interview or at your first session is helpful in setting an environment for mutual participation in the therapy relationship.

When a therapist keeps records of a client's therapy sessions, he/she owns the actual record and the client owns the information contained within the record. Since a record is kept primarily for the benefit of the client, you have access to your record at any time and may ask for a copy. You may ask your therapist to revise the record if you believe any information is incorrect or not accurate. Therefore, it is important to review your record on a regular basis. Your therapist/counsellor has a responsibility to review the record with you and assist you in understanding what has been documented. You may also request that only certain information about your therapy process be documented since you may prefer that some information be verbal only.

The record must be locked or stored in a secure location where no one but your therapist/counsellor has access. Therapists/counsellors may choose to keep your record indefinitely. Legally, they must keep a client's record for seven years, and after that, it may be destroyed. If your therapy relationship ends and you want your record

given to another service provider, your therapist/counsellor must discuss with you, through a process of informed consent, how your record will be transferred.

In some circumstances, third parties such as insurance companies or financial auditors may have access to a client's record. Your therapist/counsellor has a responsibility to give out only the most minimal of information required by a third party and must protect your confidentiality at all time

Therapy and Legal Action

You, your lawyer and therapist /counsellor need to work effectively together. Your therapist / counsellor and your lawyer are on your side. Be clear what role you expect each of them to play. Be clear about your own role. Open communication between lawyer and therapist / counsellor will facilitate both your healing and your ability to work through the legal system.

It is extremely important to interact with your lawyer wisely. Their role is to provide you with advice on the range of options available to you, and then to provide you with advice on the consequences of your choices at each stage in the process. Lawyers advise they do not make decisions for their clients. It is important for you to keep your role as the decision maker and not give up that role to anyone, including your lawyer.

Your lawyer is an expert in giving legal advice, not therapeutic advice. Your therapist / counsellor is the best person to give you advice about the emotional consequences of your decisions. Most lawyers and therapists / counsellors will welcome the opportunity to work together. You need to understand not just your legal rights, but the emotional consequences of taking legal action.

Your therapist / counsellor and lawyer support you in different ways

- A lawyer's job is to listen and assess whether or not your case or situation is going to "fit into the legal system". Your lawyer works within a very restrictive system, and it is your lawyer's job to advise you of the risks and benefits associated with accessing this system. It is your therapist / counsellor who can help you deal with the emotional consequences of deciding whether or not to take legal action.
- A lawyer is not there to support you emotionally. This does not mean the lawyer is unfeeling or not supportive. A lawyer is interested in facts. You will likely be paying hourly for your lawyer's time, so it is important to be prepared every time you meet with your lawyer. Writing down the facts, in as much detail as possible (i.e: time, place, experiences), will help you stay focused and keep you from feeling overwhelmed when you meet with your lawyer. If you find that you are unable to speak because you are feeling so overwhelmed, consider spending more time focusing on your healing process, before you take legal action.
- Even if you are completely successful in your legal case, you may not experience closure.

- It is a good idea to bring a support person with you to your appointments with your lawyer. You should ask your lawyer, however, about the implications of having a support person present during all of your discussions with the lawyer: the presence of another person can affect the legal privacy of your communications with your lawyer.
- As you realize the system is complicated and not very adaptable, you may feel angry and resentful. You may direct your anger not only at the system itself but at those who represent the legal system: your lawyer, the police, the Crown attorney, etc. Your case will go more smoothly if you are able to cooperate with those people. Scheduling a therapy appointment soon after your lawyer's appointment can help you deal with feelings that will inevitably arise as you tell your story and as you encounter systematic obstacles.

Legal Action and Record-Keeping

- If you are thinking of a legal course of action, talk to your therapist / counsellor about his or her record keeping. Let your therapist / counsellor know that you are thinking of taking legal action. Discuss with your therapist / counsellor any concerns you have about the potential for his or her notes to be exposed to the offender. You may, for example, request that your therapist / counsellor keep any material irrelevant to your recovery out of his or her notes. You may also ask him or her to refrain from recording judgments or interruptions of your disclosure. Some therapists / counsellors may agree to this, others may not.

PART 4: If You Take Legal Action

The legal system is big, complex and confusing. When you seek justice through the laws and the systems that administer those laws you are involved in the legal system. Criminal and / or civil laws may apply to your situation. Administrative law may also apply in particular situations. In this part of the handbook we discuss these things.

In the workplace, employer policies and employment laws may apply. If you are unionized, collective agreements may apply. We discuss these points in *Part 6: Help for Workplace Sexual Harassment*.

The legal system can help and it can hurt

Taking legal action when you have experienced sexual violence means you have to deal with various parts and representatives of the legal system, from the police to the courts, from lawyers to government agencies.

There are women who have taken legal action and have had positive and satisfying experiences and outcomes. Other women have found it frustrating and painful. Sometimes it is both helpful and harmful. In this section of the handbook we try to explain some of what may lay ahead if you enter the legal system.

What will I experience emotionally if I take legal action?

- Perhaps the most challenging issue you will face will be the lack of control you have throughout the legal process. This lack of control may mimic the lack of control you experienced while being sexually violated. Feelings of rage, helplessness and deep pain will likely surface. It is important to have in your life at least one other person who understands what you are going through so they can provide support and understanding. This may be a friend, family member, support person or therapist / counsellor.
- The legal system is very slow moving and you will be working on its time line. The years of having an open file in the legal system can keep you from obtaining “closure” regarding the sexual violence. Individuals often experience a sense of frustration and hopelessness as the rest of their life is on hold until the court case is settled.
- At various stages in the process you will experience emotional responses. For example, the following events may trigger emotions:
 - Discussions with your lawyer
 - Direct contact with the offender
 - Aggressive and sometimes demeaning questioning by the offender’s lawyer
 - Interactions with mediators and judges who may not be well educated about sexual violence
 - Delays in the process

It is important that you have someone in your life that can help you deal with these emotions and help you make rational decisions as you move through the legal process. This may be your lawyer, therapist / counsellor or support person.

What is “closure” and will I get it if I take legal action?

- “Closure” happens when you no longer feel that the sexual violence you have experienced is the main focus of your life. Nothing is going to change the fact that this has happened to you. It can take months or years to come to terms with the violation. The healing journey is unique to you.
- Do not expect the legal system to provide you with closure. Closure is a very personal journey and it comes from an internal source, not an external authority.
- You will begin to move on in your life when you trust and believe in yourself and your own internal authority, and when you have your authority validated by others who understand.

Closure is often achieved - in individual and / or group counseling – by:

- Getting involved in the antiviolence movement
- Becoming involved in political & community actions
- Speaking out at marches or rallies
- Writing / drawing to externalize your experience
- Sharing your story with other women who have experienced sexual violence

What are the potential negative consequences if I take legal action?

- Taking legal action can be extremely expensive and you may be better off spending your money on therapy to achieve closure.
- There is a good chance you will not win.
- There is a good chance the offender’s lawyer will try to discredit you.
- At various stages in your legal action you will very likely lose your sense of control over the process.
- If you go to court, your personal life, your personal diaries and journals, your medical records and therapeutic records may be exposed to the offender, the offender’s lawyer and the public in general.
- You may lose the ability to have ongoing contact with any support people who may be involved as witnesses in the legal proceedings (therapist / counsellor included) just when you need that support the most.
- You may feel more victimized during and after your experience in the legal system.

- Taking legal action may prolong the healing process, open up old wounds and cause you to feel that your life is on hold for a long period of time.

What can I do if I don't take legal action?

- You may not find what you are looking for in the legal system and may choose instead to spend your energy healing in other ways from your experience of sexual violence.
- Other victims of sexual violence have regained their power in a variety of ways. Some confront perpetrators directly, with a support person at their side, and / or speak out, either publicly or in a survivor group.
- Even if you do not take legal action for yourself, you must notify the Children's Aid Society (CAS) if there are children at risk.
- Even if you do not wish to pursue criminal charges, you may choose to tell your story to your local police department to ensure that your story is well documented in case other victims come forward. Be aware, however, that you are not ultimately in control of deciding whether criminal charges are laid if you do this.
- Many survivors of sexual violence have benefited from getting involved as a volunteer at local women's organizations, such as sexual assault centres and women's shelters. You may also consider becoming actively involved in political groups which advocate on behalf of survivors of sexual violence, violence against women and children, or violence in general.

What if I decide to take legal action?

- Do as much healing as possible before you begin legal action.
- Get as much support as you can.
- Let others know you may be taking legal action and be aware of the paper trail that will follow you. It will be helpful to have documentation that supports your story and the effects the abuse has had on you. This same documentation will be used against you to attempt to discredit you. Advocates in anti-violence agencies may be able to help you through this.
- Know that the legal proceedings may open up old emotional wounds – the more healing and support you have the better you will be able to deal with the legal system.
- Know that when you take legal action you are making a contribution to keeping the issue of sexual violence alive in the legal system. This reminds us of the horrific reality of these crimes and over time, contributes to social change.

Regardless of the outcome, why might I decide to take legal action?

- For some victims of sexual violence, taking legal action makes a statement that keeps the criminal reality of this offence in the forefront. If this is an important aspect for you, then stay focused on your goal of making public what has been private. The process becomes more important than the outcome. If you lose the case it does *not* mean you don't matter or you are not believed.
- No matter what the outcome, you have stood up in public and told the truth about a very serious crime that has happened to you. It is on record that charges have been laid against the offender. It will affect his ability to move as freely in his life. It may also prevent further abuse from happening.
- Keeping the reality of sexual violence in the public forum is a political act which can lead to social change.

Who does what?

Here we describe the roles of the police, lawyers and Crown attorneys.

The Police

What is the role of the police?

If you have experienced sexual assault, criminal harassment or childhood sexual abuse, then your first contact with the criminal justice system will likely be the police.

Depending on where you live, your local police service will be the city or town police department or the Ontario Provincial Police (OPP). In other parts of Canada your local police may be the Royal Canadian Mounted Police (RCMP) or the Quebec Provincial Police (QPP).

It is the role of the police to investigate your case. They will gather the appropriate evidence and meet with the crown attorney to determine whether it is appropriate to lay criminal charges.

Do the police have special expertise to deal with sexual violence?

Many communities designate specially trained officers to deal with cases involving sexual violence. Ask the police to have a specially trained officer available to take your statement.

If you require a translator, advise the police to have one available to ensure that your story is received accurately by the police.

Depending on the behaviour involved, if your complaint is about sexual harassment in the workplace, the police may be able to help you. They may also recommend you file a complaint under your employer's policies, refer you to your union or to the Human Rights

Commission.

What should or should I not tell or give to the police?

It is very important to cooperate with police in the investigation of your case. It is also important to bear in mind, however, that if you give something to the police, it will eventually end up in the hands of the person you have accused. For example, if the police ask you to sign a consent form so that they can obtain access to your medical records, you may want to advise them that you would like to get independent legal advice before you sign the consent form. If charges are laid and the police obtain your medical records, those records will eventually end up in the hands of the offender.

Lawyers

How do I find a good lawyer?

Our answer has three parts: What to look for, where to look, and what to ask.

A “good” lawyer is one who knows and has experience in the area of law that addresses your needs: sexual assault, criminal harassment, childhood sexual abuse, or sexual harassment. A lawyer may be experienced in all or some of these areas.

To find a lawyer to help you decide whether to take legal action will be challenging for a number of reasons:

- There are very few lawyers in Ontario who have the expertise and ability to represent you, particularly if you will have difficulty paying for legal services.
- Financial assistance is not available in most cases. If you lay criminal charges and the offender’s lawyer tries to get access to your therapeutic records or private diaries and journals, there is limited funding available from the Province of Ontario for legal representation to protect your records. In most other cases, however, there is no legal aid available for victims of sexual violence.

A good place to start in your search for a lawyer is to contact local women’s organizations. Also, speak with other women who have been through similar experiences and have retained a lawyer to assist them.

The law society maintains a listing in the yellow pages for a service called the “lawyer referral service”. You can contact the law society to access a roster of lawyers who identify themselves as working in certain areas of law.

Do not be afraid to interview a lawyer. It is important that you have confidence in your lawyer’s ability to handle the issues you are dealing with. Not every lawyer will have the experience necessary to deal with your legal matters. We recommend that you ask potential lawyers:

- about their experience representing victims of violence
- whether they also represent individuals accused of acts of sexual violence

- what involvement they have in their community, particularly their involvement with women's organizations or other groups who provide service to victims of sexual violence

What do I need to know about paying a lawyer?

Many lawyers offer a free initial consultation, but be prepared to pay for a consultation. It takes a great deal of effort for a lawyer to give you a legal opinion on the range of remedies available to you. If you can afford it, it is worth paying for a thorough, initial consultation.

After your initial consultation, you should expect to receive a "reporting letter" setting out the issues which were addressed during your meeting and a full review of the options available to you.

Most lawyers require a "retainer" (payment of a sum of money) before they will commence work. Most lawyers bill their clients based on an hourly rate, however, it is also appropriate for you to ask the lawyer to provide you with an estimate of the time they expect to spend on each stage of the case. Some lawyers will also negotiate a "block fee" for each stage in the case, so that you have some assurance that costs can be controlled.

Contingency fees are not available to lawyers in Ontario. In other provinces, lawyers take a case on "contingency", meaning that their fees are contingent upon the client being successful in the case and receiving a monetary award.

Make sure that when you engage a lawyer's services you sign a contract (sometimes referred to as a retainer agreement) setting out the terms of the lawyer's service, including their hourly rate and all other costs, commonly referred to as "disbursements". Most lawyers charge clients on top of their hourly rate for "disbursements": photocopies, faxes, long distance charges, etc.

What if I have a complaint about my lawyer?

If you have a complaint about your lawyer, then in Ontario the Law Society of Upper Canada will assist you. If you are concerned that your lawyer has engaged in sexually inappropriate conduct with you, you may wish to talk with the Law Society's Harassment and Discrimination Counsel. This person is trained to deal with issues related to sexual harassment. If the lawyer has sexually assaulted you, however, you should consider reporting that lawyer to the police as well as the Law Society.

What if I take legal action and I have a complaint about a judge?

Judges are not governed, like lawyers, by the Law Society of Upper Canada. If you find yourself treated in an inappropriate way by a judge, you can make a complaint to the Canadian Judicial Council.

Crown attorneys

If criminal charges are laid, a Crown attorney is assigned to your case. The Crown attorney is a lawyer who is appointed by the province to conduct the case. The Crown attorney acts in the public interest and not in your individual interest. In that sense, he or she is not your lawyer.

What is my relationship with the Crown attorney?

Your role is to give evidence about your experience of sexual violence. You are a witness for the state. You appear in court to tell your story and to support the Crown attorney in his or her efforts to secure a conviction in circumstances where the Crown believes that a conviction is appropriate. You have no independent decision-making power. The Crown attorney decides whether to proceed with the case and how the case will be presented to a judge. If you wish to have a more collaborative relationship with the Crown attorney, however, discuss this with him or her at the first available opportunity. There are many Crown attorneys who welcome the input of the victim, especially in a sexual assault case.

If you are not satisfied with your relationship with the Crown attorney, speak with their supervisor or send a letter to the Office of the Attorney General of Ontario outlining your concerns. You may also seek the assistance of an advocacy organization in your community that will help you communicate more effectively with the Crown attorney. In some communities, the Ontario government funds Victim / Witness Assistance Programs. The support workers in those offices can help you work more effectively with your Crown attorney. See *Part 5: Who Can Help Outside the Legal System* for more information on Victim / Witness Assistance Programs.

What issues should I discuss with the Crown attorney?

- What is the Crown attorney's role in the criminal process and how will you be affected by that role?
- How will your Crown attorney deal with issues that involve your personal privacy rights, like a request to produce your medical records and private journals?
- Can the Crown attorney help you with any immediate safety concerns you may have?
- Will you be able to continue to work with your therapist? What if your therapist becomes a witness in the criminal case? How will your Crown attorney deal with allegations of "false memory syndrome"?
- What happens if the Crown decides not to proceed with your case? The Crown attorney has the discretion to decide not to prosecute your case. If this happens, you should ask the Crown to provide you with their reasons for refusing to take the charges to court. Ask the Crown to put those reasons in writing. If you are not satisfied with the decision, you may contact the Victim / Witness Assistance

Program in your area and the Office of the Attorney General of Ontario.

- What can you expect at a preliminary hearing? You may have to appear at a preliminary hearing and give evidence about your experience of sexual assault. A judge will decide whether there is enough evidence to proceed to a trial. This is the first opportunity that the lawyer for the offender will have to question you, so it is important that you meet with the Crown to prepare your evidence.
- How do you prepare to give evidence? The Crown attorney should assist you in understanding what constitutes “evidence” and what a judge will and will not allow you to say in court. The Crown can also help you understand what evidence is “relevant” to your court case.
- Ask the Crown to explain the possible outcomes and what they mean. For example, one possible outcome is an acquittal. This does not mean that the judge did not believe you, but that there was insufficient evidence to support the charge.
- Ask the Crown attorney to explain the various options available to a judge in determining the appropriate sentence and how the judge arrives at that sentence.
- Ask the Crown attorney how they will deal with questions about your past sexual history.
- Ask the Crown attorney to explain to you how to prepare a victim impact statement and what to include in it.
- Ask the Crown attorney to help you understand what happens after a conviction, what to do when the offender comes up for parole, and how to protect yourself once the offender is released from prison. You may be able to make a presentation to the parole board which will prevent the offender from being released early. Make sure you find someone in the criminal justice system to keep you up-to-date on the offender’s parole hearing dates.

How much control will I have during the initial stages of the proceeding?

In the initial stages of the proceedings, it is not uncommon for victims of sexual violence to want to direct the proceedings, to request that charges be dismissed, or alternatively, to request that the alleged perpetrator be jailed indefinitely. The Crown attorney cannot facilitate these requests. Once the complaint is made, the police investigate and charges are laid, you have no control over the process.

Will the Crown attorney help me prepare for trial?

Some Crown attorneys will ask you to review evidence with him or her. More often than not, however, he or she will simply prepare you for the types of questions you will be asked, and will not ask you to answer in a detailed fashion. This is because the Crown attorney is in a sensitive position. Any evidence presented to him or her

that is different from the information brought out in the investigation must be disclosed to defence counsel. Furthermore, if anything you say appears to contradict your original statement, the Crown attorney may end up being a witness at trial and will, therefore, have to excuse him or herself from being the prosecutor.

The Crown attorney will also inform you about some procedural matters, such as answering all questions with a clear verbal response for the benefit of the court reporter, and the need to clearly explain any hand gestures.

Some Crown attorneys may describe the personality of the defence counsel (the lawyer for the alleged perpetrator) in an effort to prepare you for his or her style on cross-examination. Most complainants are relieved to find out that cross-examination is not like it appears on television with defence counsel standing directly in the face of the party testifying, yelling or being belligerent with the witness. The judge will not allow a defence lawyer to stand close to you unless they are showing you something they want you to comment on. In most cases, the defence counsel will ask you questions from behind a table and if they become aggressive or rude in any way, the Crown attorney can object and the judge can order them to behave appropriately.

Cross-examination is used to test your memory and your credibility. While this can be accomplished through a series of questions, asked and answered in a relatively calm fashion, there will be lawyers who will try to intimidate you during cross-examination. If you have concerns about how you will be treated, speak to the Crown attorney and ask them how they intend to protect you from an abusive cross-examination.

Who else can help me with trial preparation, dress and other practical matters?

Many jurisdictions in Ontario have Victim / Witness Assistance Programs. An employee of the program will contact you and answer procedural questions, tell you where to show up, and may provide a tour of the court room so that you can feel more comfortable on the day of the trial.

With respect to dressing for court, most Crown attorneys agree that you should consider both respect for the court and personal comfort.

Will my past sexual history be raised at trial by the offender?

Your past sexual history is admissible (i.e. it is allowed to be heard in court) in certain circumstances, but in attempting to admit such information, the defence counsel must follow the provisions of the *Criminal Code*.

You should not worry that you will be caught off guard by such a tactic. For the information to be admissible, proper notice is required. Defence counsel must inform the Crown attorney of the intention to raise this type of evidence, and must establish that it is relevant to the specific case. Furthermore, evidence must come from someone else and not from your testimony.

Are my therapeutic records admissible at trial?

Defence counsel may bring an application to obtain your therapeutic records if purpose and relevance are established. The lawyer must establish that there is something in those records that is relevant to the case. For example, if you told the police that you were certain that you knew the identity of the offender and then told your therapist a week later that you were uncertain about the identity of the offender, those records would become relevant to the case.

In some places in Ontario, independent lawyers have been appointed by the provincial government to provide you with legal representation if a request is made for access to your records. In order to contact one of these lawyers, you should contact the local Legal Aid Office and the Victim / Witness Assistance Program in your area. If you are not eligible for free legal representation and you have the ability to pay for an initial consultation with a lawyer about your records, we urge you to do so.

It is very important to ensure that only those parts of your records that are relevant to the case are exposed. Some women have been so intimidated by the prospect of having their therapeutic records exposed, that they have sought to have the charges withdrawn or refused to appear to give evidence. We recommend that you seek to protect those records through every legal means available to you.

Should I meet with other women who have experienced sexual violence?

Discuss with your therapist / counsellor the benefits of meeting with other women to share your experiences of sexual violence. Their advice and support may be helpful.

We must caution you however. There have been some legal cases where victims of sexual violence have been falsely accused of taking on the realities of other survivors. As a consequence, many victims of childhood sexual abuse or adult sexual assault find that, for a period of time, they may have to choose between litigation (taking legal action) and healing. The irony is that many survivors need the strength they gain from group support to feel they are able to weather the legal journey.

To make the decision that is right for you, discuss this concern with your therapist / counsellor and lawyer.

Criminal law system

Purpose of the criminal law system

If you have been sexually assaulted, the victim of criminal harassment, or have a history of childhood sexual abuse, you may choose to report the abuse to the authorities in the criminal justice system.

The criminal law system is often what we think of when we talk about "taking legal

action", but it is only one of several avenues in the overall justice system. The police, Crown attorneys, judges, juries and the courts are all involved in the criminal system.

How is the criminal system different from the civil and administrative systems?

To be found guilty in a criminal proceeding, the court must be convinced "beyond a reasonable doubt" that the accused did what he or she has been charged with doing. In other words, that there can be no reasonable explanation other than that he or she committed the assault.

What do you mean; I may encounter discrimination in the criminal justice system?

Just as in society at large, racism, sexism, homophobia and other forms of discrimination are pervasive in the criminal justice system. If you are a woman of colour, an aboriginal woman, a lesbian, a woman with a disability, or a woman who works in the sex trade, we encourage you to seek out advocacy and support services to help you deal with these additional barriers.

For example, racialized women and aboriginal women often report that in addition to being treated in a sexist fashion by individuals in the criminal justice system, they are also subjected to racist treatment. This creates additional barriers for them in their efforts to seek a remedy through the criminal justice system for sexual violence.

Women with disabilities are more vulnerable to sexual abuse, but face additional barriers when they report the abuse. Some women with disabilities report that they are "treated like children". For example, individuals speak to their caregivers and not directly to them, or treat them as if they are incapable of making rational contributions to discussions about their case.

Women who identify themselves as lesbians may initially be treated as if they are heterosexual. If you are a lesbian who has been sexually assaulted, sexually or criminally harassed, or the victim of childhood sexual abuse, you may face a difficult decision in "coming out" to police, Crown attorneys and, if your case goes to trial, to members of the public.

Sex workers may encounter dismissive and disrespectful attitudes, informed by the myth that sex workers cannot be sexually assaulted, or by an individual's unease with sex work, even in the justice system.

What if I experience discrimination in the criminal justice system?

If you experience discrimination in your interactions with police, Crown attorneys or other members of the criminal justice system, you can make a complaint to the Office of the Attorney General for Ontario. You can also contact the Ontario Human Rights Commission for advice about filing a complaint.

Civil law system

Purpose of the civil law system

The purpose of the civil justice system is to provide a victim with compensation rather than to punish the perpetrator of the violence.

Who can you sue?

If you have been the victim of sexual assault and / or childhood sexual abuse, you may bring an action or sue the individual responsible for the abuse in the civil courts.

If you were assaulted by a person in an institutional setting, such as a school, your workplace, a foster home sponsored by the Children's Aid Society, a medical clinic or hospital, you may also be able to sue the institution for failing to protect you from the abuse.

Special note on dealing with sexual harassment in civil court

There is limited recourse to the civil courts for women who work in non-union workplaces and lose their jobs or are forced out because of sexual harassment. If this is your situation you might be able to sue for wrongful dismissal or "constructive dismissal". We discuss this in *Part 6: Help for Workplace Sexual Harassment*. See "Can I sue if I lose my job because I made a sexual harassment complaint?"

Can I afford it?

One of the most difficult aspects of a civil action is finding a lawyer. Civil actions are extremely expensive. There are few lawyers who will take a case for free and currently, in Ontario, lawyers are precluded from entering into "contingency fee" arrangements with their clients.

- A "contingency fee" arrangement is one in which a lawyer will act for the client and pay the expenses of the litigation for a percentage of the compensation awarded.
- Legal aid is no longer available to you as a victim of sexual violence in the civil courts.
- A civil action can pose a serious financial burden even if you can afford to retain a lawyer. Furthermore, in many cases, the perpetrator of the violence will be unable to pay any amount of money that might be awarded to you. As a result, you may choose not to commence an action and deal with the emotional impacts of the assault or sexual abuse through therapy counselling and other forms of support.
- In those cases where an institution is involved, such as the recent cases against the Catholic Church, some lawyers will be prepared to work on more flexible fee arrangements because they believe that, in the end, the institution responsible for the abuse will have the ability to pay your legal fees.

- If you do choose to work with a lawyer, ask that lawyer to provide you with an estimate of the cost of each stage in the proceeding. Some lawyers will also agree to block fees for each stage in the proceeding, for example, they will charge a block fee for:
 - Preparation of the “reply” to the statement of defence
 - Examinations for discovery
 - Pretrial preparation including attendance at a pretrial conference with a judge
 - A daily rate for attending the trial

There are, however, times when a lawyer will simply not be able to estimate with any accuracy what the legal expenses will be. If, for example, the perpetrator’s lawyer files several different motions which your lawyer is required to respond to, then the costs may escalate significantly.

- Ask your lawyer to prepare a reporting letter for you that sets out the stages of the action and the anticipated time frame within each of those stages. Ask your lawyer to send you a monthly report of the work completed on your file so that you can make sure that the action is proceeding at an appropriate pace.
- Be patient. A good lawyer will have many cases like yours and may have urgent issues which arise and must be attended to immediately. However, your lawyer should keep you up-to-date and provide you with an explanation if the action appears to be dragging on.
- Lawyers are experts in giving legal advice. So it is important to work with a therapist / counsellor, or support person to determine how to apply the lawyer’s advice to your decision making process. These people can help guide you through the mine field of emotional responses you will have during various stages in your civil action. It is common for victims of sexual violence to rely too much on their lawyers for emotional assistance.
- If you are dissatisfied with your lawyer, write out your concerns in a letter and ask the lawyer for a response. If you do not get a response, or you are not satisfied with the lawyer’s response, you can contact the Law Society of Upper Canada for advice.

Mediation and other forms of alternative dispute resolution (ADR)

The vast majority of civil actions settle before they go to trial. Settlement negotiations take many forms, from informal discussions between the lawyers to formal negotiations with a professional facilitator.

One of the most common forms of settlement negotiation is mediation. It is likely that at some stage in your civil action the question will come up whether you should participate in mediation.

- Mediation is a form of alternative dispute resolution which involves the parties meeting with a facilitator, whose role is to assist the parties in expressing their interests and helping the parties to craft a resolution that meets those interests.
- A mediator has no decision making power. Their job is to remain impartial throughout the negotiation.
- The mediator should conduct a thorough screening process to determine whether you are a good candidate for mediation or whether the issues you are attempting to resolve are suitable for mediation.
- You should meet with the mediator in advance to discuss the following issues:
 - The mediator's qualifications
 - The mediator's experience in mediating cases involving allegations of sexual violence
 - How the mediator will recognize and address power imbalances
 - What you can hope to accomplish in mediation
 - Concerns you have about acts or threats of violence which could arise out of the mediation
 - Any concerns you have about meeting the alleged perpetrator face-to-face in a private place
 - Whether the mediator can provide alternatives to face-to-face meetings
- You should not consider mediation if there is a risk that the perpetrator will be violent toward you or anyone else during the mediation, if you are concerned that the perpetrator will use the mediation to find out where you live, or if negotiating with the perpetrator in this kind of setting would cause serious emotional harm.
- Mediation is only one method of resolving your case. Some victims of sexual violence, including childhood sexual abuse, have resolved their legal cases through mediation. In some cases, mediation is less expensive, both emotionally and financially. However, you should discuss your concerns about mediation in detail with both your lawyer and the proposed mediator before beginning the process.
- One of the major concerns about mediation is the private, closed nature of the negotiations. You will be asked, for example, to maintain confidentiality about the discussions that take place in mediation. If you feel that you cannot participate in a private process where confidentiality is one of the primary concerns, you should discuss this with your lawyer and your supporters before you make the decision to try mediation.

Limitation Periods

A limitation period is the time that is imposed on you for commencing your civil action. The limitation period for filing a civil action for damages for sexual assault in Ontario is 4 years. This means that you must commence your civil action within four years of the

time when you experienced the act or acts of sexual violence.

- The courts have accepted, however, that there are certain circumstances which may prevent a victim of sexual violence from filing the claim in that time period. In those cases, the court will extend the time period and allow the person to file the claim even if it is filed after the expiry of the 4 years.
- Particularly in cases involving childhood sexual abuse, it may take many years for the victim to come to terms with the violence they have experienced. The limitation period is generally not a barrier to bringing a civil action if you can prove that you commenced the action within 4 years of becoming conscious of the fact that you experienced sexual violence and the impact of that violence on your life.
- Ask your lawyer to explain a legal concept called “breach of fiduciary duty”. In cases involving public authorities, or persons in a position of trust, there may not be a limitation period for bringing an action against them.

Administrative law system

What is covered by administrative law?

Generally, administrative law refers to the internal rules and regulations of various institutions and organizations. Some are government bodies and some are not.

Administrative law may be able to help if you have experienced sexual assault, criminal harassment or sexual harassment by someone who works in a professional job, such as a doctor, teacher, lawyer or psychologist. We discuss this below under “Professional associations and governing bodies”.

Another form of administrative law is the Criminal Injuries Compensation Board, discussed later in this section.

The processes involved in administrative law can be slow and confusing. If you are considering this as an option or decide to file a complaint, we suggest that you get advice and assistance from a counselor or support person familiar with administrative law. Talk with local women's organizations, Sexual Assault or Rape Crisis Centres for a referral.

Professional associations and governing bodies

Doctors in Ontario are regulated by the Ontario College of Physicians and Surgeons. Teachers are regulated by the Ontario College of Teachers. Lawyers are regulated by the Law Society of Upper Canada. Generally, each profession has a governing body or association with procedures to look into complaints of “professional misconduct”. These bodies can discipline, fine or even force their members to stop working in their profession.

For example, a patient who has been sexually assaulted by her doctor can report this to

the College of Physicians and Surgeons. The College will conduct an investigation and hold a hearing. They will determine what, if any, punishment to impose on the doctor.

If you have been sexually assaulted, criminally harassed or sexually harassed by a person in a position of trust and / or power, find out if they are regulated by such a body and consider making a complaint.

The Criminal Injuries Compensation Board

Compensation may be available from the Province of Ontario if you are a victim of a crime including sexual assault or childhood sexual abuse. Compensation is not available for workplace sexual harassment unless that harassment can be characterized as criminal harassment.

Compensation is paid by the Province of Ontario under a provincial law called *Compensation for Victims of Crime Act*.

- The limitation period for filing a complaint is 2 years after the injury. However, you can apply to the Board after the deadline and provide an explanation for the delay in filing your claim. In most cases of assault and childhood sexual abuse, women have a very difficult time meeting the deadline because of the emotional issues that they are struggling with. The Board has been very flexible with victims of sexual violence.
- Compensation is available for expenses you incurred as a result of the injury, such as medical and therapeutic expenses, lost income, compensation for pain and suffering, and support for a child who is conceived as a result of a rape.
- You should be aware that once you have made your application, the Board may take steps to notify the person who assaulted you and to give that person an opportunity to appear at the hearing, to cross-examine you and to provide the Board with their own version of the events. If you have concerns about the Board notifying this person, you should raise your concerns with the Board as soon as possible. The Board can also order that the person who assaulted you attend the hearing by telephone or in a separate room.
- You should also be aware that if the person who assaulted you participates in the hearing, they will receive copies of your application, including any of your medical records that the Board has obtained. They will also have the right to have their own lawyer in attendance at the hearing.
- It is not necessary for the person who assaulted you to have been convicted of a crime. If you have not reported your experiences of sexual assault and / or childhood sexual abuse to authorities, or those whose cases were dismissed by the courts, you may still qualify for compensation.
- The hearing of your case will be public, so ensure that if you have concerns about the impact of a public hearing, that you draw them to the attention of the Board immediately. If you do not wish to give evidence in a public hearing, the

Board can make a decision based on the documents that you have filed.

- The Board has the ability to award you interim payments where it appears that you are likely to receive compensation. This money can be used for medical expenses and therapeutic support while you await the final outcome of your case.
- The Board can award you a lump sum or periodic payments.
- The Board can award a maximum of \$25,000.00 in a lump sum and a maximum of \$1000.00 per month in periodic payments.
- If you retain a lawyer to assist you, you may recover some money to apply toward your costs; however, these awards are historically very low and unlikely to cover your actual legal expenses.
- If you live in a part of Ontario where there is a legal clinic or a university law school with a legal clinic, then you should contact them to find out whether they service clients who make applications to this Board.
- If you choose to make an application without a lawyer, make sure that all your communications with the Board are in writing. Even if you have a telephone call with someone, confirm the details of your call in writing.
- Your hearing can be done on the basis of the documents that you have filed, or you can request an oral hearing where you attend and tell your story. The setting for the hearing is generally informal and you should be given ample time to tell your story. Make sure that you take a copy of your file with you so that you do not forget to tell the adjudicator important details.
- You should also come to the hearing prepared to tell the adjudicator about the impact of the sexual violence in your life. Tell the adjudicator about all of the physical and emotional suffering you have experienced and the experiences in your life that have been compromised by that suffering, for example:
 - Work related opportunities
 - Educational opportunities
 - Relationships with family and friends
- It is a good idea to bring a support person to your hearing who can take notes for you. The hearing will be stressful and you are likely to forget most of what took place.
- Expect delays. Like many social justice institutions, the board is underfunded and it will take some time for your case to be completed.
- If you are dissatisfied with the award, or your case is dismissed, you may appeal the decision to the Superior Court of Justice, Divisional Court. You have only 30 days from the date that you receive the decision to initiate an appeal, so make sure you get legal advice right away.

PART 5: Who Can Help Outside the Legal System?

As discussed in *Part 3: First, Take Care of Yourself*, the most important thing you can do to heal from your experiences of sexual violence is to get support. This is important whether or not you choose to take legal action.

Key people and services outside the legal system are therapists / counsellors, medical professionals, and support workers in women's organizations.

In *Part 4: If You Take Legal Action* we give information about the legal options you have in Ontario. In this section of the handbook we help you find where to get support outside of the legal system.

How can I find out what services are available?

Not every community has the same range of services. Some of the options we describe here may not be available to you. You can start finding out what services there are in your community by checking *Part 10: Resources*.

If, for example, a sexual assault centre does not exist in your community, contact one in the community nearest you. They may be able to help you or will refer you to other services in your community.

It is also a good idea to ask local women's organizations (such as a women's centre or a women's shelter) to help you identify the places you can go for support and assistance.

You can also get information by calling the *Assaulted Women's Helpline: Greater Toronto Area* (416) 863-0511; Toll Free (Ontario) 1-866-863-0511; TTY 1-866-863-7868.

Women's organizations

Women's organizations play a very important role in providing ongoing help and support to women struggling with experiences of sexual violence.

Some of the women's organizations you might want to contact include women's centres, Sexual Assault or Rape Crisis Centres, and women's shelters.

- Most services for women are funded by the federal or provincial governments. The services are offered free of charge. You can contact these organizations by telephone, usually during regular business hours. Sexual Assault or Rape Crisis Centres run 24-hour crisis line services.
- One of the major benefits of connecting with women's organizations is that they develop relationships with, and offer information about, other service providers such as therapists / counsellors, lawyers, police and health care workers. They can link you with these services for further support or legal action.
- In addition to the support and information these organizations provide to individual

women, women's organizations engage in important political and advocacy work. This is directed to enhancing access to justice for women and changing public attitudes about sexual violence.

Therapists / Counsellors

As discussed in Part 3, we strongly recommend that you seek therapeutic support. Therapy / counselling can enable you to move toward naming your experience and ultimately toward holding someone other than yourself accountable.

You will not be able to heal in isolation. A knowledgeable therapist / counsellor can assist you in a variety of ways. See *Part 3: First, Take Care of Yourself* for more about how a therapist / counsellor can help and how to find a good one.

We strongly recommend that you get therapy / counselling whether or not you take legal action.

Sexual Assault and Rape Crisis Centres

Sexual Assault and Rape Crisis Centres help women who have been sexually assaulted, sexually abused as children, sexually harassed or criminally harassed.

- All Centres have a 24-hour crisis and support telephone line. Check your telephone book or see the listings in *Part 10: Resources* of this handbook for phone numbers and addresses. You can talk to someone immediately after you have been sexually assaulted or harassed, or at any time when you are struggling to deal with the effects of the sexual violence you have experienced.
- Centres are staffed with sympathetic, knowledgeable women who can play an important role in your process of recovering from the effects of sexual violence.
- Each Centre works differently. Most offer individual and group counseling services. Although many Centres have a limit on the number of individual counseling sessions that they can offer to you, they will support you through your crisis and help you feel more stable and in control of your life.
- The Ontario Government funds Sexual Assault and Rape Crisis Centres so that they can provide their services free of charge.
- Sexual Assault and Rape Crisis Centres provide opportunities to meet other women who have had similar experiences of sexual violence. Even connecting informally with other women can have a very positive impact on your life. However, see “Should I meet with other women who have experienced sexual violence?” in *Part 4: If You Take Legal Action*.
- The Centres can help you find professionals such as private therapists / counsellors, doctors and lawyers.

- Most Centres have staff or volunteers that will accompany you to the hospital and / or to the police if you choose to go. They may also be able to support you if you decide to take some form of legal action. This support could include accompanying you to meetings with lawyers or other professionals. It could also include going with you to court if you decide to do that.
- In addition to the support they can provide you, Sexual Assault and Rape Crisis Centres engage in important political work directed at: (1) improving access to justice for women who experience sexual violence; and (2) changing harmful social attitudes about sexual violence. Some women choose to become involved in a political movement as a way to reclaim a sense of personal power and to heal from the effects of sexual violence.

If there is not a Sexual Assault or Rape Crisis Centre in your community, another organization such as a women's centre or a women's shelter may be able to provide you with support and / or advocacy. To find out about organizations that are working to stop violence against women in your community call the *Assaulted Women's Helpline*: Greater Toronto Area (416) 863-0511; Toll Free (Ontario) 1-866-863-0511; TTY 1-866-863-7868.

Sexual Assault and Domestic Violence Care and Treatment Centres

If you have recently been sexually assaulted you will have medical concerns and questions. We encourage you to seek medical assistance immediately.

Medical services across Ontario have been enhanced since the early 1990's by the organization of a network of Sexual Assault and Domestic Violence Care and Treatment Centres. There are thirty Sexual Assault and Domestic Violence Care and Treatment Centres in Ontario. These centres provide specialized medical, nursing and counseling services to victims of violence. Services are provided to women, men and children who have experienced an assault.

- The service is available on a 24 / 7 basis: 24 hours a day, 7 days a week with on-call teams of specialized health care professionals. These health care teams have received intensive education about trauma, are trained to address forensic evidence collection issues, and they understand and can help you and your family deal with the emotional impact of trauma.
- Check *Part 10: Resources* to see if there is a Sexual Assault and Domestic Violence Care and Treatment Centre in your community. If not, call the 24-hour crisis and support line of the nearest Sexual Assault or Rape Crisis Centre and ask them where you can go to get medical assistance.
- Services include: treatment of injuries; documentation including photography, collection and preservation of evidence; safety planning; review of available community resources; and transportation to safe housing. All services are dependent on the client's consent.
- Follow-up services include emotional support and counseling to assist in the post

traumatic period. Ongoing testing for sexually transmitted diseases is also available. Follow-up services vary from community to community.

- All medical and counseling services at these hospital-based Centres are available regardless of police involvement. Each individual who comes for care can decide if they wish to inform the police of the assault and have a police investigation initiated. Some will have already done so prior to coming to the hospital. If you decide to involve the police, additional provincial forensic documentation forms will be completed with your consent. If you are undecided, documentation can be completed with your consent and held until you are ready to make that decision. *At no time are police notified without your consent.*
- *If the client is a minor (under 16 years of age), however, then the Children's Aid Society (CAS) in the local community may be notified if there is a risk of further assault. The CAS may then notify the police.*
- Many women are interested in receiving emergency pregnancy prevention contraception as well as antibiotics to prevent bacterial infections. The availability of HIV prophylaxis varies across the province. In some areas they will be available to women who consent and deem that the risk of exposure outweighs the side effects.
- Cultural and multilingual interpretation or sign language services can be provided through the assistance of interpreters.

Victim / Witness Assistance Program

If you are involved in a criminal case, either as a victim of a sexual assault or as a witness to testify in a case, find out if there is a Victim / Witness Assistance Program in your community.

Being involved in the criminal justice system can be both confusing and frightening. The Ministry of the Attorney General has set up the Victim / Witness Assistance Programs (VWAP) to assist you while you are going through the court process.

The VWAP is designed to help you better understand and participate in the criminal justice system.

- VWAP provides information, assistance and support to victims and witnesses of crime throughout the criminal justice process.
- VWAP staff work closely with the police and the Crown attorneys to ensure that victims understand the court process, receive information about their case, have opportunities for input, and are supported through the process.
- The VWAP will:
 - Provide you with information about the court process and up-to-date information about your case

- Inform you about counseling and support services available in your community
- Provide emotional support before and during court proceedings
- Provide court preparation and orientation
- Arrange for interpreters if necessary
- Provide information about Victim Impact Statements and the Criminal Injuries Compensation Board

PART 6: Help for Workplace Sexual Harassment

The most obvious example of sexual violence in the workplace is sexual harassment. Sexual harassment is most often reported in the workplace, but it also happens in school / educational settings, in housing and services available to the public. You can adapt the information here to these other settings.

Workplace sexual harassment is one of the most pervasive forms of sexual abuse that women experience over the course of their lifetime. Women working in both union and non-union environments find themselves in very difficult circumstances when they must deal with unwanted, inappropriate behaviour in the workplace.

In 1989 the Supreme Court of Canada first recognized sexual harassment as a form of discrimination against women and as a barrier to gender equality in the workplace. Sexual harassment can deprive women of advancement in an organization, force them to leave their employment altogether and can have extremely damaging physical and psychological effects on victims.

Who sexually harasses?

Sexual harassment can occur when a supervisor abuses their position of power and authority over a subordinate employee. However, sexual harassment can also occur between coworkers, between a worker and a supplier or customer of the company, or between union members.

Where does sexual harassment take place?

You can be sexually harassed at work, at “off site” company meetings and social functions, after work when employees sometimes gather in a casual setting for drinks or dinner, and in a variety of other employment related settings, including during union meetings or at union functions.

How do women respond to sexual harassment?

Remember that the harasser is responsible for the problem. Do not judge yourself. You are likely to respond in different ways to your experience of sexual harassment. Some may surprise you and cause you to feel like you are not “handling” the harassment appropriately. This is a very common experience. You may, for example:

- Decide not to report the harassment because you are afraid that your coworkers will think you are a trouble maker
- Laugh at sexist jokes and even tell some yourself
- Try to avoid the harasser and not say anything to him or her

You may also find yourself experiencing a range of emotional symptoms associated with the harassment such as:

- Sleeplessness
- Loss of confidence
- Crying spells
- Stress related illnesses which cause you to remain away from the workplace
- Loss of weight, or gaining weight, depending on how you respond to stress
- Loss of concentration and the ability to focus which negatively affect your job performance
- Anxiety, desperation, panic attacks
- In the most serious cases, thoughts of suicide

You may not even be aware of the full impact of the harassment on you. It may be impossible for you to “deal” with the harasser or report the harassment to your employer while you are trying to cope with the emotional effects of the harassment.

What do I need to consider before I decide to report the harassment to my employer?

- The longer the harassment goes unreported, the more likely it is to escalate.
- If you choose not to report, your employer may not find out about the harassment and will not be in position to make it stop.
- Your employer may respond to your complaint by treating the harassment as an “interpersonal” problem between you and the harasser, rather than an organizational problem that they are obliged to fix.
- If you report the harassment and the employer does not take the necessary steps to end the harassment, it could get worse.
- The harasser may retaliate by telling everyone “his or her side of the story” and attempting to create alliances in the workplace against you.
- You may discover that your colleagues treat you differently at work once you have reported the harassment. Some people will continue to be supportive, but others may engage in gossip and perceive you as a “trouble-maker”.
- If the harasser is your supervisor, he may retaliate directly by firing you or indirectly by making your life miserable and forcing you to quit.

Also, keep in mind:

- If your employer has a policy which prohibits sexual harassment, management will more likely have the tools to handle your concerns effectively and end the harassment. This is particularly true if they are aware of their responsibility to maintain a harassment free work environment.
- If you choose to report the harassment you should discuss with your employer any safety concerns you have. If necessary ask your employer to separate you from the harasser immediately.

- Discuss with your employer any concerns you have about the harasser or others retaliating against you for making the complaint.
- If you choose to leave your job to escape the harassment, you may have difficulty collecting employment insurance benefits if you have not reported the harassment to the employer.

What are my options for taking action?

Your options for dealing with sexual harassment at work range from dealing with it yourself, to taking your complaint to someone inside your workplace, to filing a complaint outside your workplace. We discuss each of these options below.

As with other types of sexual violence, we suggest that you talk over these options with someone you trust and who can give you good advice or referral. This might include a support person working with a woman's organization, a lawyer, a therapist / counsellor with your workplace EAP (Employee Assistance Program), your supervisor, union representative, the human resource department, or other professional inside or outside of your workplace.

Should I deal directly with the harasser?

Many women try to make the harassment stop by appealing directly to the harasser. Sometimes this is effective. Most employer policies suggest or require you to first tell the harasser to "stop" the behaviour. However, most experts now recommend that it is not safe to confront a harasser on your own. Many women who have tried a direct confrontation find themselves the victim of reprisal and retaliation.

Directly dealing with the harasser may be effective in circumstances where the harasser is open to hearing about the impact of his or her behaviour and is willing to change.

Remember: harassment is an organization's problem. It is ultimately the employer's responsibility to deal with this kind of behaviour.

Should I complain to my employer?

- If you are currently employed and experiencing sexual harassment at work, you may wish to consider approaching your employer. The first and most obvious question is who you should report to. If your employer has a sexual harassment policy, review it. The policy may tell you exactly who to speak with and how to initiate a complaint.
- It is common, however, for employers to have good policies which are not enforced because people in the organization are not trained and are not equipped to implement the policy. As a result, you may be met with resistance or a lack of understanding when you attempt to initiate your complaint.

- If your employer does not have a policy on sexual harassment this could signal that your employer lacks knowledge about sexual harassment and their obligation to put an end to it.
- Take a support person with you to your meeting with the employer. Ask that person to take notes. You will find it stressful to report your experience of sexual harassment. You may not remember everything that happened during the meeting.
- Your employer may ask you whether you want to make a *formal* rather than an *informal* complaint. We recommend that employers treat all complaints as formal complaints. You may be asked a question such as, “Do you want to file a formal complaint?” You may experience this as a barrier in the reporting process. You may interpret the question to mean: “Do you really want to report this?”; “Are you sure you want to go through with this?”; “Maybe you should think about this”; and so on. If you went to your employer for help and you want the harassment to stop, it is best to ask your employer to pursue your complaint as if it is a formal one.
- When you do report to the employer, make sure that you leave the meeting with a full understanding of the process and what to expect at each stage.
- Talk to the employer about your safety issues and your concerns about retaliation. If you think that your working conditions can be improved by being separated from your harasser, let your employer know this.
- Discuss with your employer any need you have for therapeutic support and ask the employer to provide you with assistance to obtain the support.
- If your employer conducts an investigation, you should consider whether you wish to have your own representative or support person present. The benefit of having another person present is that they can take notes for you while you discuss your concerns with the investigator. You should also find out from the investigator to what extent the process will remain confidential. Do not be afraid to ask the investigator to explain their role. Every investigation is different and sometimes the investigator is simply responsible for gathering information. Other times the investigator is being asked by the employer to give a report and advice to the employer about the harassment.
- It is a good idea to get independent legal advice before the investigation begins.

What happens if my employer decides to discipline the harasser?

If your employer takes disciplinary action against the person harassing you, meet with your employer and discuss any concerns you have about acts of reprisal you might experience. Ask your employer to monitor your situation to ensure that you are not treated inappropriately by your coworkers who may view you as a “trouble maker”.

Report regularly to your employer about any negative experiences you are having in

your workplace. Your employer has an ongoing obligation to ensure that you do not suffer reprisals for complaining about sexual harassment.

Take extra safety precautions going to and from work, especially in circumstances where the harasser has been fired. Make sure that you contact the police immediately if the person continues to harass you after he or she has been terminated.

Should I complain to my union?

- Speak to a union representative and find out if there is an agreement between the union and the employer about human rights violations in the workplace.
- Review your collective agreement to determine whether sexual harassment is covered.
- Does your union have a “women’s committee” who might provide support for your complaint?
- Is there a process for complaining about a fellow union member?
- If you are a unionized worker and the person harassing you is a supervisor, ask your union representative about filing a grievance against the company for failing to ensure a harassment free work environment.
- If you are a unionized worker and the person harassing you is a fellow union member, the union can still initiate a grievance against the employer for failing to provide a harassment free work environment.
- If your union is uncooperative, or you feel that you are not being supported by the union, you can complain to the Ontario Labour Relations Board that your union has failed to provide you with fair representation.
- In many cases, women find themselves in circumstances where the union refuses to take action against a harasser and sides with him or her. If this happens to you, contact the Ontario Labour Relations Board.
- If the harassment is affecting your ability to work safely, you may have a complaint to the Occupational Health and Safety Committee at your workplace. You could also contact the Ontario Labour Relations Board for information on work refusals under the *Occupational Health and Safety Act*.
- Make sure you keep notes.
- Take someone with you when you complain and ask them to make notes during the meeting.
- Your union is ultimately in control of your grievance. They can decide whether to initiate the grievance and how far they wish to pursue it.

- If your grievance is not resolved, it may go to arbitration, which is a process by which a third party (an arbitrator) hears your story and decides your case.

Should I file a complaint with the Ontario Human Rights Commission?

- Depending on the specifics of your situation you may file a complaint with the Ontario Human Rights Commission against your employer, your union and the individual who is harassing you.
- If you work for an employer who falls under federal jurisdiction, such as a bank or trucking company, you should make your complaint to the Canadian Human Rights Commission. You may also have recourse under the *Canada Labour Code*.
- When you call the Commission, you may be told that you should file a complaint with your union, or that your complaint is out of time, or that the Commission is likely to dismiss your complaint for some reason. *It is your legal right to file a complaint.* Write down what the person told you on the phone, the name of the person you were speaking with, and then tell them that you wish to go ahead with your complaint. Better yet, communicate with the Commission in writing rather than on the telephone.
- You have one year from the date of the last incident of harassment to file your complaint with the Commission. In many cases, however, women file complaints after the one year deadline and the Commission will accept their complaint. Even if you are past the deadline, file the complaint and provide the Commission with a reason for the delay in filing your complaint.
- You will receive a questionnaire from the Commission which will then be used to draft your complaint. If the Commission tells you that the form must be returned by a certain date and you are not able to meet that date, simply write to them advising that you will be sending the material back at a later date. The Commission may impose a deadline on you that is unreasonable. The Commission cannot dismiss your complaint simply because you returned your questionnaire late.
- You will then receive a complaint form. Review it carefully. If there are any changes needed, write them down and return the form to the Commission.
- Once your complaint is finalized and signed, it will be sent to the respondents (the respondents are the persons against whom you have made the complaint) and they will file a “response” or a document which sets out their version of the event.
- You will be advised by the Human Rights Commission that mediation of your complaint, rather than investigation, is a possibility. Mediation is a voluntary process and you are not obligated to participate. However, if you choose to participate, take someone with you for support. The respondent will likely attend the mediation with their lawyer. You have the right to have your own lawyer as

well.

- The Commission does not give you advice. They investigate your complaint and determine whether there is enough evidence to warrant a public hearing. If your complaint is not settled through mediation, it will be investigated. Once the investigation is complete, the Commission will decide whether the case should be referred to a public hearing. When you meet with an investigator (by telephone or in person) remember that the information you give him or her will be disclosed to the respondents. Not every complaint filed with the Commission will be referred to a public hearing, even in circumstances where there is evidence to support the complaint. If your case is referred for a public hearing, it will be before the Board of Inquiry for Ontario. The Board is the decision making body and they are a separate institution from the Commission.
- At the hearing, the Commission does not represent you. They represent the public interest.
- You may have your own lawyer represent you at the hearing. It is difficult to find a lawyer who has the expertise to conduct human rights cases, however, in some circumstances, where the legal issues are extremely complex, or where, for example, the company has hired a particularly aggressive lawyer, it may be a good idea for you to have your own lawyer present to protect your interests.

Should I deal with the sexual harassment through the civil courts?

If you are working in a non-union job and you lose your job or are forced out of your job because of sexual harassment, you can take your case to Civil Court, but the possibilities are limited. You can sue for wrongful dismissal, or “constructive dismissal” meaning that you were forced out of your employment.

In a wrongful dismissal case, your employer has the right to terminate your employment as long as you are given the proper notice. If your employer terminates you because you made a sexual harassment complaint, your lawyer could argue that the termination was carried out in bad faith and help you obtain a better money settlement. However, in most cases, damages for bad faith are low. So if, for example, the judge determines that the proper notice period owed to you by the employers was 2 months, you would receive the equivalent of 2 months salary and your lawyer may be able to convince the judge to extend that to 3 or 4 months salary to compensate you for the bad faith aspect of your termination.

You should review your options with a lawyer. In many cases involving allegations of wrongful dismissal and constructive dismissal, the potential for recovering money from your employer is outweighed by the cost of a lawyer.

What about a complaint to the Ontario Labour Relations Board?

You can contact the Ontario Labour Relations Board if you work in a unionized environment and you are concerned that your union is not supporting you, or appears to be supporting your harasser at your expense. The Board:

- Oversees the conduct of unions
- Decides cases brought by union members who complain that their unions are not providing them with fair representation
- Deals with complaints under the *Occupational Health and Safety Act*

If you believe that you are in danger at work because of the conduct of your harasser, you should contact your joint health and safety committee representatives, or the Ontario Labour Relations Board directly, and find out whether you can refuse to work under those conditions.

What about a complaint to the Workplace Safety and Insurance Board (workers' compensation)?

- Workers' Compensation is managed by the Workplace Safety and Insurance Board (WSIB). It is an "insurance" program designed to compensate workers who are injured in their employment. If you qualify for benefits you may be prohibited from suing your employer in the civil courts.
- Prior to 1997, workers who experienced "mental stress" or psychological disability from workplace sexual harassment could obtain workers' compensation benefits for their injuries.

However, in 1997, the *Workers' Compensation Act* was amended and renamed the *Workplace Safety and Insurance Act*. The amendments specify that a worker is generally *not* entitled to benefits under the insurance plan for mental stress, with one exception. The statute specifies that a worker is entitled to benefits for "mental stress that is an acute reaction to a sudden and unexpected traumatic event arising out of or in the course of his or her employment".

- However, in most circumstances, sexual harassment does not qualify under the Act as a "sudden and unexpected" event since it usually arises gradually over time due to workplace conditions.

However, there may still be an avenue open to you to claim benefits where you experience a "sudden and unexpected incident" of sexual harassment or sexual assault arising out of or in the course of employment.

- The WSIB has examined whether to revise the mental stress policy to address the cumulative effect of traumatic workplace harassment where there is a series of traumatic incidents. These proposed revisions would make psychological injuries as a result of harassment a compensable workplace injury.

What about a complaint to Employment Standards with the Ontario Ministry of Labour?

- *The Employment Standards Act (ESA)* establishes minimum terms and conditions of employment such as hours of work, wages, vacation pay, public holiday pay, termination, severance and pregnancy leave provisions for most

employees working in Ontario.

- Employees working in Ontario for industries such as banks, airports, railways or extra-provincial transportation companies are federally governed by the *Canada Labour Code* and not the ESA.
- The Employment Standards branch of the Ontario Ministry of Labour enforces the *Employment Standards Act* through a claims process. There is no charge for individuals to file claims against their employers or former employers.
- It is important to note that the *Act* does not permit you to file both a claim through the Ministry, and civil legal action for wrongful dismissal, for the same issues. Practically speaking, this generally means that you must decide to either file a claim or sue civilly. However, you may file a claim for one issue and sue civilly for other issues. For example a claim may be filed for vacation pay while an action is commenced for wrongful dismissal.

Can I file a claim for Employment Insurance if I quit my job because of sexual harassment?

- Employment Insurance is a federal system of benefits governed by the *Employment Insurance Act*. It is enforced and managed by Human Resources and Skills Development Canada (HRSDC).
- Similar to the Employment Standards process we described above, you are generally disentitled from receiving regular employment insurance benefits when you resign from your job. However, where you can show that your resignation was a result of a poisoned work environment and/or sexual harassment, benefits may be available on the basis that the resignation was, in fact, a constructive dismissal.
- There are HRSDC offices throughout Ontario or check the HRSDC website for information on all HRSDC programs.

What happens if I am denied EI?

- If you are initially denied benefits because you have allegedly resigned, you can write a letter of appeal. This may be sufficient to reverse the decision. If this review does not change the decision and benefits are still denied, an Employment Insurance agent will prepare a submission to a Board of Referees. This Board is made up of individuals who are independent of HRSDC. No legal representation is required for the hearing, although you may decide to have a legal representative attend.
- When you or your legal representative are preparing for a hearing, you may review previous decisions made by Federal Courts. These are available in the HRSDC office. The Board will hear evidence from both sides. In circumstances where harassment has occurred and resulted in termination of your employment,

you should present your side of the story and any evidence you have. The evidence may be oral or documentary, for example, a journal of events you have kept. At the hearing, if the appeal involves harassment and you feel uncomfortable providing the information regarding the harassment, the Board Chairperson is authorized to ask people to leave the hearing during the presentation of oral evidence.

- The Board of Referees will mail its decision to all involved parties.

What if my appeal is denied?

- The next level of appeal is available if the Board did not provide an impartial hearing, acted outside of its jurisdiction, or failed to give you a reasonable opportunity to present your case. It is also available if the Board makes a mistake in law while making its decision, or based its decision on a misinterpretation of the facts.
- An appeal must be made to the HRSDC in writing within 60 days after you receive the decision made by the Board of Referees. The appeal must be based on one of the reasons given above. It is not sufficient to simply disagree with the Board's decision if you want to appeal the decision.

This level of appeal is considered by an Umpire and is usually final. However, in certain rare circumstances, one can appeal to the Federal Court of Canada or to the Supreme Court of Canada.

- HRSDC recognizes the concept of "constructive dismissal" and has the authority to approve the payment of benefits where you have resigned your job due to the impact of a poisoned work environment from sexual harassment.

Can I sue if I lose my job because I made a sexual harassment complaint?

There is limited recourse to the civil courts for women who work in non-union workplaces and lose their jobs or are forced out because of sexual harassment. If this is your situation you might be able to sue for wrongful dismissal or "constructive dismissal".

Your employer has the right to terminate your employment so long as you are given the proper notice. If your employer terminates you because you made a sexual harassment complaint, your lawyer could argue "wrongful dismissal" - that the termination was carried out in bad faith - and could try to help you obtain a better money settlement with your employer. However, in most cases, damages for bad faith are low. If, for example, the judge determines that the proper notice period owed to you by the employer was 2 months, you would receive the equivalent of 2 months salary and your lawyer may be able to convince the judge to extend that to 3 or 4 months salary to compensate you for the bad faith aspect of your termination.

"Constructive dismissal" means you were forced out of your employment.

You should review your options with a lawyer. In many cases involving allegations of wrongful dismissal and constructive dismissal, the potential for recovering money from your employer is outweighed by your legal costs.

PART 7: Voices of Experience

W is 31 years old. She has a grade 11 education and a year and half of college courses in Executive Office Administration. She is an Ontario Works recipient. She has an invisible disability – PTSD, agoraphobia, obsessive compulsive disorder, depression and anxiety.

My stepfather was charged with the sexual abuse of my sister and me. However, I don't have any memory of this alleged abuse. Right now, I don't think it ever happened but I think I was being groomed by my stepfather.

I was willing to be interviewed about the situation with my stepfather which became a full blown court case. I don't know who pressed the charges, possibly the police.

The court case went on for several years, from the time I was 11 to the time I was 15 years old. Charges of abusing me were dropped and the charges dealing with my sister went nowhere because there was not enough evidence.

I was placed in a foster home. I stayed there until I was 14 years old when I moved to another foster home. I believe that my foster parents "planted" information in my mind about my stepfather. At fourteen I ran away from this foster home with another girl and her boyfriend. The same night I was drinking beer with a group of guys. A beer was passed around and I drank a few sips. I lost consciousness and next thing I knew, I woke up in a puddle of blood. I don't remember but I believe I was drugged and gang raped.

I moved into the city into a group home. A year later, when I was fifteen, I willingly had sex for the first time. At sixteen I was sexually abused by a guy I met down town. I went with him on his motorcycle and he invited me to his home. He sexually abused me by fingering me to the point of bleeding.

Another incident happened when I was partying at home. I liked a guy and we were flirting. But I warned him that nothing would happen between us because both of us were drinking. I slept on my couch and he tried to rape me anally. Someone called the police. I don't know who called the police. I was questioned and taken to the hospital for an assault kit. I had an out of body experience before the police arrived. I went back into my body when I was being questioned. The police discouraged me from laying chargers in the last incident.

In the case involving my step father, the Victim Witness Assistance Program was very helpful. They made me feel safe. They knew I was very young and they were protective of me. They kept me apart from the rest of witnesses. They had a party for my fourteenth birthday. They had balloons and presents for me. They explained important things such as how to feel safe, how to ask people to leave if they were bothering me.

The lawyers were unhelpful. They asked ridiculous questions such as "do you have fish at home? How many fish? The Crown did not meet with me. Nobody explained what was happening except Victim Witness. The Children's Aid Society did not provide counseling for me.

I didn't receive support from anybody. My foster parents were not supportive. They made me say things against my stepfather. My mother chose my stepfather's side. I would have liked support, external support, from an outside opinion, someone that is not involved in the case and that can be objective, someone that would have made suggestions such as counseling for me. This is the key thing, having someone who has an open ear but a closed mouth.

My advice to other women is to complete it, go through it. Fight for self-respect, finish your court case. Try to stop predators from doing it again. Find the support that is out there. Try to get some sort of justice and closure.

E is 58 years old. She has a secondary school diploma and has completed many college level credit courses. She has years of on the job training. She works in a large social service institution as a Supervisor. She has no visible/invisible disability.

I was ten years old when my mother died. I had a stepfather who sexually abused me from that age until I was 17 years old. He also physically abused my sister. My sister was his biological child. I studied with nuns and I told them about the abuse. However, the nuns did not believe it. I told the priest, who also did not believe me. I talked to the school Principal who advised me to be quiet.

I left when I was 17. However, my stepfather broke into my apartment. The police were aware of his continuing assaults on me, but instead of arresting him, they put him in a mental institution. My sister and I moved constantly to get away from him but he always found us. He would get out of the mental institution, get my address and break into my apartment. One time he held me at gunpoint. I escaped and went to work and my boss called CAS. They took my sister who was under age.

He went to live in Toronto and married someone else and started to abuse her daughter. The mother called me at work but I did not want to get involved and I never responded to the phone calls.

In September 1998 I got a call from the police in Peel that my stepfather had murdered a woman. They wanted me to testify as a character witness. My sister and I were both interviewed by the Crown Attorney and we had to wait for the trial. In the meantime my stepfather's brother passed away and the Police called me again saying that I was supposed to be the Executor. I thought I had to do it, that there was no way out. As the Executor I had to go and take care of this man's estate and all the things that were supposed to be done. For example, he died in his apartment, but nobody found him for quite some time. I cleaned up the apartment and paid the bills as the Executor.

My stepfather's brother left some money; \$40,000. My stepfather had an assigned government lawyer who sued my lawyer because I had received wrong information and I was not supposed to be the next of kin according to my stepfather's lawyer. It seemed that my lawyer had me sign some papers as the Executor, which should not have happened. This lawyer was reported to the Law Society and was taken off of the case

for his behavior. I still had to get another lawyer as I was still being sued by my stepfather for becoming the Executor when I was not supposed to be.

The lawyer who handled my case about being the Executor did not know the case, and did not even know my name. I spoke on my own behalf because the lawyer had no clue about the case. The judge absolved me of wrongdoing, but I was given no money.

I had a lawyer trying to obtain some money from my stepfather for abusing me. My stepfather still had the right to be the Executor despite the fact that he was in jail for murder. I sued for money that was never transferred to me. The money is still in a Trust Fund opened and managed only by my stepfather's lawyer. I wanted the money for my sister who is the biological child of this abuser. The case has not been resolved as yet.

My stepfather died some time ago in jail after serving less than three years. The Police believe that he was a serial killer as many women who had a relationship with him died when they were with him, including my mother. At this point some of the estate money has been given to the murdered woman's only living daughter who is supposed to receive \$34,000. I feel that it is totally unfair that my sister and I would receive nothing when the police knew that he had abused me for years. I feel enraged that I testified for one week for nothing. He was sentenced for murder and got only four and a half years.

I was part of two legal processes that I did not initiate but that I had to respond to. I have been involved with the legal system for several years and I have paid thousands of dollars to lawyers, and the process is not finished at all. The police were involved and I have been through the trials that I mentioned previously.

I also tried the Criminal Injuries Compensation Board and was soon disqualified because I did not spend money for professional help – meaning psychotherapy or the like.

Nothing was helpful and I did not get proper advice about my case. I never heard of the Victim Witness Assistance Program and nobody told me about free of charge counseling services such as the Sexual Assault Centre London. I had no support other than from my husband who has died. I had no support and no idea where to go for it. Nobody informed me of any opportunities to get counseling.

I would have appreciated knowing about my legal rights. I felt I had no advocate as the lawyers and Crown Attorney had their own agenda. I was most disappointed that the Crown Attorney would not offer any assistance or valuable information. I expected some follow up and advice on where to go and what to do.

I had to hire my own lawyer and I have found myself in the middle of a jungle with lawyers that do not have my interest at heart. They are just concerned with being paid big amounts of money. I have been left to fend for myself. The latest development is that I had to hire another lawyer who said from the beginning that her fee would be \$10,000 and would guarantee nothing from the estate. I believe that I will pay this \$10,000 for nothing because the court has already assigned \$34,000 to the murdered woman's daughter. My stepfather's lawyer will still have to be paid.

I should have hired a criminal lawyer to sue for the state. The case is still going on because my stepfather's lawyer is not releasing the money. Therefore, I will have to

keep paying a lawyer for as long as my stepfather's lawyer has a grip on the estate. I know that I will be lucky if I end up owing only \$10,000 to my lawyer.

I wish I had known that the Legal System is so black and white. There is no opportunity to waive different situations if the law does not apply to them. If I knew all this I would not have put myself through it. We had to testify and we relived horrors for nothing. I am angry because it is unfair that the murdered woman's daughter takes it all. I know she was the immediate victim but they did not consider us who were his children and who were put through hell because of the abuse. It seems that the Legal System is about who has the better lawyer – it is a comedy of errors.

My advice to other women would be: try to get advice from different places – get info about your rights – what are your rights. The lawyers and the Crown Attorney just wanted to win their case and were not interested in us at all. They were coaching us to get their case. We were not even allowed to read a Victim Impact Statement but the daughter of the woman who was killed was. The most important piece of advice is about the importance of knowing your rights. Get support - someone that can support you. It is sad but in the end it is about who has the better lawyer.

J is 43 years old. She has a Grade 10 education. She has been on Ontario Disability Support Program (ODSP) for about 10 years. She is single mother. She suffers from anxiety disorder and chronic depression which are the main reasons why she obtained ODSP. She has three children; a son (23) and daughters, 19 and 14.

I had two sexual abuse incidents. I went through the Criminal Justice System for both of them. The first one occurred 10 years ago. I was living in the same town house where I am living now. My landlord and his wife, who are my friends, told me that they knew a good counselor who could help me to resolve the problems I was having with my boyfriend. I agreed to see the counselor. I was told to bring a bathing suit because the counselor had a pool. I did not think too much of it and complied. It seemed that the "counselor" was taking care of the home of an eye doctor and used his home and certificates to sell himself as a "counselor". I talked to him about some of my marital issues. The "counselor" seemed knowledgeable and when we finished he invited me for a swim and told me where to change. When I was changing he attacked and raped me. At first, I said nothing to anybody but two days later, I spoke to my boyfriend who took me to the Lucan police. The landlord and his wife acted as if they didn't know anything, but they were in the same house and using the pool when I was being raped.

The second incident happened last summer when I met a guy and developed a friendship with him. He seemed to be a nice person. We became closer and I told him what had happened to me when I was raped. I also told him I had not been sexual at all since the rape. He convinced me to have intercourse with him to see if we could be a couple. We had a sexual encounter but I felt uncomfortable and did not want to continue the sexual piece. I told him I would be his friend but wanted no sexual relationship. He agreed and proceeded to invite me to watch a movie. He also invited me to his home for "leftovers" and when we were at his home he raped me.

With the first situation involving a fake “counselor” the Police laid charges. The case went for to a preliminary hearing and then to a full trial with a jury. There was one juror who had “reasonable doubts” and the case was lost. As a result of this I was so upset that I wanted to sleep all the time and I kept over-dosing on my own pills. The landlord had raped his own children and this surfaced at this time. He was charged and convicted, but not in relation to having participated in my rape. In the second situation the rapist was convicted. I phoned the police who laid charges. The whole process took roughly ten months. The man who raped me admitted he was guilty in a videotaped statement.

There was nothing positive about the first experience. It was unhelpful to be judged by a jury, and to have all of my past since childhood exposed. (This does not happen anymore.) My mental health problems were exposed and I feel that the jurors justified and passed judgment on me because of my mental state. I believe that the “reasonable doubt” was based on my mental health, which ended up being blamed for what happened to me. My case was not properly investigated and considered because the landlord’s case involving the rape of his children was happening at the same time. Having everything happen at the same time did not allow for proper consideration of my case.

The second experience was better because at least I obtained some justice. It was better to deal with one judge and not with a jury as the judge has more experience than twelve people from the street. It is also better now because you have more rights now than before. However, it was not entirely positive for me because the judge said that I was “mental”, and he said that the crime did not amount to too much as it was only “a penetration”. The accused did not go to jail. He only got probation and a \$1,000 fine and an anger management program. I am lucky that he admitted his raping me while he was being taped. At least I know this guy will have this in his record for at least ten years.

In spite of the fact that women’s rights have improved and there is no longer exposure of a woman’s sexual past, while the judge did mention my past, he stated that I had agreed to have sex with the guy initially. This should not have been brought up and used to minimize the punishment for the rape the guy did admit he had committed. By saying that I had sex with the guy initially, the judge was making the point that the rape was not a big deal. I felt I was not taken seriously for the last part of the trial.

The judge also used my mental health as an excuse and referred to it in response to my Victim Impact Statement. I obtained assistance from one of the [Sexual Assault Centre] counselors to write the Statement. This did not help because she described how the rape triggered memories of past abuse. The judge made fun of that stating I was “mental”. He did not get much punishment despite a guilty verdict.

A counselor from the Sexual Assault and Domestic Violence Treatment Centre at [the hospital] was helpful and very supportive. She went to court with me and provided lots of counseling during the whole process. She really held me up. The Victim Witness Program was helpful – one of the counselors there explained everything that was happening and I felt comfortable with her. The police from Lucan were helpful – they used to pick me up to go to court.

For the second case, one of the counselors at The Sexual Assault Centre was helpful because she talked to me about my feelings. However, her assistance with the Victim

Impact Statement was not helpful. Another woman from the Victim Witness Program was not helpful; she did not seem to care. I received less support for the second case.

I would advise other women to keep the victim impact statement short – just talk about your feelings in the present, don't include information about the past. I got help from a counselor but, it was not helpful because the judge said I was "mental." I wonder if more support from the Victim Witness Assistance Program would have helped more in writing the Victim Impact Statement. I did not feel supported by the Victim Witness worker at the time.

My advice would be to go for justice, to use the legal system in spite of the possibility of poor results. If you are persistent it will get better and you will eventually get a guilty verdict. Eventually you will get justice. I would do it again. I did it because of my daughters. I wanted to teach them that nobody has the right to do anything to you that you did not give your permission for.

L is thirty years old. She has a secondary school diploma with office assistant courses. She is a lesbian. She has an injury that left one arm very weak and fragile.

I got involved with the legal system because I was stalked and harassed and drugged and raped downtown. My partner took me to the police station that night when we found each other after I was assaulted.

Going through the legal system was not at all helpful. My partner asked if we could deal with a female officer and that was not granted. I was put in an interview room that consisted of cement walls, in close quarters with the male officer who was interviewing me. No woman officer or counselor was provided to be with me or offered to be with me in the room.

After many interviews with male officers I was brought back into the station to meet with a male detective who seemed to be on the offender's side. It was like he didn't believe a thing I was saying. A week went by and every day I saw my offender downtown walking the streets. I'd call my detective and tell him and they went out and took him off the streets, questioned him and let him go because the offender said that it was consensual sex. It was like the police just gave up after that and let him off.

I did some detective work of my own to find out who he was, what his name was. It ended up being that he is a hip-hop rap artist and has a CD out. I downloaded some songs and they were disgusting. He rapped songs about rape, about disregard for police, smoking drugs and treating women like trash. I called the detective and told him to get online right away and I gave him the website to go to and he said 'oh wow, I would never have thought to look online'.

There were also times when the police told me that they were going to do something and they didn't or visa versa when they told me they weren't going to do something, and they did. It was like they didn't believe me and they were trying their hardest to prove me wrong or completely disregard what I've just been through. That made things worse for me. If you can't trust the police, who can you trust?

I didn't have any support while I was going through the legal proceedings. No support. My partner had a hard time dealing with it, so she didn't. I was left to deal with everything on my own and was pressured to be 'normal' again.

I wish I had waited until I had a female officer to deal with. I felt that the men I dealt with were completely ignorant. I also would have made sure that I had a lot of support from people who trust me and love me and could back me up 100%. I would have liked to talk to the Chief of Police when I wasn't getting the protection I deserved, when I was being stalked and harassed and threatened.

Advice? Well, I spoke to a female officer who was off duty one time and she said that there is sometimes no justice in the justice system and unfortunately most victims are left feeling re-victimized once they go to court and made to feel worse. I'd really think about it and know that you need to have lots of support behind you if you were to go through the legal system.

S is 49 years old. She studied Environmental Engineering, graduating in 1995 with a Master's degree. Her background was in microbiology and immunology. Presently she works part time as a "product promoter" while she is starting her own business. She has an invisible disability – chronic pain in one hip. She also has a lot of emotional turmoil as a result of what happened.

I was married to an abusive spouse and had five children with him. I stayed at home after the third child. He was controlling, and emotionally and verbally abusive. He put me down constantly. I felt like nothing. I started to feel sick. I went to the [a counselling service for abused women]. We had tried marital counseling but he was a sophisticated manipulator and it did not work. He had affairs.

I left him the first time. I returned to go back with him and after two months he assaulted me in Sept 1999. I hired a few lawyers that didn't work for different reasons, such as not being comfortable with going to court. My husband was taken out of the matrimonial home but he and his lawyer (who was his childhood friend and also my friend) manipulated me into signing a paper that allowed him back in to the home. They said that it was only to get close to the door to pick up the children. I signed this paper and it was used against me later.

I hired a male lawyer March 2001 – my husband was back in the home – the lawyer did not help and I decided to leave the matrimonial home and my children because I felt I was losing myself and nothing was making sense. I left the matrimonial home and left the children there. The lawyer I hired is well known in the community for being "the best lawyer in town." He did nothing and I ended up losing the matrimonial home. In December 2002, I was given joint custody of the children and offered \$25,000 as compensation instead of the matrimonial home. My lawyer advised me to take the money and I did. However, almost immediately Legal Aid took away \$15,000. I received only \$10,000.

On top of this, the lawyer assaulted me before going to trial. He stuck his tongue in my mouth. This happened twice before the trial. I didn't know what to do about it or who to tell because he had come so highly recommended. I tried to talk to a woman abuse advocate saying that "he did not seem well informed about abuse issues" but she responded again that he was the best lawyer in town.

I was very upset because I was supposed to get benefits, spousal support, and the matrimonial home but, I got nothing of what I had asked for. The lawyer kissed me a third time. This time I talked to the woman abuse advocate and counselors who offered me some choices. They were: the Human Rights Commission or the Law Society, to press charges.

I started a process with the Human Rights Commission in Dec 2003. They wanted to go to mediation and the lawyer offered me \$6,000 but I didn't accept. Immediately after this he filed "a section 34" which deals with the complaint not being filed within the correct time frame.

I wanted truth and accountability from the lawyer. I wanted to do something about a powerful man who would take advantage of vulnerable women. He is an abusive person and I lost everything because of him. I am representing myself in a court case with my ex husband trying to obtain benefits such as dental care.

I went to the Law Society but they said that there was not have enough proof or evidence for a charge of unprofessional conduct. On the other hand they did not deal with negligence or omission.

In December 2005 I started to represent myself in my case against my husband.

The Family Support Program which is a part of Ontario Works was helpful. They helped to enforce the support orders.

Support from counselors was important. However, some counselors were not a good fit – especially those who had an agenda for me – go and move on with your life, etc. Some of them did not know too much about woman abuse and the wounds it leaves you with. But counseling did help. I had counselling from a community counseling agency and the Sexual Assault Centre. This happened at the beginning of 2004.

I have mixed feelings about another community agency, especially in regards to the lawyer situation. I feel that there was a conflict of interest with the woman abuse advocate as she was friends with the lawyer. The other person who was quite helpful was the Discrimination and Harassment Counselor from the Law Society of Upper Canada.

It was upsetting to see Judges passing judgment saying that I was under-employed intentionally, without considering that I have five children.

In important moments I was alone – this allowed my ex husband to manipulate me and I had no one that would help. The counseling did not cover those moments in which I accepted his input. That's why I lost the matrimonial home. I thought he cared for the family, sometimes I didn't see that he was still being controlling and manipulative.

I wish I have known more about the legal system, much more about my legal rights. I wish I knew how vulnerable I really was. I was trusting and naïve. I had to go through the learning. I wish I was stronger, more able to trust my gut feeling, my own belief systems.

The advice I have for other women is; educate yourself, you need to read about abuse, about emotional blackmail. Protect yourself so that you are less vulnerable. Have patience and perseverance. Be aware that it will not be an easy road. Stay focused on the truth because we are fighting something evil and is not easy. Pray, have a faith that will guide you. Believe in miracles. It is important to educate judges and lawyers about abuse.

M lives in a rural area where the closest city is two hours away. She's 30 years old, married with children, and a grade 11 education.

It all started with him saying to me, "You're hot...I miss you when you're not at work...and you don't need to walk to keep in shape." I work in the kitchen and he's the manager of the facility. He was Mr. Nice Guy. He told me he had an open door policy and I could come and talk anytime. I didn't know he was interested in that kind of thing until he said I was hot. I felt shocked and scared.

He kissed me more than once. If I was working, he would come into the kitchen and give me long and intimate looks. He asked personal questions about home and my life. He was overly friendly. I was afraid people would think something was going on between us. I felt anxious. He would do other things too like lean in close to me. He took advantage of the fact that he had no one to answer to. I blamed myself. Maybe I smiled too much or was too friendly. Maybe I dressed up too much, looked too good. Maybe I didn't have a right to complain. I realize now that what I felt is normal and it happens to other women.

It was actually my husband who started the complaint. He called this guy's boss. The supervisor and another person interviewed me in a public restaurant. They wouldn't let my husband stay. They didn't tell me my rights.

There were no eye witnesses though. That's why the Workplace Discrimination and Harassment Policy woman said the policy wasn't violated. They concluded that nothing happened and that I should go back to work. The ironic thing is that two other women complained and said the exact same thing about the same man. I asked why he couldn't be moved to some place where there weren't any women. She said that he had too much potential, had a family to support, and they'd already put a lot of time and money into him.

I told one of the other women what happened when she was wondering out loud why the family atmosphere was gone. I was crying on the phone but it felt good to tell somebody. She sounded so astonished. She encouraged me to keep going forward. A month later she called back and told me that he'd done the same thing to her. It was the same open door policy, the same promising a promotion, the same compliments and staring. Later we found out about another woman. We want to do a class action suit. I

talked to a lawyer and he advised me that he can't do anything until I have exhausted all avenues inside the workplace.

When I first complained to his supervisor, I thought he was helpful. Later I found out that they were fishing buddies and planning on buying property together. It was a big joke. This workplace is notorious for this kind of thing. They sweep it under the rug because it's a male dominated sector. He was supposedly reprimanded. They concluded that nobody else was given "the open door policy." They told him not to show favouritism to an employee. I went on stress leave and dropped the complaint. I was too emotional at the time. My doctor put me on anti-depressants.

I filed the second complaint two weeks later. I talked to a rep and we started the grievance process for sexual harassment in the workplace. We went to a phase two meeting arranged by my steward, who sat with me during the discussion. My harasser was there with his supervisor and an HR person. I felt very uncomfortable with this set up. All three would go to the hall and whisper and then come back in. I can't remember what the questions were. I guess I was so upset. My rep left to get refreshments and left me alone with them. They sat and stared at me the whole time. When my rep got back I said I didn't want to do it anymore. I just wanted to go home. I stayed home for three more weeks and wrote a letter of resignation. The supervisor called and said he was going to hang onto it for a month so I could think about it. He said that I shouldn't quit over this.

I talked to the other woman again. I had started to feel resentful that I was taking the brunt of the whole thing. He was still working and getting a pay check and I was out of work and an emotional wreck. When I talked to her I started to really think that I had to keep going or he's just going to keep doing this to more women. That's when I started the third complaint process, which is still in process.

But there's been no investigation done even though the woman who made the decision told me she was going to hire an outside investigator and get an objective ruling. I was told that no policies were violated and that he had just got too personal. So as compensation, I was offered a job working in the administration office but that's an hour away and this job's only two minutes from my home. I had to lie to the facility manager because they'd said I lived closer and that's why I was being offered the job. I worked there for three days a week for three months. Then I went back to the kitchen.

And he would still ask me to come to his office all the time. Since he was the manager, I felt I had an obligation to go. Once I was there, he would make it sound very business like. He would sit across the desk from me and make sure that his feet touched mine. When he passed papers to me he would touch my hands. It was a big ploy.

I isolated myself at work. Once I was aware of what he was doing, I didn't want to talk to anyone. I felt like it was my fault. Normally I was chatty. But I became very serious. I can see how somebody might think I went along with it but I just didn't know what to do. My energy was drained out of me. I'm still that way. He still drives past my house two times a day. My walks have stopped. I'm afraid that he will drive by when I'm outside. The anxiety will totally overwhelm me. I gained weight. I can't sleep even though I'm tired all the time. I also have a panicky feeling like I can't handle this even though it's just a normal day. I felt ashamed, guilty, and fearful. I fell into depression and had a feeling of overwhelming sadness. Some days I cry all day at the littlest things. It's hard

for me to focus on and get things done. My counselor diagnosed me with moderate depression.

Financially it's been a struggle and a big strain on my family. My husband felt angry and powerless that he couldn't do anything to protect me. That made me feel even more depressed and guilty. He didn't mean to make me feel that way but that's how I felt. My kids saw a difference in me too. I was more irritable with them and became more withdrawn. I also have this thing – my counselor says it's a self protective body reaction and has to do with post traumatic stress – but I have a seven year old son and sometimes he wants a hug but when he gets too close to my breasts, it's upsetting. I feel silly and guilty about it. My husband is supportive. He drives truck and is away a lot but calls sometimes six or seven times in a day. It gets to be a little much.

We had another phase two meeting. This time I was with a different union rep and my harasser wasn't there. A woman represented my employer. I thought this would be good for me. But when it was over, she wrote a letter saying my grievance had been denied and that there hadn't been any harassment. So right now, I am in phase three. I have asked for arbitration. When we meet I can bring the other woman with me and she can tell what happened to her. I even called the Ontario Human Rights Commission. They told me that they couldn't do anything to help me until I'd exhausted all internal complaint processes with my employer. I also filed Worker's Compensation but the person on the phone said it will be near to impossible for me to get anything. She said it's hard to prove these kinds of things. It would have been easier if other women were involved. The men didn't take it seriously. I felt I wasn't heard.

I also pressed sexual assault charges. Our area has the highest rate of sexual assault in the province because we're so isolated. People know they can get away with it. The detective told me that he didn't think much would come of my complaint because I didn't have any witnesses. But he was sympathetic. Now the detective wants to talk to the crown attorney to see what he can do about my case.

If I were to do it again I wouldn't have stopped the complaint process the first time. But I needed more support. I was too emotional. I couldn't think straight. Also it's hard in the rural areas. Nobody complains about anything because they think nothing will be done. There needs to be more support in rural areas. They need harassment education and awareness. A lot of people around here don't know what it is and just minimize it. This has made me sad and angry. I thought women were actually getting ahead in the world. But that's not true. I feel like I have to do this. Women have to fight back.

N is 48 years old. She has a university degree from Peru, studied for three years to become an English teacher, and graduated with qualifications to be a translator for French, English, and Spanish.

I came to Canada in 1980. I was accepted into a university in Montreal. I was very isolated because there seemed to be no other immigrants at the school. I considered postponing my studies because my mother language was not English or French and this

caused problems with my professors. I was told that I was handicapped because I couldn't master the language.

Coming to Canada meant leaving poverty and oppression and gaining freedom. It was a really big step for me but I had no rights to work in Canada until I became a landed immigrant. I worked under the table in Montreal to support my family back home. I met my husband at the Hispanic centre where I was a receptionist and three years later we were married so that he could sponsor me, as my refugee claim was rejected. At the Canadian embassy I was accused of marrying only to enter Canada. They were very harsh and rude. In one interview, I was monitored and screened by several cameras. When I finally was reunited with my husband at the airport, I saw someone taking pictures of us.

We moved and I got a secretarial job. There was a man [who worked there.] He looked at all the workers with very vivid eyes. Women were afraid to go into his room because he looked like he wanted to jump on their back, like he wanted to have sex. No one reported him because they were afraid of losing their jobs.

My father died and I had to go home to Peru. I was also sick and stayed home for five days. I had a sick leave permit but my boss told me that the piece of paper didn't mean anything to him. He said that I should bring my bed to work and look after my bosses needs. I stood up for my rights and demanded to be treated with respect. I reported him to the personnel committee and [an outside body]. They said that it wasn't their jurisdiction.

I got a job as a worker at a shelter for women and children. I was happy to get out of the [other workplace]. For the first time, I learned about violence against women and I was able to relate what I learned to my own experience. My boss was always asking me to go to a party or to do exercises at the Y. One incident happened during training where there was some role playing. We had to show our anger with our body. My boss grabbed my waist with both hands and pressed me without letting me go after the role play finished. I felt uncomfortable but didn't understand right away. Another occurred when two lesbians came to do sensitivity training. They did a round asking how women knew if they were heterosexual, or lesbian and bisexual. When it was my turn I said I was hetero. They asked how I was sure, and asked me other questions that made me feel uncomfortable because they were too intimate.

Another time, I was asked to come to a meeting with the children's shelter worker. One of three women who had left the shelter in the last year had written a letter saying that I had sexually assaulted children. This woman had not dealt with her own childhood sexual abuse and was projecting this onto me. This was very upsetting to me. I was crying in front of the board and staff. I was so upset about this that I decided to take some time off. When I came back I didn't want to return because it was such a poisoned atmosphere.

There were other examples of racism like at a fundraising party when the board member claimed I didn't work at the shelter and refused to give me a name tag. Another board member intervened but the woman didn't apologize.

I was called to some meetings with my boss. I wanted to take a lawyer but she wanted \$600 first so I went alone. I had two meetings that day. At the first, my boss said a

resident had complained that I didn't send an application for housing in time. Another resident said I'd asked insensitive and inappropriate questions. I got a warning that if anything happened in the next four weeks, I'd be fired. I went to work shaking every day and was told not to talk to anyone. Then I had a third meeting. They said it was a performance evaluation for the whole year. There were horrible things in the report that said I should not be working as a social worker. They wanted me to sign the document but I refused. And I wanted a lawyer but only got her student assistant. They were upset that I wouldn't sign. A board member was present, but the friend I'd brought was not allowed to stay.

I applied for a new job. It was nine to five, and since I was under so much stress, I decided to take it. I started a multi-cultural support group for women using different interpreters at the same time. But I was starting to get migraines every day. In time I ended up in bed as the headaches were coming back. I didn't have any benefits and needed to be on sick leave to apply to the government. I worked without benefits for seven years. I took two months off and went to a homeopath and recovered.

Later I was called in to a meeting with my director and supervisor. They said that I was late for work and that my behaviour was bad. I was told I needed to meet with my supervisor three times each day. I contacted a lawyer who said this behaviour was harassment and that she would send a letter stating this. My supervisor was very angry. After six weeks, my supervisor did a new report. It was almost the same as before with a slight improvement in punctuality. It was a defamation of my personality. I asked for mediation. They found someone neutral and there were interviews. But the report said that I was against the structure of the organization. I went to my lawyer and was advised to either be quiet and continue to work, or to allow them to fire me. I wanted to contest the mediator. My lawyer said there'd be retaliation. My friend and I wrote and sent a three page letter. My supervisor was very angry and threatened to have the board make a decision. But I was no longer afraid of her and was ready to fight the decision in court and in the papers. There were other job performance evaluations that I refused to sign.

I asked for time off to continue my studies. They refused my request. I knew this was racist because the director was black and there was another worker from Somalia who was like a mentor to me, and she was allowed to do this. So I took all my vacation time to study. Finally, I was accepted to do my Masters.

I also applied to another agency with a leave from my other job. I got a temporary position. I applied three times to get permanent work, but was refused. The first time they said I wasn't elaborating enough on my work with the Hispanic support group so they hired externally. The second time I was told that I didn't answer the question on feminism in enough detail. The third time I was told that I was over-educated and doubted my abilities. At that moment, I felt really burned out. On top of work, I had a 14 year old son with special needs.

I also work doing a group at the family service centre in a contract position. There are only two Aboriginal workers and no other visible minorities. There is no position there for me because they want someone with a master's degree. They do not respect me and treat me professionally.

The ongoing harassment has taken a toll. Emotionally, I don't trust people and I'm afraid to talk. I feel the system works against me. I've been advised to keep quiet. I've

experienced the sexual harassment differently from the racial discrimination. I feel that the sexual harassment was about trying to get me in bed whereas the racial discrimination was more about challenging my ability to do my job. My authority is questioned both by staff and clients. My first 10 years in Canada, I didn't understand my rights. Mainstream organizations don't want to hire women from other cultures because they know complex issues will arise and they don't want to deal with it. Usually, they only want a person of colour as a token. My health has been affected. I have migraines and stomach problems, ulcers and a skin allergy. This is stress related.

This has affected my life with my family. At first my husband thought it was my fault. The fact that he is white makes it difficult for him to understand some issues. I am more affected by the racism than the sexual harassment, where the incidents were isolated. The racism was very pervasive and left very deep scars. As immigrants we are at the mercy of people who know we are isolated. Working as a visible minority woman, you feel like the walls have ears. You are being observed all the time.

SS lives in a mid-sized urban centre. She was 40 years old, married with 2 children, and a grade 13 education at the time she lodged her final complaint to the company.

My situation started when I went into a department that was all men. The men, when I went in told me straight out that I wasn't wanted. Nobody would talk or show me how to do things. It was a dangerous situation because the machinery was heavy and fast moving. I was shown either the wrong way or the hard way to do something while co-workers sat and watched me doing those jobs improperly there were accidents. I broke my hand and my foot. I had to watch how and where I worked. I couldn't work properly because if I bent over the men would grab between my legs and come up behind me and bump as if they were doing a sexual act. When I was sitting watching the machinery two men came up behind me and laid their penises on my shoulder and when I turned to look, of course the penises were in my face.

I had been tied in chairs and had my boots filled with water. I was tied in a chair and two men proceeded and tried to force their genitals in my face.

And because supervisors did nothing about this behaviour, it went on and more men in that department participated until pretty well near the end, there wasn't a man in there that I hadn't seen nude. If the company would have done something earlier, it would not have escalated to the point it did and become a gang mentality.

I took legal action because I tried other alternatives, and I didn't seem to be getting anywhere, no one listening. It was hard for the Union to want to assist me because I was naming other unionized employees. I went to my employers Employee Assistance Program and they told me this was way above them. They couldn't deal with it and suggested I get a lawyer. The company just wanted me to walk away with some money to keep quiet. There was no place to even talk to other women who were suffering the same dilemma as me at the time that I was aware of. My job was at stake with no union assistance so my only alternative was a lawyer.

I went to a lawyer and she launched a civil suit against twenty-four men, the company and the union. I contacted the E.I. [Employment Insurance], Canada Pension and all those places that you are supposed to contact and they just laughed, they didn't respond. A woman that answered the phone at one of the Government Offices thought she had the phone muffled after I explained my complaint to her and said to her fellow employees "wait till you get a load of this one."

There are still not grounds in Canada to sue for sexual harassment. We went on the grounds that they failed to provide a safe and healthy working environment.

If it had been in the Occupational Health and Safety Act, I could have called someone in and said, I refuse to work until these men stop this behaviour. That might have stopped this in the beginning and it might not have progressed to the way they carried on.

The lawyer didn't want me to contact the Ontario Human Rights Commission at first, but later it did go through the Ontario Human rights commission.

The complaint went on for 8 years and it never even went to court.

Because there were so many people involved there were lots of discoveries, meetings with the Human Rights Commission and trying to get settlements and make deals. We went to the upper courts in Toronto, trying to change how harassment is perceived under the law. With sexual harassment, there is such a wide spectrum, it goes all the way to rape. And that's why it should have been pushed to go through the criminal courts.

If a woman is being sexually harassed the emotional can be as traumatizing as the physical. We have to make both of them a crime I think. It helps to be able to say, this is illegal and for the police to be able to walk in and usher these boys out.

After I filed my lawsuit, the company and union and employees sat up and took notice that I wasn't going away. After many years, it did come with an end resolution that could help make the road a little easier for the next complainant.

The lawsuit was expensive and an emotional rollercoaster. Fear, I had high fear at that time. I was afraid of the company, the union and the employees, the backlash, the accusations, the losing my job with no compensation or being forced to go back into work because I didn't have an alternative.

It was a real David and Goliath thing. The company would walk in with many different lawyers and I would have one.

I had support from a lot of women. One of the women's organization I contacted took a year for a response and if two women hadn't been there that wanted to help me, I doubt I would have received any help. I had lots women come out and support me, they picketed at the company, they followed my case and they helped. That was the best support I had. I had a psychiatrist that helped a lot. She kept my sanity and she understood. Two lawyers and the London Status of Women Action group helped. The support was most important, I couldn't imagine anyone going through it without that support. It would not be good.

I think as much as some things were shocking I think I knew what was ahead of me when I started. I knew what these guys were capable of. It was really time consuming. I missed a lot of life with my kids – I don't know what the alternative would have been, but still it's something women should know, it's going to take over their life and the expense and the emotional rollercoaster – you can try to prepare yourself but you can't.

For example, when I was going through this I was diagnosed with lupus, six months ago, I was retested and I don't have it. What a thing for me, they did the test twice to make sure and the results weren't just good, they were excellent. The only explanation the doctor can give is that my stress levels were off the charts. I don't even know what to say about that, was it a mistake, was it my body, was it the stress?

My advice for women who are planning to use the legal system is to know first off that there are not many lawyers who even deal with this issue. The ones that do are very costly and at a time when you don't have money. The strain it puts on your family and your body is huge. It affects your ability to get a job in the future. I would say that people are afraid to hire me again. Another woman and I have interviewed over 500 women dealing with this and only one had a job at the end of it. It's not just that employers are afraid to hire you, you are afraid to go to the employer, you don't know what you are in for. My psychiatrist said you will do one of two things if a situation ever happened again in a workplace, you will flip out or you will go and hide in a corner and you know it can happen again. There are few workplaces where there is no harassment. You don't know until it happens, but do you really want to find out? Because you are physically looking fine, it would be hard to get any future compensation if you couldn't work.

I've had a few calls from women who are single parents and they've left jobs in new workplaces because something happened that triggered them and it's very hard to get a doctor to agree that they are not emotionally able to work.

I wish I had gone to the police. It could not have been any more stressful. It would just be one more place not believing you. If it was brought up criminally over and over it would eventually be seen in the courts as a legitimate crime and something would have to be done. If rape wasn't a crime, what would women do? It has to be seen as more important than it is and taken out of the four walls where it's happening so that it's not the company's full responsibility because they don't act on it. It has to be society too that is acting on it.

I think of all these companies that are dumping waste, and how it takes the outside to tell them you cannot do this. It might take the outside with harassment to say this is illegal, you can't do this. Most companies don't tell their employees. They just hope it never happens or that no one ever comes forward.

PART 8: Final Thoughts

When we started writing this handbook, we talked about giving advice to women on accessing the legal system. Hence the title “Surviving the System”.

However, survivors of sexual violence often find that “accessing the legal system” does not provide the resolution they sought. Most survivors who have encountered the legal system find the systems hostile and alienating at least at some points in the process. In fact, many women who have attempted to access the legal system talk of how they were re-victimized at the hands of the very institutions from which they sought protection.

Theoretically, there are multiple avenues of legal recourse available for victims of sexual violence, but they are often confusing and fraught with barriers. Most women still choose not to seek a legal remedy for their experiences of sexual assault, childhood sexual abuse, criminal harassment (stalking) and workplace sexual harassment. When they do, they may pay a heavy price.

There is, however, a growing body of positive law which has emerged on the backs of those few women who have had the courage to take their cases to the legal system. Whether or not they have been “successful” in the traditional sense, there is no doubt they have all left an indelible mark on our legal institutions and our social consciousness.

This handbook is, in large part, the story of these women's struggles to make the legal system accountable to women for the violence they have experienced. We hope that this work honours them and helps other women navigate the sometimes hostile waters of the contemporary legal system.

PART 9: About Us

Who

The handbook was conceived by a number of people concerned about the lack of useful information available on accessing the legal system for survivors of childhood sexual abuse, sexual assault, criminal harassment and sexual harassment.

Much of the credit for the inspiration behind this material goes to survivors, service providers and the few lawyers, academics and other advocates who have worked to expand the remedies available under the law.

The Canadian Bar Law for the Future Fund provided funding to the Centre for Research and Education on Violence Against Women and Children to collect the knowledge, insights and experiences reflected and recorded in the handbook.

Acknowledgments

Leslie A. Reaume, LL.B. and Susan Nickle, LL.B. wrote the first draft of the handbook in 2003. The draft was circulated to many service providers who assist women who have experienced sexual violence and to women who have experienced sexual violence in London, Ontario for review. We then conducted focus groups with these women to gather their feedback. Catherine Burr, trainer, university instructor, management coach, mediator and consultant, reorganized and expanded upon the original draft, based upon this feedback.

We owe Sharon Chapman and Jacquie Carr particular thanks for their comments and suggestions.

UWO law student Sarah Hannan did much of the work on the glossary of terms and the final editing. Sue Noorloos, another UWO law student checked the glossary and filled in missing terms.

Morella Yepez Millon conducted interviews with survivors.

Avril Flannigan completed the final round of copy editing and checking definitions.

Barb MacQuarrie coordinated the process.

The handbook is a result of all of these efforts.

We are very grateful to the women who have agreed to include their stories in this handbook. Through these stories other women can connect with the information, advice and cautions we present, as well as learn about the experiences of other survivors who have faced the choice of taking, or not taking, legal action.

Part 10: Glossary of Terms

Organizations

Board of Inquiry for Ontario

The Ontario Human Rights Commission (OHRC) investigates complaints of discrimination under the *Human Rights Code*. If a settlement is not reached, the Commissioners of the OHRC may decide to refer a complaint to the Board of Inquiry. The Board of Inquiry (BOI) is an arm's length adjudicative agency, established under the Code, which makes final decisions on human rights complaints, subject only to appeal to the Divisional Court. The BOI encourages parties to participate in voluntary mediation. If that is unsuccessful, the case is scheduled for a hearing before an adjudicator. At the hearing, the adjudicator determines whether a Code right of the complainant has been infringed or not, and the appropriate remedy.

Board of Referees

If a person's Employment Insurance (EI) benefits have been refused by Human Resources and Skills Development Canada (HRSDC), or if HRSDC has ordered a person to repay the EI benefits that they had already received, individuals may appeal this decision within 30 days. In the first level of the appeal process, the Board of Referees examines the HRSDC decision and makes an independent decision on your case. The Board of Referees is an independent and impartial administrative body comprising three members of the community. The members of the Board of Referees are not employees of HRSDC. They are knowledgeable about Employment Insurance legislation and are trained to examine your case in a fair manner. The Board examines your case at a hearing. It examines all evidence that is provided, whether this evidence is in the appeal docket or given at the hearing. The Board will base its decision on the *Employment Insurance Act* and *Regulations* and its finding of fact in the case before it. For more information about the Employment Insurance appeal system see www.ei-ae.gc.ca/en/board/home.shtml.

Canada Labour Code

Canada Labour Code applies to approximately 10% of Canadian workers; the remaining 90% of the workers are covered by provincial/territorial labour codes (for example, in Ontario most workers are covered by the Ontario labour regulations. Canada Labour Code applies to workers employed by most Crown corporations, banks, marine shipping services, air transportation, railways, road transportation, telephone and cable industries, radio and television broadcasting, uranium mining and processing, grain elevators and feed and seed mills, and many First Nations activities. Canada Labour Code sets requirements for issues such as standard hours, wages, equal pay, vacations and holidays. More information on the Canada Labour Code is available from www.hrsdc.gc.ca.

Canadian Human Rights Commission

The Canadian Human Rights Commission administers the *Canadian Human Rights Act* and is responsible for ensuring compliance with the *Employment Equity Act*. Both laws ensure that the principles of equal opportunity and non-discrimination are followed in all areas of federal jurisdiction. The Commission investigates and tries to settle complaints of discrimination in employment. The Commission is responsible for ensuring

that federally regulated employers provide equal opportunities for employment to the four designated groups: women, Aboriginal peoples, persons with disabilities, and members of visible minorities. The Commission is also mandated to develop and conduct information and discrimination prevention programs. More information about the Committee and the complaint process is available at www.chrc-ccp.ca, or by calling 416-973-5527 in Toronto, 1-800-999-6899 elsewhere in Ontario, or 888-643-3304 for TTY service.

Canadian Judicial Council

The Canadian Judicial Council (CJC) works to promote efficiency and uniformity, and to improve the quality of judicial service in all superior courts in Canada. The Canadian Judicial Council is composed of the chief justices and associate chief justices of Canada's superior courts. The CJC investigates complaints regarding the conduct (NOT the decisions) of federally appointed judges.

Every year, federally appointed judges make tens of thousands of decisions in court. When someone in a legal dispute thinks that a judge has made the *wrong decision*, our justice system allows that person to *appeal to a higher court*. In all cases, however, regardless of the final decision, a high standard of personal conduct is expected of judges, on or off the bench. When someone believes that a judge's behaviour is of serious concern, or that a judge is not fit to sit on the bench, the justice system provides for a remedy. When a judge's *conduct* is questioned (as opposed to a judge's *decision*), a complaint may be made to the Canadian Judicial Council. To learn more about the complaint process see www.cjc-ccm.gc.ca or call 613- 288-1566.

Children's Aid Society

The Children's Aid Society (CAS), also known as Family and Children's Services (F&CS), is a non-profit agency working in local communities to provide help and support to children and their families. Anyone can call CAS for help: professionals and citizens call CAS when they suspect a child is abused or neglected, families call CAS when they have difficulties with managing their children, and children call CAS when they are having problems at home. It is required by law that any person who suspects that a child is or may be in need of protection must make the report directly to a Children's Aid Society and that people who work with children who suspect that a child is a victim of child abuse or neglect must report these suspicions to the CAS. People who do not do this may be fined.

There are 53 Children's Aid Societies in Ontario, and 22 of these offer services in both English and French. To learn more about CAS, or to find the CAS closest to you, see www.oacas.org.

Compensation for Victims of Crime Act

This is a law that recognizes that victims of crime (such as assault, sexual assault, criminal harassment) may in certain cases need financial compensation for expenses such as medical therapy, pain and suffering, income loss, legal representation or travel expenses. In Ontario, this money is awarded to victims by the Criminal Injuries Compensation Board. To learn more about the compensation process and to find out if you are eligible for compensation, see their website at www.cicb.gov.on.ca/en/faq2.htm, Tel: 1-800-372-7463 (toll-free) or 416-326-2900 (in Toronto).

Criminal Code

The Criminal Code of Canada is a federal law that sets out what actions and behaviours are crimes in Canada. Many forms of physical, emotional or psychological abuse are crimes. Some examples of crimes under the Criminal Code include assault (with or without a weapon), sexual assault, forcible confinement, unlawfully causing bodily harm, or negligence. A complete text of the Code can be viewed at www.laws.justice.gc.ca.

Criminal Injuries Compensation Board

The Criminal Injuries Compensation Board (CICB) is an independent agency of the Ministry of the Attorney General. It is established under the *Compensation for Victims of Crime Act*. The role of the Board is to award financial compensation to victims of violent crimes (such as assault, sexual assault or criminal harassment) committed in the Province of Ontario. Depending on the case, compensation may be awarded for expenses such as medical expenses (including therapy), legal representation, travel expenses, pain and suffering, and income loss. To learn more about the compensation process see www.cicb.gov.on.ca/en/index.htm or call Toll-Free: 1-800-372-7463 or 416-326-2900 in the Toronto area.

Employee Assistance Program

Employee Assistance Program (EAP) is a program offered by some workplaces to their employees. EAP provides counseling, information and referral services to employees free of charge. Any information you share with counselors is confidential and will not be revealed to your employer or co-workers. If you do not know whether your employer has EAP, you can i) Contact your human resource or benefits department. Ask for information on the employee benefits package or employee assistance program; or ii) Look in your employee manual for a section describing your employee benefits package. If your benefits package includes an employee assistance program, it should include the name of your EAP service provider and a description of the services available to you and your family members.

Employment Standards Act

Employment Standards Act is a law that sets out the minimum standards that employers and employees must follow. Most employers and employees in Ontario are covered by this provincial law. The ESA does not apply to you if you operate or work in a business that is regulated by the Government of Canada, such as: airlines, banks, shipping companies, radio and television stations, inter-provincial transport of goods and people. The ESA sets standards for issues such as hours of work and overtime, minimum wage, vacation, public holidays, pregnancy and parental leave, personal emergency leave, family medical leave, and termination of employment and severance pay. If an employee thinks that an employer is not following the ESA law, he or she can contact the Ministry of Labour for help. Employment Standards Officers can inspect workplaces and look into possible violations of the ESA. For more information about Employment Standards in Ontario see www.labour.gov.on.ca, or call 416-326-7160 (Greater Toronto Area), 1-800-531-5551 (toll free Canada-wide) or 1-866-567-8893 (TTY for hearing impaired)

Federal Court of Canada

The Federal Court is Canada's national trial court which hears and decides legal disputes arising in the federal domain, including claims against the Government of

Canada, civil suits in federally-regulated areas and challenges to the decisions of federal tribunals. The Federal Court's jurisdiction also includes (but is not limited to) interprovincial and federal-provincial disputes, intellectual property proceedings, immigration proceedings, matters pertaining to the charter of human rights and freedoms, citizenship appeals and applications under certain federal statutes.

Human Resources and Social Development Canada

Human Resources and Social Development Canada (HRSDC) is a department of the Government of Canada. HRSDC develops programs and policies for individuals, businesses and organizations. Individuals can visit the HRSDC website to get more information about issues concerning workers, students, aboriginal peoples, seniors, or persons with disabilities. For example, workers can visit this website to learn more about workplace laws, pensions and benefits. Information is available at www.hrsdc.gc.ca.

Law Society of Upper Canada

The Law Society of Upper Canada is the self-governing body for lawyers in Ontario. The primary responsibility or mandate of the Law Society is to regulate the legal profession in the public interest according to Ontario law and the Law Society's rules, regulations and guidelines. For example, the Law Society offers services such as Lawyer Referral Service which matches individuals with local lawyers with the proper expertise and support programs such as Pro Bono Law Ontario. The Society tries to ensure that both law and the practice of law are reflective of all people in Ontario. To learn more about the Law Society and its programs and services see www.lsuc.on.ca.

Law Society of Upper Canada Harassment and Discrimination Counsel

The Law Society provides a Discrimination and Harassment Counsel service free-of-charge to the Ontario public and lawyers. The Discrimination and Harassment Counsel confidentially assists anyone who may have experienced discrimination or harassment by a lawyer or within a law firm or legal organization. For more information about this service see www.dhcounsel.on.ca.

Lawyer Referral Service

Lawyer Referral Service is a service provided by the Law Society of Upper Canada. Individuals who think they need a lawyer but are not sure how to find one, the Referral Service will provide a lawyer and a consultation for up to 30 minutes to help individuals determine their rights and options. After you call the service, a fee of \$6 will be charged to your phone bill. To access the service call 1-900-565-4577. Individuals who are under 18, and are calling about a Child Protection issue, or are in domestic abuse situations can call FOR FREE 1-800-268-8326 in Ontario or 416-947-3330 in Toronto only. To learn more about the Lawyer Referral Service see www.suc.on.ca/public/a/finding/lrs/

Legal Aid

Legal Aid is a service available to low income individuals and disadvantaged communities for a variety of legal problems, such as: criminal matters, family disputes, immigration and refugee hearings and poverty law issues such as landlord/tenant disputes, disability support and family benefits payments. This service operates between

three and four hours a week in over 115 locations across Ontario. Lawyers provide advice, assistance and review documents, depending on the client's needs. Legal aid is available through the certificate program, which entitles clients to receive advice and representation by private lawyers or by legal aid staff lawyers. To apply for a legal aid certificate, you must attend in person at a local legal aid office. If you are eligible for legal aid, you can get a legal aid certificate that you can take to the lawyer of your choice. Legal assistance is also available through the community legal clinic program.

Every Ontario resident who needs legal assistance can apply. Eligibility for legal aid certificates is based on financial need and the type of case. The applicant may pay nothing or a portion of the cost of legal aid, depending on their financial situation. To learn more about Legal Aid, or to find a Legal Aid office near you, see www.legalaid.on.ca.

Ministry of the Attorney General of Ontario

The Attorney General is the chief law officer of the Executive Council. The responsibilities stemming from this role are unlike those of any other Cabinet member. The role has been referred to as "judicial-like" and as the "guardian of the public interest". Ministry of the Attorney General of Ontario oversees several different offices, departments and divisions, including Criminal Injuries Compensation Board, Human Rights Tribunal of Ontario, Legal Aid, and Office for Victims of Crime. For more information see www.attorneygeneral.jus.gov.on.ca.

Occupational Health and Safety Act

The Occupational Health and Safety Act sets out the rights and duties of employers and employees. Its main purpose is to protect workers against health and safety hazards on the job. The Act establishes procedures for dealing with dangers in the workplace, and gives powers to workers to not have to do work that is unsafe and to complain if proper procedures are not being followed.

Almost every worker, supervisor, employer and workplace in Ontario is covered by this act. Exceptions include work that is done by the owner, occupant or servant in a private residence, farming operations, and federal workplaces such as post offices, airlines and airports, banks, some grain elevators, interprovincial trucking, shipping, railway and bus companies, and telecommunication companies. Federal workplaces are covered under the Canada Labour Code. For details of the Act or other information about health and safety in the workplace see www.labour.gov.on.ca. For employment standards information contact the Employment Standards Information Centre at 1-800-531-5551 (anywhere in Canada), 416-326-7160 (Toronto only) or 1-866-567-8893 (TTY service for the deaf). For occupational health and safety inquiries call 1-800-268-8013 (anywhere in Ontario).

Office of the Attorney General of Ontario

See Ministry of the Attorney General of Ontario

Ontario College of Physicians and Surgeons

The College of Physicians and Surgeons of Ontario is a self-regulatory body for the medical profession that exists to make sure that Ontario doctors and the care that they

give is the best interest of the public. The College monitors standards of practice and medical care provided by Ontario's physicians. Anyone who is concerned about the care provided to them by an Ontario physician (including behaviours such as inappropriate comments or gestures, unnecessary or improper physical examinations, or sexual contact or assault) can bring those concerns to the College for investigation. If the doctor is found guilty, there are a number of penalties which can be imposed. The doctor may be reprimanded, fined or have his or her certificate of registration suspended or revoked. The College may also provide funding for counseling or therapy for individuals who have experienced harassment or abuse at the hands of their physicians. More information about this process is available at www.cpsso.on.ca or by calling the Intake Coordinator at (416)967-2600 extension 629 or 1(800)268-7096 extension 629. If you have a specific concern about the treatment or medical care you have received, call the Investigations and Resolutions Department at (416) 967-2615 in Toronto or toll free at 1 (800) 268-7096 extension 615 and someone will assist you.

The College also provides a free Doctor Search service for individuals who would like to find a Family Doctor. Doctor Search provides information about individual physicians, including practice address, telephone number, qualifications, etc., and whether they are accepting new patients. To use the Doctor Search service, see www.cpsso.on.ca.

Ontario College of Teachers

The College is responsible for governing the conduct of its members, including teachers, principals and most supervisory officers in public schools and many private schools. If you have a complaint about the conduct of a teacher or principal, contact the Investigations and Hearings Department at 888-534-2222 (toll free) or 416-961-8800 (Toronto only). For more information about the College visit their website at www.oct.ca

Ontario Human Rights Code

The Ontario Human Rights Code (the "Code") is for everyone. It is a provincial law that gives everybody equal rights and opportunities without discrimination in specific areas such as jobs, housing and services. The Code's goal is to prevent discrimination and harassment because of race, colour, sex, handicap and age, to name some of the sixteen grounds. The Code was one of the first laws of its kind in Canada. Before 1962, various laws dealt with different kinds of discrimination. The Code brought them together into one law and added some new protections. The Ontario Human Rights Commission (the "Commission") administers and enforces the Code. However, an independent body separate from the Commission, called a board of inquiry, makes the ultimate decision in a complaint. The Code is divided into an introductory section, or "preamble", followed by five parts. Part 1 sets out basic rights and responsibilities. Part II explains how the Code is interpreted and applied. Part III explains the role and structure of the Commission. Part IV explains how the Code is enforced. Finally, Part V deals with general matters such as the power to make regulations. For more information about the code or the full text see www.ohrc.on.ca/en..text/code/index/shtml.

Ontario Labour Relations Board

The Board is an independent, adjudicative tribunal issuing decisions based upon the evidence presented and submissions made to it by the parties, and upon its interpretation and determination of the relevant legislation and jurisprudence. It plays a fundamental role on the labour relations regime in Ontario and encourages harmonious

relations between employers, employees and trade unions by dealing with matters before it as expeditiously and as fairly as reasonably possible. The OLRB's mandate is to provide, as an independent tribunal, excellence in administrative justice through the effective resolution of labour and employment disputes. The Board receives many different kinds of applications, for example applications concerning unfair labour practices by any workplace party. The Board may resolve disputes through mediation, consultation or adjudication. If you are unsure whether your concern falls under the jurisdiction of the Ontario Labour Relations Board, call the Board at (416) 326-7500.

Sexual Assault and Domestic Violence Care and Treatment Centres

Sexual Assault/Domestic Violence Care and Treatment Centres (SA/DVCC) provide care to women, men and children who have been recently sexually assaulted or experienced domestic violence. There are 33 hospital-based programs in Ontario. Services include: emergency medical and nursing care, crisis intervention, forensic evidence collection, medical follow-up, and counselling. Many victims/survivors of sexual assault or domestic violence have immediate medical, emotional and safety issues. Health concerns such as injuries, pregnancy and sexually transmitted infections can be addressed and treated by the nurses and physicians at the Centres. If the client chooses to involve the police, forensic evidence can be collected at the hospital. When a client is at risk of further violence, immediate referrals to shelters can be made. Any safety concerns, as well as safety planning can be discussed with the SA/DV nurse. The Centres are accessible 24 hours, 7 days a week. More information about the centres' activities can be found online at www.satcontario.com. To find a Centre near you see the Resources section of this handbook.

Sexual Assault Rape Crisis Centers

Sexual Assault/Rape Crisis Centres (SAC) offer a variety of services to victims and survivors of sexual violence. These services include: 24-hour crisis and support line; court, police and hospital accompaniment; supportive peer counselling services (one-to-one and group); public and professional education regarding the nature and extent of sexual violence; and information and referral services. There are 34 community-based centres across the province, including French language centres. To find a centre near you, see the Resources section of this handbook.

Superior Court of Justice, Divisional Court

The Divisional Court is a division of the Superior Court of Justice. It was created to relieve the Court of Appeal from some of its duties. The jurisdiction of this court is set out in section 19(1) of the *Courts of Justice Act*. It's an appeal rather than a trial court and hears appeals and applications brought forward for judicial review for a single or one-time payment of less than \$25,000, excluding costs.

The Chief Justice presides over the court with other judges who are designated to this position on a rotational basis. Every judge in the Superior Court of Justice is also a Judge of the Divisional Court. Unless otherwise specified, every proceeding in the Divisional Court will be heard and determined by a panel of three judges sitting together. However, a proceeding can be heard by one judge where the Chief Justice of the Superior Court is satisfied, from the nature of the issues involved, and the necessity for expedition, can and ought to be heard and determined by one judge.

Supreme Court of Canada

The Supreme Court of Canada is Canada's highest court. It is the final general court of appeal, the last judicial resort for all, whether individuals or governments. The Supreme Court of Canada hears appeals from the court of last resort, usually a provincial or territorial court of appeal or the Federal Court of Appeal. In addition to being Canada's court of final appeal, the Supreme Court can also be asked to consider important questions of law such as the constitutionality or interpretation of federal or provincial legislation, or the division of powers between the federal and provincial levels of government. To learn more about the Supreme Court see their website at www.scc-csc.gc.ca

Victim Witness Assistance Program

The Victim/Witness Assistance Program (VWAP) provides information, assistance and support to victims and witnesses of crime throughout the criminal justice process. This program is offered by the Ontario Victim Services Secretariat. Services include crisis intervention, needs assessment, referrals to community agencies, emotional support, case specific information (court dates, bail conditions) and court preparation and orientation. VWAP services are available to adult and child victims and witnesses of crime, after charges have been laid. Services are provided on a priority basis to victims that have been most traumatized by crime. The program currently has 45 offices in Ontario. To find an office near you, see the Resources section of this handbook.

Workers' Compensation Act

A law that establishes financial liability of employers for injuries that workers suffered while on the job or illnesses due to the employment. Amount of compensation given to workers is not based on negligence of the employer, but rather on absolute liability for medical coverage, a percentage of lost wages or salary, costs of rehabilitation and retraining, and payment for any permanent injury (usually based on an evaluation of limitation). Worker's' Compensation Act also provides for a system of hearings and quasi-judicial determinations by administrative law judges and appeal boards. If worker's' compensation is granted, it becomes the only remedy against an employer and does not include general damages for pain and suffering. Thus, an injured worker may decide to waive (not collect) workers' compensation and sue the employer for damages caused by the employer's negligence. In Ontario, the body that oversees compensation to workers is the Workplace Safety & Insurance Board. To learn about the types of benefits available and how to apply for them, see their website at www.wsib.on.ca, call 1-800-387-0750 (toll-free in Ontario), 416-344-1000 (Toronto only), or 1-800-387-0050 (TTY service for the deaf).

Terms

Acquit

That a jury or judge finds the accused/defendant not guilty.

Acquittal

A verdict (a judgment in a criminal case) that an accused/defendant receives if he/she is found to be not guilty.

Adjudication

The legal process by which an arbiter or judge reviews evidence and argumentation including legal reasoning set forth by opposing parties to come to a decision or judgment which determines rights and obligations between the parties involved.

Admissible (usually used with “evidence”)

Evidence which the trial judge finds is useful in helping the trier of fact (a jury if there is a jury, otherwise the judge), and which cannot be objected to on the basis that it is irrelevant, immaterial, or violates the rules against hearsay and other objections. Sometimes the judge decides that evidence which a person tries to introduce is not relevant, or that it might prejudice the jury so that they will not be able to remain impartial. For example, in criminal cases involving violence the courts tend to be more restrictive on letting the jury hear certain gory or shocking details for fear that they will result in "undue prejudice" on the part of the jury.

Alleged Perpetrator / Offender

The person charged with a crime in a criminal prosecution.

Alternative Dispute Resolution (ADR)

A way of resolving disputes in ways other than going to court, including arbitration, mediation, negotiation, conciliation, etc. ADR is a dispute resolution technique used by the Canadian Human Rights Commission. It is designed to yield solutions that are adapted to the particular circumstances of individual cases, and it is about solving problems rather than imposing solutions through an adjudicative process. Examples of cases solved through ADR include issues of discrimination on the basis of disability, race, nationality, religion, sex, marital status and sexual orientation. To learn more about the ADR process, including how to file a complaint, contact Alternative Dispute Resolution Services, Canadian Human Rights Commission, Tel: 613- 995-1151, toll free 1-888-214-1090. TTY: 1-888-643-3304, or visit their website at www.chrc-cdp.ca/adr/default-en-asp.

Bad Faith Termination (also called the Wallace Factor)

In Canada, an employer can dismiss an employee without notice for incompetence or poor performance. However, all employers have a duty to treat their employees fairly and with good faith in carrying out a dismissal. An employer must fire an employee in a way that is consistent with the terms outlined in the employee's employment contract. If an employer is found to be untruthful, misleading or excessively insensitive in dismissing an employee and the employee then takes the employer to court for wrongful dismissal, the wrongful dismissal damages an employee is entitled to receive following a without cause termination may be increased by the judge because of the "bad faith" manner in which the employee was dismissed.

Beyond a Reasonable Doubt

Part of the judge's instructions to the jury instructions in all criminal trials. Jurors are told that they can only find the defendant guilty if they are convinced "beyond a reasonable doubt" of his or her guilt. Sometimes referred to as "to a moral certainty," the phrase is likened to saying: "you better be damned sure."

Block Fee

A system that lawyers use for charging legal fees for some services. Block fee means that the client pays a pre-determined amount of money for a certain legal procedure (for example, the preparation of a document), instead of paying for it on the basis of the time spent by the lawyer.

Breach of Fiduciary Duty

Fiduciary duty is a legal relationship between two or more parties (most commonly a "fiduciary" or "trustee" and a "principal" or "beneficiary"). A fiduciary is expected to be extremely loyal to the person they owe the duty (the "principal"): they must not put their personal interests before the duty, and must not profit from their position as a fiduciary, unless the principal consents. The fiduciary relationship is highlighted by good faith, loyalty and trust. Examples of fiduciary relationships include relationship between parents and children, between business partners, between doctors and patients, but not between husband and wife, unless proven otherwise. Where a principal can establish both a fiduciary duty and a breach of that duty, the court will find that the benefit gained through the breach of fiduciary duty should be returned to the principal.

Breach of Recognizance

Recognizance is a term most often encountered regarding bail in criminal cases. By filing a bail bond with the court, the defendants will usually be released from imprisonment until the trial. If no bail has been set, the defendants are released "on their own recognizance." Recognizance can also include conditions such as not being allowed to associate with certain people, or not being allowed to leave the country. If a person does not abide by these conditions, he/she is guilty of a breach of recognizance, which is a criminal offense under the Criminal Code of Canada.

Child Sexual Abuse

Child sexual abuse occurs when a child is used for sexual purposes by an adult or adolescent. It involves exposing a child to any sexual activity or behaviour. Sexual abuse most often involves fondling and may include inviting a child to touch or be touched sexually. Other forms of sexual abuse include sexual intercourse, juvenile prostitution and sexual exploitation through child pornography. Sexual abuse is inherently emotionally abusive and is often accompanied by other forms of mistreatment. It is a betrayal of trust and an abuse of power over the child. Child sexual abuse is a criminal offence in Canada. The *Criminal Code* clearly identifies those behaviours that are against the law. The *Canada Evidence Act* defines the forms of evidence that may be admitted in court. In recent years, both the *Criminal Code* and the *Canada Evidence Act* have been changed to provide better protection to children.

Civil Law System

This is a generic term for non-criminal law. The purpose of the civil justice system is to provide a victim with compensation rather than to punish the perpetrator of the violence. For more information about Civil Law see *Section 4: If You Take Legal Action*.

Closure

Closure refers to the state of experiencing an emotional conclusion to a difficult life event, such as, for example, sexual abuse or assault. People often behave in a certain way or perform certain tasks to help "bring closure" following such events. These may include legal action or counselling. To learn more about gaining closure through the legal system refer to *Part 4: Legal Action*.

Collective Agreement

A collective agreement is a written contract of employment covering a group of employees who are represented by a trade union. It is a legal contract between a union and an employer. The agreement contains the rights, privileges and duties of the employer, the trade union and the employees. It sets out the rates of pay, hours of work, vacations, benefits, grievance procedures, and other conditions of employment. Collective agreements usually have a set expiry date (typically 1-3 years), after which they may be re-negotiated.

Compensation

In courtroom/legal language, it is the payment that a person receives to "make them whole" (or at least better) after an injury or loss.

Confidentiality

Information that is confidential is only shared with people who are authorized to have access to it. For example, lawyers, doctors, counselors and therapists are required to keep information about their clients confidential unless they are required to disclose it by law.

Constructive Dismissal

A situation where the employer does not directly fire the employee, but rather forces the employee to quit by not complying with the employment contract, or changing it without the employee's consent. Constructive dismissal is sometimes called "disguised dismissal" or "quitting with cause" because it often occurs in situations where the employee is offered the alternative of leaving or accepting a major change to their condition of employment. Traditionally, the most common types of job changes that have been found to constitute a constructive dismissal are: a significant pay reduction; a significant demotion; geographical relocation; and a significant change in working conditions.

Contingency Fees

Any fee for services provided where the fee is only payable if there is a favourable result. In legal cases, contingency fee agreements allow a client to pay legal fees only if their case is successful. If the case is successful, the client will be charged an agreed upon amount, usually a percentage of the amount paid to the client. If the case is unsuccessful, the client pays no legal fees. In Ontario, contingency fees are prohibited in criminal and family law matters. However, women who experience violence or abuse may resort to the option of contingency fees if they decide to sue their abuser in civil court.

Convict

- 1) v. To find a person guilty of a crime after a trial.
- 2) n. A person who has been convicted of a felony and sent to prison.

Conviction

The result of a criminal trial in which the defendant has been found guilty of a crime.

Criminal Harassment (also see Stalking)

Criminal harassment, which includes "stalking," is a crime. Criminal harassment generally consists of repeated conduct that is carried out over a period of time and that causes victims to reasonably fear for their safety but does not necessarily result in physical injury. It may be a precursor to subsequent violent acts. A person who is harassed may file a petition for a "stay away" (restraining) order, intended to prevent contact by the offensive party. For more information about Criminal Harassment see Part 2: Definitions, in this handbook.

Criminal System

The criminal law system is often what we think of when we talk about "taking legal action", but it is only one of several avenues in the overall justice system. The police, Crown attorneys, judges, juries and the courts are all involved in the criminal system. To learn more about the difference between criminal and civil law system see Part 4: Legal Action.

Cross-Examination

The opportunity for the attorney to ask questions in court of a witness who has testified in a trial on behalf of the opposing party. The questions on cross-examination are limited to the subjects covered in the direct examination of the witness, but importantly, the attorney may ask leading questions, in which he/she is allowed to suggest answers or put words in the witness' mouth.

Crown Attorney

Crown Attorneys or Crown Counsel are the public prosecutors in the legal system of Canada. Crown Attorneys represent the Crown and act as prosecutor in proceedings under the Canadian Criminal Code and other federal offences. Their major role is presenting the case against an individual suspected of breaking the law in a criminal trial. Lawyers who act on civil or administrative matters (as opposed to criminal) are not referred to as Crown Attorneys. Crown Attorneys are sometimes colloquially referred to as the Crown, and criminal cases take the form of "Crown vs. Jane Doe".

Defence Counsel

The lawyer who advises accused (defendants in civil cases) and presents their case to the court, ensuring that clients have a fair trial.

Discovery (also see Examinations and Discovery)

The efforts of a party in a lawsuit and his/her attorneys to obtain information before trial. This is done by collecting documents, depositions of parties and potential witnesses, written interrogatories (questions and answers written under oath), written requests for admissions of fact, examination of the scene and the petitions and motions employed to enforce discovery rights. The theory of broad rights of discovery is that all parties will go to trial with as much knowledge as possible and that neither party should be able to keep secrets from the other (except for constitutional protection against self-incrimination).

Disbursement

Payment to settle a bill.

Dismissed

The ruling by a judge that all or a portion of the plaintiff's lawsuit is terminated (thrown out) at that point without further evidence or testimony. This judgment may be made before, during or at the end of a trial, when the judge becomes convinced that the plaintiff has not and cannot prove his/her case. The plaintiff may voluntarily dismiss a cause of action before or during trial if the case is settled, if it is not provable or trial strategy dictates getting rid of a weak claim. A defendant may be "dismissed" from a lawsuit, meaning the suit is dropped against that party.

Examinations and Discovery (also see Discovery)

1. The questioning of a witness by an attorney. Direct examination is interrogation by the attorney who called the witness, and cross-examination is questioning by the opposing attorney. A principal difference is that an attorney putting questions to his own witness cannot ask "leading" questions, which put words in the mouth of the witness or suggest the answer, while on cross-examination he/she can pose a question that seems to contain an answer or suggest language for the witness to use or agree to.

2. In criminal law, a preliminary examination is a hearing before a judge or other magistrate to determine whether a defendant charged with a felony (crime) should be held for trial. Usually this is held by a lower court and if there is any substantial evidence to show a felony has been committed by the defendant he/she is bound over to the appropriate court for trial, but otherwise the charge will be dismissed by the judge.

Eye Movement Desensitization Reprocessing (EMDR)

A form of psychotherapy that is sometimes used with patients who suffered trauma. This treatment originates from the theory that if the information related to a distressing or traumatic experience is not fully processed, the initial perceptions, emotions, and distorted thoughts will be stored as they were experienced at the time of the event. These past emotions will form the basis for current trauma. EDMR aims to process components of the distressing memory in a way that links this memory to other information. When this occurs, learning takes place, and the experience is stored with appropriate emotions able to guide the person in the future.

EMDR procedures involve the client identifying the most vivid visual image related to the memory (if available), a negative belief about self, related emotions and body sensations. The client also identifies a preferred positive belief. After this, the client is instructed to focus on the image, negative thought, and body sensations while simultaneously moving his/her eyes back and forth following the therapist's fingers as they move across his/her field of vision for 20-30 seconds or more. After this, the clinician instructs the client to let his/her mind go blank and to notice whatever thought, feeling, image, memory, or sensation comes to mind. When the client reports no distress related to the targeted memory, the clinician asks him/her to think of the preferred positive belief that was identified at the beginning of the session, or a better one if it has emerged, and to focus on the incident, while simultaneously engaging in the eye movements. After several sets, clients generally report increased confidence in this positive belief.

More information about EMDR is available from the EMDR institute at www.emdr.com.

Facilitator

Someone who skillfully helps a group of people understand their common objectives and plan to achieve them without personally taking any side of the argument. The facilitator will try to assist the group in achieving a consensus on any disagreements that preexist or emerge in the meeting so that it has a strong basis for future action.

False Memory Syndrome (also see Recovered Memory)

According to current psychology theories, False Memory Syndrome (FMS) is a condition in which a person's identity and interpersonal relationships are centered around a memory of traumatic experience which did not take place but in which the person strongly believes. Although everyone has some memories that are inaccurate, false memory syndrome may be diagnosed when the memory is so deeply ingrained that it disrupts the individual's entire personality and lifestyle. The person experiencing it avoids confrontation with any evidence that might challenge the memory. The person may become so focused on memory that he or she may be effectively distracted from coping with the real problems in his or her life.

False Memory Syndrome is a controversial topic and there is much debate about how memory works, and about what recovered memories from the past tell us about our past experiences. More information is available from the False Memory Syndrome Association at www.fmsfonline.org.

Formal Complaint

In common law, a complaint is a formal legal document that sets out the basic facts and legal reasons that the filing party (the plaintiffs) believes are sufficient to support a claim against another person (the defendant) that entitles the plaintiff to some sort of remedy, either in monetary damages or in some other type of court order, such as restraining order. In criminal cases, a formal complaint is a criminal complaint (felony complaint) and the plaintiff is the Crown with the defendant being the accused who faces criminal charges.

Harasser

A person who engages in harassing behaviour towards another person. The harasser can be of the same or opposite sex as the person harassed, may be a supervisor, a co-worker, or someone providing you with a service, such as a bank officer or a clerk in a government department.

Harassment

Any unwanted physical or verbal conduct that offends or humiliates you. Such conduct can interfere with your ability to do a job or obtain a service.

Harassment is a type of discrimination. It can take many forms, such as:

- threats, intimidation, or verbal abuse;
- unwelcome remarks or jokes about subjects like your race, religion, disability or age;
- displaying sexist, racist or other offensive pictures or posters;
- sexually suggestive remarks or gestures;
- inappropriate physical contact, such as touching, patting, pinching or punching;
- physical assault, including sexual assault.

Harassment can consist of a single incident or several incidents over a period of time. For more information about sexual harassment see Part 2: Definitions in this handbook.

Homophobia

Homophobia is the fear of, aversion to, or discrimination against homosexuality or homosexuals. It can also mean hatred or disapproval of homosexual people, their lifestyles, sexual behaviors or cultures

Impartiality

Impartiality is a principle of justice holding that in court, legal decisions should be based on objective criteria (facts) rather than on the basis of bias, prejudice, or preferring the benefit to one person over another for improper reasons.

Informal Complaint

In sexual harassment cases, the purpose of an informal complaint is to achieve an acceptable resolution of the concern without mediation or formal investigation. A written complaint is usually not required under this procedure. Numerous options are usually available to the complainant (person filing the complaint) to resolve the concern. These may include writing a letter to, or meeting with the respondent (person against whom the complaint is filed) to outline the concern; an apology from the respondent; referral of either party to counselling; or investigation. Prior to the conclusion of the informal procedures, a complainant may usually withdraw her/his concern or choose to pursue the mediation or formal procedures.

Interim Payment

Damages are sums of money which are awarded by the court to compensate the plaintiff for the loss or harm resulting from the wrong of the defendant. Ordinarily in civil cases, damages are awarded at the conclusion of a trial if the defendant has been found liable. Interim payments occur when the court orders the defendant to pay a portion of damages to the plaintiff prior to trial. This is most likely to occur if the defendant has admitted liability or the plaintiff is insured.

If a Criminal Act has occurred, an Interim award can be awarded pursuant to s. 14 of the Compensation for Victims of Crime Act, R.S.O., 1990. The Board has discretion to order interim payments to the applicant in respect of support, medical expenses and funeral expenses.

Jurisdiction

The authority given by law to a court to try cases and rule on legal matters within a particular geographic area and/or over certain types of legal cases. Before a lawsuit is filed, it is important to determine which court has jurisdiction in that particular case.

Limitation Period

The amount of time a person has to file an action against another party. The limitation period generally starts from the date of the event that gave you the right to sue. The limitation period for starting a claim of action depends on the type of claim.

Litigation

Any lawsuit or other resort to the courts to determine a legal question or matter.

Lump Sum

A single payment for the total amount due, as opposed to a series of periodic payments.

Mediation

The attempt to settle a legal dispute through active participation of a third party (mediator) who works to find points of agreement and make those in conflict agree on a fair result. Mediation differs from arbitration, in which the third party (arbitrator) acts much like a judge in an out-of-court, less formal setting but does not actively participate in the discussion. Mediation has become very common in trying to resolve domestic relations disputes (divorce, child custody, and visitation) and is often ordered by the judge in such cases. Mediation also has become more frequent in contract and civil damage cases. There are professional mediators or lawyers who do some mediation for substantial fees, but the financial cost is less than fighting the matter out in court and may achieve early settlement and an end to anxiety. However, mediation does not always result in a settlement.

Motion

A formal request made to a judge for an order or judgment. Motions are made in court all the time for many purposes: to continue (postpone) a trial to a later date, to get a modification of an order, for temporary child support, for a judgment, for dismissal of the opposing party's case, for a rehearing, for sanctions (payment of the moving party's costs or attorney's fees), or for dozens of other purposes.

Offender (also see Perpetrator and Alleged Perpetrator / Offender)

An accused defendant in a criminal case or a person convicted of a crime.

Parole (also see Parole Hearing)

The release of a convicted criminal defendant after he/she has completed part of his/her prison sentence, based on the concept that during the period of parole, the released criminal can prove he/she is rehabilitated and can "make good" in society. A parole generally has a specific period and terms such as reporting to a parole officer, not associating with other ex-convicts, and staying out of trouble. Violation of the terms may result in revocation of parole and a return to prison to complete his/her sentence. For more information about Parole and Parole Hearings in Ontario see www.operb.gov.on.ca/english/intro.html

Parole Hearings (also see Parole)

Parole Hearing is a meeting during which it is decided whether or not a criminal defendant will be given parole. In Ontario, these hearings are held by the Ontario Parole and Earned Release Board. During a parole hearing, two members review all available information on each case, interview the offender and make the decision to grant or deny parole, or to defer the decisions to a later date. For more see information about Parole and Parole Hearings in Ontario www.operb.gov.on.ca/english/intro.html.

Peace Bonds (also see Restraining Orders)

A criminal court order that sets out specific conditions to protect the safety of others or property. It can be ordered where there is a reasonable fear that another person will cause personal injury to them or their family, will damage his/her property, or where there is a reasonable fear that another person will commit a sexual offence against them. Peace bonds are often used in cases of family violence and stalking. They include specific terms that may, for example, forbid the defendant from calling, contacting or visiting the applicant's home or workplace, forbid them from carrying firearms or ammunition, or require that they go to counseling. They do not cost anything and you do

not need a lawyer to get one. A peace bond is not a criminal charge, but breaching one is an offence

Only a judge, magistrate, or justice of the peace can issue a peace bond. If you live in Ontario, you can apply for one directly at a Provincial Court. If there is no Provincial Court in your community, go to your local police station. Once you have told the police or the Provincial Court that you want a peace order, they will summon the other party and tell them when to go to court. You (the applicant) must also appear in court on that day. Once you are in court, you will need to show that you have a reasonable fear the defendant will harm you or your family, or will damage your property. Therefore, it is important that you:

- document every time the person stalked you or threatened you;
- keep any evidence of abuse such as hospital records, photographs, etc.;
- in the case of a partner/ex-partner, if applicable, evidence of his mistreatment of your children; and
- document every time the person damaged your property or threatened to do so – if possible, take photographs

You do not need a lawyer to get a peace bond. You can present your case to the court without a lawyer. If you wish, you may hire a lawyer or you may be able to get Legal Aid. If there is a hearing, depending on where you live, either a Crown Attorney will be appointed, or you may have to tell the court about your own case.

Periodic Payments

Period payments are most often awarded to those with a catastrophic injury. According to the Compensation for Victims of Crime Act, the amount is up to \$1000.00 monthly and can not exceed \$365 000 for all applicants in respect of one occurrence.

Perpetrator (also see Offender and Alleged Perpetrator / Offender)

A person who commits an offense or crime.

Preliminary Hearing

In criminal law, a hearing to determine if a person charged with a felony (a serious crime punishable by a term in prison) should be tried for the crime charged, based on whether there is some substantial evidence that he/she committed the crime. If the judge finds sufficient evidence to try the defendant, the case is sent to the appropriate court for trial. If there is no such convincing evidence, the judge will dismiss the charges.

Pretrial Conference

An informal meeting conducted in a judge's office at which a full and free discussion of the issues raised may occur without prejudice to the rights of the parties in any proceedings thereafter taking place. The Criminal Code of Canada provides that a pre-trial conference between a prosecutor and the accused or defence counsel that is presided over by a judge may take place in order to consider any matters that would promote a fair and expeditious hearing. A pre-trial conference may be initiated on application by the prosecutor, the accused or the court. In the case of jury trials, these pre-trial conferences are mandatory.

The role of the judge during a pre-trial conference is to remain fair and impartial. The presiding judge may assist in resolving the issue of sentence by expressing an opinion as to whether a proposed sentence is too high, too low or within an appropriate range.

As a neutral guide, the judge may also be of great assistance in helping the parties identify their differences, and, where appropriate, reconcile them. It should be noted that the pre-trial conference judge will not preside over subsequent substantive courtroom proceedings related to the matter without the consent of both parties.

Professional Misconduct

A member of the Law Society of Upper Canada must not engage in professional misconduct or conduct unbecoming a barrister or solicitor according to Law Society Act, R.S.O. 1990, c. L. 8, s. 33(1). According to Rule 1.03(1)(a) of Ontario's Rules of Professional Conduct, a "lawyer has a duty to carry on the practice of law and discharge all responsibility to clients, tribunals, the public, and other members of the professional honourably and with integrity." There are other rules which elaborate on this general "integrity rule." A breach of this integrity rule may amount to professional misconduct.

Professional misconduct occurs if a solicitor acts for the opponent of a client or former client in any case where the knowledge of the affairs of the client or former client would give the lawyer an undue advantage. Misconduct would also arise if a lawyer breaches the duty of confidentiality by disclosing confidential information about a client obtained in the course of professional duties. Professional misconduct can also occur when a lawyer causes undue delays, behaves in a discriminatory fashion or makes sexually or racially inappropriate comments, or misappropriates a client's funds.

The Law Society of Upper Canada has a process in place to deal with complaints brought forward by clients. After reviewing a matter, the Proceedings Authorization Committee may determine that no action should be taken. However, if it determines that action is warranted, the committee may take one or more actions, ranging from approving or giving directions for the informal resolution of the matter to sending a letter of advice regarding the member's conduct or professional competence, or any other action that the committee considers appropriate.

The committee may authorize the Law Society to apply to the Hearing Panel for a determination of whether a member has engaged in professional misconduct. However, the committee must not authorize the Law Society to apply to the Hearing Panel unless it is satisfied that there are reasonable grounds to believe that the lawyer has committed the infraction. If convicted, the penalties vary depending on the severity of the offence. Punishment can range from a monetary fine, to a suspension from the practice of law, or even permanent disbarment.

Prosecutor

The government's attorney in a criminal case.

Purpose (Also see Relevance)

Evidence is relevant or purposeful if it makes the proposition or case more probable. Parties cannot litigate and bring evidence on all the history between them. Rather, the evidence must be relevant to the legal issue in the case. In civil cases, the statement of claim and statement of defence narrow the issues between the parties. In criminal cases, the prosecution sets out the information or indictment which states what is intended to be established. After the issues are narrowed between the parties, evidence can be brought forward to test those issues during the trial. Only evidence which pertains to these limited issues will be admitted during trial.

Racism

Prejudicial attitudes, as well as discriminatory practices, towards individuals of a certain ethnic/racial background.

Recovered Memory (also see False Memory Syndrome)

According to some psychology theories, certain memories (usually traumatic) are repressed by the person and stored outside of the conscious mind, but can be recovered (brought back) in therapy. This theory was popular in the 1980s and 1990s, but has since been severely criticized after a number of scandals. The position of the Royal College of Psychiatrists is that there is no scientific evidence that techniques such as drug-mediated interviews ("truth serum"), hypnosis, literal dream interpretation or journaling can reveal actual information about past experiences. Psychiatrists are now advised not to engage in any techniques in the expectation of finding past sexual abuse if the patient has no memory of these events.

Relevance (also see Purpose)

Questions asked during the trial must be deemed to be relevant, that is, important or pertinent to the issue before the court. Attorneys commonly object that a question is not relevant during testimony in a trial. The objection is made as soon as an alert attorney believes the opposition is going into matters which are not concerned with the facts or outside the issues of the lawsuit. The judge must then rule on the relevancy of the question. If the question has been answered before the lawyer could say "objection," the judge may order that answer stricken from the record.

Reporting Letter

After your initial consultation with the lawyer, the lawyer will send you a letter setting out the issues which were addressed during your meeting and a full review of the options available to you.

Respondent

n. 1) The party who is required to answer a petition for a court order requiring them to take some action, stop an activity or obey a court's direction. In such matters the moving party (the one filing the petition) is usually called the "petitioner." Thus, the respondent is equivalent to a defendant in a lawsuit, but the potential result is a court order and not money damages. 2) On an appeal, the party is the one who must respond to an appeal by the losing party in the trial court (called "appellant") in the appeals court.

Restraining Orders (also see Peace Bonds)

A person who has been assaulted by his or her spouse/partner can ask the court to make a restraining order. The restraining order can be general - that your spouse/partner has to stay away from you - or it can be specific. It can say that your spouse/partner must not come to your home, to your place of work, to your children's school or to other places where you often go.

Restraining orders are set out in Family Court before a judge only (no jury). They only apply to partners and ex-partners. A restraining order cannot be granted under the Family Law Act to shield the applicant's parents, siblings, friends or neighbours; a different law must be used in order to make this request.

Usually applications for restraining orders are made as part of a larger court proceeding under the Family Law Act (FLA), but you can apply for just a restraining order.

The process can a long time. It will require a formal submission, evidence and a hearing at which both sides can make their claims. Therefore, it is important that you:

- document every time the person stalked you or threatened you;
- keep any evidence of abuse such as hospital records, photographs, etc.;
- in the case of a partner/ex-partner, if applicable, evidence of his mistreatment of your children

If you are fearful for your immediate safety, you can ask for a restraining order on an urgent basis.

If your spouse/partner disobeys the restraining order, you can call the police. If the police believe that your spouse/partner has disobeyed the restraining order, he or she can be arrested and charged with a crime. You will need to make sure you have a copy of the restraining order with you at all times.

Retainer

The advance payment to an attorney for services to be performed, intended to insure that the lawyer will represent the client and that the lawyer will be paid at least that amount. Commonly in matters which will involve extensive work there will be a retainer agreement signed by the attorney and client. Further payments for services can be expected as the time spent on the legal matter increases. Most lawyers do not want to be owed money and wish to be paid either in advance or promptly as the work is performed.

Sentence

The punishment given to a person convicted of a crime. A sentence is ordered by the judge, based on the verdict of the jury (or the judge's decision if there is no jury) within the possible punishments set by the law. Popularly, "sentence" refers to the jail or prison time ordered after conviction, although technically, it includes all fines, community service, restitution or other punishment, or terms of probation.

Settlement Negotiation

In some circumstances, the parties to a lawsuit may talk about (negotiate) a settlement before the trial. A settlement is an agreement between the parties to a lawsuit which sets out how they will resolve the claim. If the claim is settled, it does not go to trial.

Sexism

Prejudice or discrimination, especially against women, on the basis of their sex.

Sexual Assault

Any type of forced sex constitutes sexual assault under the Criminal Code of Canada, including forced sex between married partners. The Code also covers and punishes sexual assault with a weapon, sexual assault facilitated by threatening a third party, and sexual assault which causes bodily harm.

Sexual Harassment

Sexual harassment means that someone is bothering you by saying or doing unwanted or unwelcome things of a sexual or gender-related nature. For example, someone who makes unwelcome sexual or gender-related remarks and gestures by:

- touching you inappropriately
- making offensive jokes or remarks about women or men
- making sexual requests or suggestions
- staring at or making unwelcome comments about your body
- displaying sexually offensive pictures
- being verbally abusive to you because of your gender

Sexual harassment does not have to be sexual in nature. It can also mean that someone is bothering you simply because you are a woman. Making stereotypes about one gender or the other can be a form of sexual harassment. Sexual harassment can occur in many circumstances. Below are a few examples:

Sexual Harassment in Employment and Housing

Someone says or does something to you of a sexual nature that you do not welcome. This includes behaviour that a person knows or ought to know you do not welcome. Your boss, landlord, or other authority figure uses their position of power to sexually harass you. By being in a vulnerable situation, it is difficult for you to speak out about the situation. The person in authority uses the position to help them get away with unwelcome sexual comments or actions.

Sexual Solicitation or Advance

A person suggests that if you become sexually involved with him or her, he or she will give you a better grade or some other type of incentive.

Sexual Harassment and Reprisal

A person who has authority or power denies you something important, punishes or threatens you for refusing a sexual request, or for complaining about inappropriate sexual behaviour or comments.

Sexual Harassment and a "Poisoned Environment"

Sexual harassment can have a bad effect on, or "poison", the places where you live, work or receive services. Even if the harassment is not directed at you, it can still poison the environment for you or others, for instance, if certain sexual or gender-related comments or actions make you or others feel uncomfortable in the workplace or unwilling to return to work, this could indicate that the work environment is poisoned.

Sexual Violence

Sexual violence can take many forms including date rape, sexual harassment and sexual assault.

Stalking (also see Criminal Harassment)

Stalking is a crime which Canadian criminal law calls criminal harassment. Canada's Criminal Code states that no person can, without lawful authority and knowing that another person is harassed (or recklessly as to whether the other person is harassed):

- repeatedly follow the other person, or anyone known to them, from place to place;
- repeatedly communicate with, either directly or indirectly, the other person or anyone known to them;
- "beset" or watch a place where the other person is visiting, lives or works;
- or engage in threatening conduct directed at the other person or any member of their family.

The *Code* prohibits trespassing on another's property at night, uttering threats, indecent or harassing phone calls, intimidation and mischief to another person's property. The law now protects you even if the conduct of the stalker is not done with the intent to scare you. It is enough if it does scare you.

Actions that might be acceptable in a normal, loving relationship could become criminal harassment when one of the persons wants the relationship to end and the other does not. For example, in these circumstances, giving someone roses, in some cases, is considered to be stalking as could repeat visits, telephone calls or waiting for the victim after work. Everybody has a right to end a relationship. A former spouse or partner should stop communicating with you if you have told them that their attention is not welcome.

Therapeutic Records

Therapeutic records are notes/records from sessions with your therapist. If you go to trial, defence counsel may bring an application to obtain your therapeutic records, if it can be established that there is something in those records that is relevant to the case. For more information about therapeutic records see Part 4 of this handbook.

Third Party Report

The anonymous Third Party Report program gives victims of sexual assault the opportunity to anonymously provide police with information relating to a sexual assault and receive counseling and support following a sexual assault. The client's name is not used in the report so anonymity is maintained for the victim. This report outlines what the survivor can recall about the details of their assailant and the assault. These reports can be obtained from a SA/DVCC and may be filled out with the assistance of a nurse.

The purpose of a third party report is to help the police in identifying repeat sex offenders. These reports have been instrumental in identifying a number of serial/predatory offenders. The third party reporting option is not available at all centres.

Victim Impact Statement

A victim impact statement is a written statement that describes the harm or loss suffered by the victim of an offence. The court considers the statement when the offender is sentenced.

The victim impact statement is intended to give victims of crime a voice in the criminal justice system; it allows victims to participate in the sentencing of the offender by explaining to the court and the offender, in their own words, how the crime has affected them.

A "victim" as defined in the *Criminal Code* is a person to whom harm has been done or who has suffered physical or emotional loss as a result of the offence. In some cases, the victim prepares the victim impact statement. In other cases, it is prepared by someone else on behalf of the victim, following meetings with the victim to gather the information. In addition, a victim impact statement can be prepared by the survivors of deceased victims, by the parent or guardian of a child victim, or by a spouse, dependant or close relative of a victim who is incapable of making a statement.

The preparation and submission of a victim impact statement is the victim's choice. The victim may also choose to read their victim impact statement aloud at the sentencing

hearing if they wish. However, consideration of the victim impact statement by the judge is mandatory. The *Criminal Code* is clear – where a victim impact statement has been prepared, the sentencing judge must consider the statement. The judge must also ask, before imposing sentence, whether the victim has been told about the opportunity to prepare a victim impact statement.

The forms used for the victim impact statement and the procedure for submitting the statement to the court vary slightly from province to province and in the territories. In some areas of Canada, the police will give the victim a victim impact statement form to be filled out or will refer the victim to a victim services agency that will provide information about the victim impact statement program in that area. In other areas the Crown prosecutor is responsible for gathering victim impact information. A copy of the victim impact statement is provided to the offender. The statement will be part of the information considered at the sentencing hearing. A victim may be questioned by the offender about the statement.

Victim impact information is also considered in other proceedings. Where the accused person is found not criminally responsible on account of mental disorder, a court or Review Board will determine the appropriate disposition for the accused. The *Criminal Code* provides that the court or Review Board must consider the victim impact statement describing the harm done or loss suffered as a result of the crime. Amendments to the *Criminal Code* which came into effect in 2006 allow victims to read their victim impact statements aloud in appropriate circumstances.

Wrongful Dismissal

Being fired from a job without an adequate reason or without any reason whatsoever. Employees can be dismissed for economic or performance reasons but they cannot be dismissed capriciously. Most employment implies an employment contract, which may be supplemented by labor legislation. Either could provide for certain procedures to be followed, failing which any firing is wrongful dismissal and for which the employee could ask a court for damages against the employer. It can also be referred to as "dismissal without just cause."

PART 10: Resources

Sexual assault/rape crisis centres in Ontario

Ministry of the Attorney General, (Ontario), Victim Services Division funds 34 community-based centres across the province that provide a broad range of services including:

- 24-hour crisis and support line (locally);
- court, police and hospital accompaniment;
- supportive peer counselling services (one-to-one and group);
- public and professional education regarding the nature and extent of sexual violence;
- information and referral services.
-

English-language centers arranged alphabetically by city/town

BELLEVILLE	Sexual Assault Centre for Quinte & District P.O. Box 22010 Belleville, ON, K8N 5V7 Tel: 613-967-6300 / Crisis Line: 613-967-6000 Fax: 613-967-6527 E-mail: sacqd@lks.net
BRANTFORD	Sexual Assault Centre of Brant 211 Brant Street Brantford, ON, N3T 3J1 Tel: 519-751-1164 Fax: 519-751-4187 E-mail: Clark2198@rogers.com
CHATHAM	Chatham Kent Sexual Assault Crisis Centre 405 Riverview Drive, Unit 101 R.R. # 5 Chatham, ON, N7M 5J5 Tel: 519-354-8908 / Crisis Line 519-354-8688 Fax: 519-354-7700 E-mail: cksaccms@ciaccess.com
CORNWALL	Sexual Assault Support Services for Women of Stormont, Dundas, Glengarry and Akwesasne 125 Amelia Street P.O. Box 1192 Cornwall, ON, K6H 5V3 Tel: 613- 932-1755 Crisis Line: 613-932-1603/1-800-463-0174 French Crisis Line: 613- 932-1705 Fax: 613-932-1548

E-mail: sasas@bellnet.ca

GUELPH

Guelph-Wellington Women in Crisis
P.O. Box 1451
Guelph, ON, N1H 6N9
Tel: 519-836-1110
Fax: 519-836-1979
E-mail: sly@gwwomenincrisis.org

HAMILTON

Sexual Assault Centre of Hamilton & Area
P.O. Box 57220
Hamilton, ON, L8P 4X1
Tel: 905-525-4573
Fax: 905-525-7085
E-mail: sach@sacha.on.ca

KENORA

Kenora Sexual Assault Centre
229 - 1st Street South
Kenora, ON, P9N 1C2
Tel: 807-468-7958
Fax: 807-468-4808
E-mail: ksac@voyageur.ca

KINGSTON

Sexual Assault Centre Kingston
P.O. Box 1461
Kingston, ON, K7K 1B7
Tel: 613-545-0762 /1-877-240-0762
Crisis Line: 613-544-6424 /1-877-544-6424
Fax: 613-545-9744
E-mail: admincoordinator@sackington.com

KITCHENER

Kitchener-Waterloo Sexual Assault Support Centre
151 Frederick Street, Suite 201
Kitchener, ON, N2H 2M2
Tel: 519-571-0121
Fax: 519-571-0522
E-mail: k.austin@ywcacambridge.ca

LONDON

Sexual Assault Centre London
21 - 379 Dundas Street
London, ON, N6B 1V5
Tel: 519-439-0844 / Crisis Line 519-438-2272
Fax: 519-439-9931
E-mail: Susan@sacl.ca

MIDLAND

Huron Transition Homes
Simcoe County Sexual Assault/Rape Crisis Centre
582 Hugel Avenue
P.O. Box 54
Midland, ON, L4R 4K6
Tel: 705-526-3221

Fax: 705-526-0343
E-mail: shelter@rosewood.on.ca OR director@rosewood.on.ca

- MISSISSAUGA** Sexual Assault / Rape Crisis Centre of Peel
151 City Centre Drive
P.O. Box 2311, Square One Post Office
Mississauga, ON, L5B 3C8
Tel: 905-273-3337
Fax: 905-273-3336
E-mail: executivedirector@sarccp.org
- NEWMARKET** Women's Support Network of York Region
1110 Stellar Drive, Unit 109
Newmarket, ON, L3Y 7B7
Tel: 905-895-3646 / Crisis Line: 905-895-7313 / 1-800-263-6734
Fax: 905-895-6542
E-mail: msmithwsn@rogers.com
- NORTH BAY** Amelia Rising Sexual Assault Centre of Nipissing
101 Worthington Street East, Suite 11
North Bay, ON, P1B 1G5
Tel: 705-840-2403
Fax: 705-840-5050
E-mail: ameliarisingwomen@bell.net.ca
- OAKVILLE** Sexual Assault and Violence Intervention Services of Halton
1515 Rebecca Street, Suite 227, Hopedale Mall
Oakville, ON, L6L 5G8
Tel: 905-825-3622
Fax: 905-825-3755
E-mail: executivedirector@savisofhalton.org
- OTTAWA** Sexual Assault Support Centre of Ottawa
P.O. Box 4441
Station E
Ottawa, ON, K1S 5B4
Tel: 613-725-2160 / Crisis Line: 613-234-2266
Fax: 613-725-9259
E-mail: sascott@istar.ca
- Ottawa Rape Crisis Centre
P.O. Box 20206
Ottawa, ON, K1N 9P4
Tel: 613-562-2334 / Crisis Line 613-562-2333
Fax: 613-562-2291
E-mail: orcc@magma.ca
- OWEN SOUND** Sexual Assault Centre of Grey & Bruce
c/o The Women's Centre (Grey & Bruce) Inc.
P.O. Box 905

2048A - 9th Avenue East
Owen Sound, ON, N4K 6H6
Tel: 519-376-0755 / Crisis Line 1-800-720-7411
Fax: 519-369-5533
E-mail: womenscentre@bmts.com

PARRY SOUND Muskoka/Parry Sound Sexual Assault Services
7 William Street, Suite 5
Parry Sound, ON, P2A 1V2
Tel: 705-774-9083 Crisis Line: 1-800-461-2929
Fax: 705-774-9728
E-mail: helen@daphnewymn.com

PEMBROKE Women's Sexual Assault Centre of Renfrew County
P.O. Box 1274
Pembroke, ON, K8A 6Y6
Tel: 613-735-5551 / Crisis Line: 1-800-663-3060
Fax: 613-735-8722
E-mail: womcen@webhart.net OR pubed@webhart.net

PETERBOROUGH Kawartha Sexual Assault Centre
411 Water Street, Suite 102
Peterborough, ON, K9H 3L9
Tel: 705-748-5901 / Crisis Line: 705-741-0260
Fax: 705-741-0405
E-mail: ksac@nexicom.net

SARNIA Sexual Assault Survivor's Centre Sarnia-Lambton
Sarnia, ON, N7T 5W9
Tel: 519-337-3154 / Crisis Line: 519-337-3320
Fax: 519-337-0819

ST. CATHARINES Niagara Region Sexual Assault Centre CARSA Inc.
43 Church St., Ste 503,
St. Catharines, ON L2R 7E1
Tel: 905-682-7258
Fax: 905-682-2114
E-mail: carsa@sexualassaultniagara.org

SUDBURY Sudbury Sexual Assault Crisis Centre
111 Elm Street, Suite 206
Sudbury, ON, P3T 1T3
Tel: 705-675-8071
Fax: 705-675-2641
E-mail: ssac@personainternet.com

THUNDER BAY Thunder Bay Sexual Assault/Sexual Abuse Counselling & Crisis
Centre
385 Mooney Street
Thunder Bay, ON, P7B 5L5

Tel: 807-345-0894
Fax: 807-344-1981
E-mail: tbcounselling@tbsasa.org

TIMMINS

Timmins and Area Women in Crisis
355 Wilson Avenue
Timmins, ON, P4N 2T7
Tel: 705-268-8381
Fax: 705-268-3332
E-mail: rcline@vianet.on.ca

TORONTO

Toronto Rape Crisis Centre/Multicultural Women Against Rape
17 Phoebe Street
P.O. Box 6597, Station A
Toronto, ON, M5B 1L2
Tel: 416-597-1171 / Crisis Line: 416-597-8808
Fax: 416-597-9648
E-mail: trcc@web.net

WHITBY

Oshawa-Durham Rape Crisis Centre
P.O. Box 567
Whitby, ON, L1N 5V3
Tel: 905-444-9674 Crisis Line: 905-668-9200
Fax: 905-944-9674
E-mail: drccbod@durhamrapecrisiscentre.com

WHITE RIVER

Algoma Women's Sexual Assault Services
610 Elgin Street
P.O. Box 579
White River, ON, P0M 3G0
Tel: 807-822-204
Fax: 807-822-2282

WINDSOR

Sexual Assault Crisis Center of Essex
1407 Ottawa Street, Unit G
Windsor, ON, N8X 2G1
Tel: 519-253-3100 / Crisis Line: 519-253-9667
Fax: 519-253-0175
E-mail: sacc@cogeco.net

French-language centers arranged alphabetically by city/town

CASSELMAN

Centre NOVAS
C.P. 250
Casselman, ON, K0A 1M0
Tel: 613-764-5700

HAMILTON

Le Centre des Femmes de Hamilton
460, rue Main Est, 2e étage

Hamilton, ON, L8N 1K4
Tel: 905-528-0163
Fax: 905-528-9196
E-mail: fngenzeb@iaw.on.ca

Centre de Santé Communautaire de Hamilton/Niagara
460, rue Main Est, 2e étage
Hamilton, ON, L8N 1K4
Tel: 905-734-1141
Fax: 905-734-1678
E-mail: fngenzeb@iaw.on.ca

OTTAWA

CALACS Francophone d'Ottawa
40, rue Cobourg
Ottawa, ON, K1N 8Z6
Tel: 613-789-8096
Fax: 613-789-8097
E-mail: CALACS@rogers.com

La Maison d'Amitié
40, rue Cobourg
Ottawa, ON, K1N 8Z6
Tel: 613-747-9136
Fax: 613-747-0147
E-mail: anne.hodge@rogers.com

SUDBURY

Le Centre Victoria pour femmes
10, rue Elm 5ième étage, bureau 500
Sudbury, ON, P3C 5N3
Tel: 705-670-2517
Fax: 705-670-2645
E-mail: cvf@on.aibn.com

TIMMINS

Centre Passerelle pour les femmes du Nord Ontario
C.P. 849
Timmins, ON, P4N 7G7
Tel: 705-360-5657
Fax: 705-360-5662

THUNDER BAY

Centre des femmes francophones du Nord-Ouest de l'Ontario
292, rue Court Sud, Bureau 300
C.P. 21058
Thunder Bay, ON, P7A 8A7
Tel: 807-684-1955
Fax: 807-346-1220
E-mail: dg@cffnoo.com

TORONTO

Oasis-Centre des Femmes
27, rue Carlton, bureau 400
Toronto, ON, M5B 1L2
Tel: 416-591-6565

Fax: 416-591-7525
E-mail: tatjanas@oasisfemmes.com

Sexual Assault and Domestic Violence Treatment Centres

The Ontario Network of Sexual Assault/Domestic Violence Care and Treatment Centres was established in 1993 to increase networking and support among Centres in order to establish standardization in service provision, and to increase educational opportunities among service providers. All Sexual Assault Care and Treatment Centres funded by the Ministry of Health belong to the Network. There is no paid membership or criteria for inclusion to the Network.

Centres arranged in alphabetical order by city/town

- BELLEVILLE** Sexual Assault Response Team
P.O. Box 22005
Belleville, ON
K8N 5V7
Tel: 613 969-0294
- BRANTFORD** Brantford General Hospital
200 Terrace Hill Street
Brantford, ON
N3R 1G9
Tel: 519-751-5507 ext. 4449
- BURLINGTON** Sexual/Domestic Assault Care Centre
Joseph Brant Hospital - Nina's Place
1230 North Shore Blvd
Burlington, ON
L7R 4C4
Tel: 905-632-3737 ext. 5708
- CHATHAM / KENT** Sexual Assault/Domestic Violence Treatment Centre
Chatham-Kent Health Alliance
80 Grand Ave West
Chatham, ON
N7L 1B7
(519) 352-6401 ext 6382 Fax(519) 436-2576
- CORNWALL** Partner Abuse Sexual Assault Care Team
Cornwall Community Hospital
510 Second Street East
Cornwall, ON
K6H 1Z6
Tel: 613-932-3300 ext. 4202
- DRYDEN** Dryden Regional Health Centre
SA / DV Program
58 Goodall Street

P.O. Box 3003
Dryden, ON
P8N-2Z6
Tania Galeotafiore, Program Coordinator
Tel: 807-223-7427

GUELPH Guelph – Wellington County Sexual Assault Care and Treatment Centre
Guelph General Hospital
115 Delhi Street
Guelph, ON
N1E 4J4
Tel: 519-822-5350 ext.2728

HAMILTON Hamilton Health Sciences, McMaster University Medical Centre
Sexual Assault /Domestic Violence Care Centre
Health Sciences Centre, Room - 4B24
1200 Main Street West
Hamilton, ON
L8N 3Z5
Tel: 905-521-2100 ext. 73185

KENORA Lake of the Woods District Hospital
Sexual Assault Treatment Centre
21 Sylvan Street West
Kenora, ON
P9N 3W7
Tel: 807-468-9861 ext. 428

KINGSTON Sexual Assault/ Domestic Violence Program
Kingston General Hospital
76 Stuart St.
Kingston, ON
K7L 2V7
Tel: 613-549-6666, ext. 4880

LEEDS/GRENVILLE Sexual Assault Centre of Leeds & Grenville
70 Charles Street suite #201
Brockville, ON
K6V 1T3
Tel: 613-345-3881

LONDON St. Joseph Health Care Centre of London
Sexual Assault Treatment Centre
268 Grosvenor Street
London, ON
N6A 4V2
Tel: 519-646-6100 ext. 64579

MISSISSAUGA Peel Region Sexual Assault Program
Sexual Assault Care & Counselling Centre
The Trillium Health Centre
100 The Queensway West
Mississauga, ON
L5B 1B8
Tel: 905-848-7580 ext.2142

NORTH BAY Sexual Assault Treatment Centre
North Bay General Hospital
Scollard Site
750 Scollard Street
North Bay, ON
P1B 5A4
Tel: 705-474-8600 ext. 2294

ORANGEVILLE Dufferin County Sexual Assault Program
Dufferin - Caledon Health Care Corporation
Orangeville Campus
100 Rolling Hills Drive
Orangeville, ON
L9W 4X9
Tel: 519-941-2410, ext. 2214; voicemail 2255

ORILLIA Regional Sexual Assault/Domestic Assault Treatment Centre for
Simcoe County & Muskoka
C/o Orillia Soldiers' Memorial Hospital
170 Colbourne Street West
Orillia, ON
L3V 2Z3
Tel: 705-325-2201 ext. 3166
Main line for Centre: 1-877-377-7438

OTTAWA Ottawa-Carleton Sexual Assault Treatment Program – Adult Site
Ottawa Hospital, Civic Campus
1053 Carling Avenue, D-Main
Ottawa, ON
K1Y 4E9
Tel: 613-798-5555, ext.16555

OTTAWA Children's Hospital of Eastern Ontario
401 Smyth Road,
Ottawa, ON
K1H 8L1
Emergency: 613-737-2328
Pediatric site seeing clients under the age of 18

OWEN SOUND Sexual Assault Care Centre
The Grey Bruce Regional Health Centre
1400 - 8th Street East

P.O. Box 1400
Owen Sound, ON
N4K 6M9
Tel: 519-376-2121, ext. 2458

PETERBOROUGH Sexual Assault Program
Women's Health Care Centre
69 George Street
Peterborough, ON
K9J 3G2
Tel: 705-743-4132

RENFREW Renfrew County Sexual Assault/Partner Assault Program
Renfrew Victoria Hospital
499 Raglan Street North
Renfrew, ON
K7V 1P6
Tel: 613-432-4851
1-800-363-7222 (services the 613 area code)

RICHMOND HILL Domestic Abuse and Sexual Assault Care Centre
York Central Hospital
10 Trench Street
Richmond Hill, ON
L4C 4Z3
Tel: 905-883-2383
1-800-521-6004

SARNIA Sarnia General Hospital
Sexual Assault Treatment Centre
220 Mitton Street North
Sarnia, ON
N7T 6H6
Tel: 519-464-4522

SAULT STE MARIE Sault Area Hospitals
Sexual Assault Care Centre/Partner Assault Clinic
915 Queen Street East
Sault Ste. Marie, ON
P6A 2B6
Tel: 705-759-5143

SCARBOROUGH Scarborough Hospital
Grace Division Sexual Assault Care Centre
3030 Birchmount Road
Scarborough, ON
M1W 3W3
Tel: 416-495-2555

SIOUX LOOKOUT Sexual Assault Treatment Program
Box 1500
Sioux Lookout, ON
P8T 1C2
Tel: 807-737-3030 ext.327

ST. CATHARINES Niagara Health System
St. Catharines General Hospital Site
Sexual Assault Treatment Centre
142 Queenston Street
St. Catharine's, ON
L2R 7C6
Tel: 905-684-7271, ext. 5300

SUDBURY St. Joseph's Health Centre/HRSRH
Domestic Violence / Sexual Assault Treatment Program
700 Paris Street
Sudbury, ON
P3E 3B5
Tel: 705-675-4743

THUNDER BAY Sexual Assault/Domestic Violence Program
Thunder Bay Regional HSC
980 Oliver Road
Thunder Bay, ON
P7B 6V4
Tel: (807) 684-6750

TORONTO The Hospital for Sick Children
SCAN Unit
6th Floor - Gerrard
555 University Avenue
Toronto, ON
M5G 1X8
Suspected Child Abuse & Neglect Program (SCAN)
Pediatric Sexual Assault Centre for Southern Ontario
Tel: 416-813-6178

TORONTO Sunnybrook & Women's College Health Sciences Centre
Women's College Campus
Sexual Assault /Domestic Violence Care Centre
76 Grenville Street
Toronto, ON
Tel: 416-323-6040

WATERLOO Waterloo Region Sexual Assault/
Domestic Violence Treatment Centre
St. Mary's General Hospital
c/o 400 Queen Street South, Kitchener, N2G 1W7
Tel: (519) 749-6994

WHITBY/OSHAWA Durham Region Sexual Assault Care Centre
107 Colborne Street West, 2nd Floor
Whitby, ON
L1N 1W9
Tel: 905-668-3050

Emergency Medical Services
Lakeridge Health Oshawa
1 Hospital Court
Oshawa, ON
L1G 2B9
Tel: 905-576-8711 ext. 3286

WINDSOR Hotel Dieu Grace Hospital
Sexual Assault Treatment Centre
339 Crawford Avenue
Windsor, ON
N9A 5C6
Tel: 519-255-2234

Ontario Network of SACC / SATC's

C/o Sunnybrook & Women's College Health Sciences Centre
Women's College Campus, 76 Grenville Street
Toronto, ON
M5S 1B2
Tel: 416-323-6400, ext. 4472

Victim/Witness Assistance Program (VWAP)

The Victim/Witness Assistance Program (VWAP) provides information, assistance and support to victims and witnesses of crime throughout the criminal justice process. The program is offered by the Ontario Victim Services Secretariat. Its services include crisis intervention, needs assessment, referrals to community agencies, emotional support, case specific information (court dates, bail conditions) and court preparation and orientation.

VWAP services are available to adult and child victims and witnesses of crime, after charges have been laid. VWAP staff work extensively, but not exclusively, with victims/witnesses of partner assault, sexual assault and child abuse. Although available to all victims, services are provided on a priority basis to victims that have been most traumatized by crime.

The program has 45 offices in Ontario with plans for further expansion. Offices are currently located in:

NORTH: For offices in North Region contact: (705) 564-7269

- North Bay: serving Nipissing district
- Sudbury: serving Sudbury district
- Gore Bay: serving Manitoulin district (and Espanola which is in Sudbury district)

- Sault Ste. Marie: serving Algoma district
- Thunder Bay: serving Thunder Bay district
- Kenora: serving City of Kenora, Red Lake, and fly-in reserves
- Dryden: serving City of Dryden, Sioux Lookout, Ignace, Pickle Lake and Lac Seul

WEST: For offices in West Region contact (519) 453-8973

- Chatham-Kent
- London/Middlesex County
- Owen Sound/Grey County
- Sarnia/Lambton County
- Stratford/Perth County
- Walkerton/Bruce County
- Windsor/Essex County
- Woodstock/Oxford County

EAST: For offices in East Region contact (613) 239-0392

- Ottawa
- Kingston /Frontenac
- Napanee/Lennox & Addington
- Belleville/ Hastings
- Picton/Prince Edward County
- Brockville & Kemptville/ Leeds & Grenville
- Cornwall/Stormont, Dundas, Glengarry & Akwesasne
- L'Orignal/Prescott-Russell
- Pembroke/Renfrew County
- Perth/ Lanark County

CENTRAL: For offices in Central Region contact (905) 868-8355

- Barrie/Simcoe
- Newmarket/York
- Whitby/Durham
- Peterborough
- Lindsay - Kawartha Lakes
- Cobourg - Northumberland

CENTRAL WEST: For offices in Central West Region contact (905) 521-7590

- Kitchener/Cambridge - Waterloo Region
- Brampton - Peel Region
- Hamilton
- Milton/Oakville/Burlington Halton Region
- St.Catharines
- Orangeville - Dufferin County
- Welland/Niagara Falls
- Brantford

TORONTO: For offices in Toronto Region contact (416) 212-1310

- Old City Hall/311 Jarvis Courthouse
- College Park
- North York
- Etobicoke
- Scarborough
- 361 University Courthouse

Ontario Human Rights Commission

The Ontario Human Rights Commission was established in 1961 to administer Ontario's *Human Rights Code*. The *Code* protects people in Ontario against discrimination in employment, accommodation, goods, services and facilities, and membership in vocational associations and trade unions. The Commission's mandate under the *Code* includes: investigating complaints of discrimination and harassment; making efforts to settle complaints between parties; preventing discrimination through public education and public policy; and looking into situations where discriminatory behaviour exists.

Any person in Ontario who wishes to make a *Code*-related complaint about discrimination or harassment to the Commission has the right to do so. To learn more about filing a complaint contact:

Ontario Human Rights Commission

180 Dundas Street W. 8th Floor

Toronto ON M7A 2R9

Tel: (416) 314-4500 Fax: (416) 326-9520 TTY 416-314-6526

Toll Free (outside Toronto Area): 1-800-387-9080 or TTY 1-800-308-5561

www.ohrnc.on.ca

Canadian Human Rights Commission

The Canadian Human Rights Commission administers the Canadian Human Rights Act and is responsible for ensuring compliance with the Employment Equity Act. Both laws ensure that the principles of equal opportunity and non-discrimination are followed in all areas of federal jurisdiction. The Canadian Human Rights Commission investigates and tries to settle complaints of discrimination in employment and in the provision of services within federal jurisdiction. The Commission is responsible for ensuring that federally regulated employers (including Federal departments, agencies and Crown corporations, chartered banks, airlines, radio and television stations, telephone companies, buses and railways, and other industries such as certain mining operations) provide equal opportunities for employment to women, Aboriginal peoples, persons with disabilities, and members of visible minorities.

The Canadian Human Rights Commission tries to resolve complaints of discrimination filed against federally regulated employers, unions and service providers. If a complaint cannot be resolved, the Commission may investigate the case further, and may ultimately request that the Canadian Human Rights Tribunal hear the case. To learn more about filing a complaint contact:

National Office

344 Slater Street, 8th Floor
Ottawa, ON, K1A 1E1
Tel: (613) 995-1151
Toll Free: 1-888-214-1090
TTY: 1-888-643-3304
Fax: 613- 996-9661
E-mail: info.com@chrc-ccdp.ca

Ontario Office

South Tower
1002-175 Bloor St. E
Toronto, ON
M4W 3R8
Tel: 416-973-5527
Toll Free: 1-800-999-6899
TTY: 1-888-643-3304
Fax: 416-973-6184

The Criminal Injuries Compensation Board

The Criminal Injuries Compensation Board (CICB) is an independent agency of the Ministry of the Attorney General. It is established under the *Compensation for Victims of Crime Act*. The role of the Board is to award financial compensation to victims of violent crimes, such as assault, sexual assault or criminal harassment, that were committed in the Province of Ontario. Depending on the case, compensation may be awarded for expenses such as medical expenses (including therapy), legal representation, travel expenses, pain and suffering, and income loss.

To learn more about the compensation process contact:

Criminal Injuries Compensation Board
439 University Avenue, 4th Floor
Toronto, ON
M5G 1Y8
Tel: 416-326-2900
Toll-Free: 1-800-372-7463
Fax: 416-326-2883
www.cicb.gov.on.ca/en/index.htm

Criminal Justice System

The following websites have detailed information about the criminal justice system:

Community Legal Education Ontario: www.cleo.on.ca

Department of Justice Canada, Part Five: Sexual Offences www.laws.justice.gc.ca/en/C-46/41976.html

Education Wife Assault: www.womanabuseprevention.com

Metro Action Committee on Violence Against Women and Children: www.metrac.org

Ontario Women's Justice Network: www.owjn.org

The Sexual Assault Care Centre (Scarborough): www.courtprep.ca

Women's Legal Education and Action Fund: www.leaf.ca