An Informational Guide for

SEXUAL ASSAULT VICTIMS IN VIRGINIA



THE AGENCY

The Department of Criminal Justice Services (DCJS) provides comprehensive planning and state of the art technical and support services for the criminal justice system to improve and promote public safety in the Commonwealth. Through its Victims Services Section, DCJS develops, coordinates and funds sexual assault crisis centers, victim/witness programs, programs that combat violence against women, and programs that assist those affected by terrorism.

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The brochure can be downloaded at www.dcjs.org.

THANK YOU

A special thank you is extended to the crime victims, victim advocates, and criminal justice professionals who provided assistance with this brochure.

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Introduction

This guide has been written to help residents of Virginia understand the emotional impact of a sexual assault, as well as the medical, police, and court procedures that a victim may experience. It also includes information about your rights as a crime victim.

Sexual assault* is a violent crime and a frightening experience. **Rape, sodomy, sexual battery**, and attempts to commit these crimes are a few types of sexual assault offenses. Unwanted sexual contact against the will of an adult, or any sexual contact against a child under the age of 13, is also a crime.

These assaults may be committed by strangers, by people known to the *victim*, or by family members. Sexual assault can occur as a part of other criminal acts, such as domestic violence and stalking.

Victims are very important *witnesses* for the criminal justice system when trying to apprehend and appropriately handle such *offenders*. In a sexual assault case, the victim is often the only witness.

Reporting the assault to the local law enforcement agency and *commonwealth's attorney* (*prosecutor*) can be an important step toward healing, and may prevent more sexual assaults by the same offender.

You are very important. As the victim, you are the primary *witness* and, therefore, the most important part of the case. Without your assistance, it would be almost impossible to convict the offender.

Criminal justice personnel realize how difficult it is for you to go through law enforcement interviews, medical procedures, and court appearances, and they appreciate your cooperation. With your help, they are protecting both your interests and those of the community.

We hope this booklet helps you understand the procedures you may go through and makes this difficult experience less confusing and frustrating.

*Words in **green** are defined in a glossary that can be found at the end of this brochure.

IMMEDIATE CONCERNS

Immediately after the assault, you may be in a state of shock. Victims react in different ways, sometimes hysterically, angrily, or calmly. Whatever your reaction, you probably will make better decisions by talking to someone you trust or to someone who has training in crisis intervention and can help you understand your reactions and options.

Usually, your first reaction will be to take a bath or shower. **Please do not.** Instead, wrap yourself in something warm, such as a blanket or coat. Stay warm and call 911 or someone to help you immediately. Staying warm instead of cleaning up right away will help you accomplish two important goals:

- You will be helping your body to recover from the shock due to the assault.
- You will not have disturbed or destroyed important evidence.

Things to do immediately after an assault:

- get to a safe place—lock the doors and windows
- call a friend, relative, **sexual assault crisis** center, victim/witness program, or crisis hotline for support
- call 911 or the police for help
- keep warm
- get medical attention
- write down all you can remember

Things to try not to do after an assault:

- shower or bathe
- brush or comb your hair
- douche or go to the bathroom
- change clothes
- eat or drink anything
- brush or rinse your teeth
- touch things at the crime scene

EXPECTATIONS

How will you feel? Sexual assault can be a severe physical, emotional, and sometimes lifethreatening *trauma*. It is common to have a wide range of feelings afterwards, including anger, anxiety, depression, and distrust. You might feel numb. You may have flashbacks, fear for your personal safety, and experience changes in eating and sleeping. You may experience memory problems and be unable to remember some, or all, of the assault. You may be unable to concentrate or you may feel irritable. It may be difficult to complete routine chores. You might not trust people as you once did, even those closest to you.

It is important to remember that these reactions are common responses to trauma. For most victims, these symptoms decrease over time. Eventually, you will be able to get back into a more normal routine, although you may occasionally have setbacks. For example, your anxiety level may rise around the time of court appearances.

It is not your fault. Sexual assault survivors often feel as if they are to blame or think they could or should have been able to prevent the assault. But sexual assault is a crime, and the *perpetrator* is the one who is responsible.

Help is available. The most important thing you can do is get support. You can confide in a friend, partner, family member, or anyone you

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trust. Reach out to those who can help you—a sexual assault crisis center, a victim/witness program, a crisis hotline, or a counseling center in your locality. They can have someone go with you to the hospital, to the police department or sheriff's office, or to court, if you choose to do so. It is also important to seek medical assistance. You may have sustained serious physical injuries and not know. For example, you may be at risk for sexually transmitted infections or pregnancy.

Loved ones need help too. The support you receive from your loved ones, your acquaintances, and the community will be important in helping you recover. People close to you may be having difficulty too. They may need to voice their feelings, anger and frustration. They also need to gain a better understanding of ways they can help you. The same resources available to you are available to them.

Talk to someone you trust. There are some people who may blame the victim and may not be understanding, especially when the *suspect* is someone you know. This can make you feel isolated or confused; you may blame yourself or feel ashamed. If the person you choose to tell is not supportive, a sexual assault crisis center or hotline will be. They offer free counseling by phone or in person.

Talking about your feelings is never easy, but it is the key to healing, no matter how long ago the assault happened. Most victims find that they feel better if they have the opportunity to discuss freely and confidentially any problems or emotions they are experiencing.

Remember:

- Sexual assault has long-term effects on survivors, but you can recover.
- Give yourself time to heal—you will need it.
- Talk to someone you trust about your feelings.

MEDICAL CONCERNS

- You are not to blame—no one deserves to be sexually assaulted.
- Try to express your anger in non-hurtful ways.
- It is never too late to heal from sexual assault, even if the assault happened years ago.

MEDICAL CONCERNS

It is very important that you get medical attention as soon as possible after a sexual assault. A medical exam serves two purposes:

- It ensures that you receive whatever medical aid you need.
- It ensures any available physical evidence can be collected.

You need medical care and treatment to check for possible injuries and other signs of violence. You may be injured without showing any obvious signs.

At the hospital or clinic, the physician or nurse will need such information as your full name, date of birth, and a brief medical history. Depending on the type of assault, a pelvic examination may be necessary to check for injury. With your consent, and with the authorization of law enforcement, samples may be analyzed, and used as evidence, if the case is *prosecuted*. The samples are gathered using a Physical Evidence Recovery Kit, or *PERK*. If you consent to the collection of evidence, the police will transport the evidence to a forensic lab. The costs of collecting evidence are usually paid by the Supreme Court of Virginia.

The attending doctor will perform the examination in a private room and a nurse may also be present during the examination to assist you. A victim *advocate* from the sexual assault crisis center or victim/witness program may also be present at the hospital. The advocate can help you through the medical procedures and with everything else that follows. With your

consent, tests may be conducted to determine possible pregnancy or presence of sexually transmitted infections (see the glossary under Sexually Transmitted Infections for a list of infections for which you may want to be screened). These tests will only reveal the presence of pregnancy or disease *before* the assault. Follow-up tests are necessary to find out if treatment is necessary due to the assault. Ask the doctor or nurse for further information.

With your consent, other tests may be performed to determine if the offender used any drugs or other substances to "facilitate" the sexual assault (to drug you, making it easier for the offender to commit the assault). Several medications, such as Rohypnol, GHB and Ketamine, have received media attention in connection with this type of abuse. Alcohol and other "recreational" drugs have also been used to render a victim helpless during an assault. Sometimes, offenders use controlled substances to incapacitate victims prior to assaulting them. Under Virginia drug laws, such acts can result in further criminal charges, in addition to a sexual assault charge. If you believe that the offender drugged you, and the assault occurred within 72 hours of your hospital visit, consider asking hospital staff to screen you for these substances. Many drugs leave the body quickly, so prompt testing is important if you think drugs were used as part of the assault.

Many hospitals now have *SANE* programs—Sexual Assault Nurse Examiners (also called Forensic Nurse Examiners). These are nurses who are specially trained to perform physical and forensic exams on adults and children who have been sexually assaulted.

The law enforcement officer may take you to the hospital following the initial report or may meet you there. If you have gone to the hospital before calling a law enforcement agency, the hospital may notify the correct agency and the officer will take the report there. The law

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MEDICAL CONCERNS

enforcement officer does **NOT** stay with you during the medical examination. If available, a trained sexual assault advocate can stay with you during the exam.

It is common to experience flashbacks of the assault during the medical examination. Let the attending doctor know if you are having a difficult time with the examination. Also remember that you are free to ask questions about the examination.

The attending doctor or nurse will ask you several questions concerning the sexual assault. These questions will help him/her know where to look for injuries. The more specific and complete your answers are, the more medical personnel will be able to assist you.

If you have not changed clothing since the assault, your clothes are also part of the evidence. The officer will take them to the forensic lab, along with the evidence collected by the doctor. Bring a change of clothing to the hospital, in case your clothing needs to be kept as evidence. If you have called a friend to be with you, he or she can bring clothes for you. Sometimes the sexual assault crisis center has clothes available at the emergency room.

If you have been physically injured, pictures may be taken for evidence. You may be asked to sign an agreement to release the evidence to law enforcement agencies working on your case. All the evidence gathered by medical and law enforcement personnel will be used if this crime is prosecuted.

HIV/AIDS

You may be worried about contracting the human immuno-deficiency virus (HIV) which causes AIDS (acquired immuno-deficiency syndrome). HIV is a virus that attacks the immune system. AIDS is a serious disease that can make a person vulnerable to other serious diseases. HIV can live in semen, blood, and vaginal fluids. Because one method of HIV transmission is through sexual contact with someone who is infected, sexual assault by an infected individual could potentially cause someone to become infected with HIV. At this time there is no cure for AIDS.

It is difficult to say how high the risk of HIV infection is in cases of sexual assault. Infection can occur after a single sexual encounter with an infected person, but may not occur even after repeated exposure.

The body responds to HIV infection by producing substances called antibodies. A blood test can detect these antibodies, usually one to three months after infection.

Results from HIV tests performed at a hospital or doctor's office are not necessarily confidential. Results become part of the patient's medical record and will be reported to the Virginia Department of Health with identifying information. However, HIV testing is confidential, if performed at a site which tests anonymously. Hospital and local health department staff can explain your options more fully and can refer you to other information resources and test sites.

After a suspect is arrested, a *judge* can require that the suspect be tested for HIV and that the results of these tests be provided to the victim (*Code of Virginia* §18.2-62). Tell the prosecutor if you want to know the HIV status of the suspect. The prosecutor can explain under what conditions the offender can be tested.

CONFIDENTIALITY

The choice to speak to others about the crime, including law enforcement authorities, is up to the victim. If you do not want to speak to medical or law enforcement personnel, you are not required to do so. Sometimes it is hard to decide whether or not you want to talk about the assault. A sexual assault victim advocate—whose services are confidential—can help you weigh your options in making this decision. As the victim of a crime, you are important: with your participation, authorities may be able to apprehend and prosecute the perpetrator.

You may be wondering whether your name and address will appear in the newspaper or be required in court testimony. You may have concerns about whether the person who assaulted you will have access to your statements to *law enforcement officers* and whether the law enforcement file can remain confidential (with only the necessary officers seeing it).

Some information may become public; for example, the victim's name appears on the criminal warrant and indictment. However, Virginia has laws to help protect your privacy as a victim. For example, the judge can prohibit testimony about your current residential or business address or telephone number (Code of Virginia §19.2-269.2). Additionally, law enforcement agencies are not permitted to make identifying information public unless the disclosure is (i) the site of the crime, (ii) required by law, (iii) necessary for law enforcement purposes, or (iv) permitted by the court (Code of Virginia §19.2-11.2). For the most part, personal victim information is kept confidential. It is neither announced in the media nor made available to persons not working on the case. You can consult with the prosecutor to get a clear idea of what information may be kept confidential in your case.

YOUR RIGHTS AS A CRIME VICTIM

The *Crime Victim and Witness Rights Act* was made law by the Virginia General Assembly in 1995. The purpose of this law is to ensure that victims and witnesses of crime:

- Are treated with dignity, respect, and sensitivity, and that their privacy is protected where the law allows
- Are informed of their rights
- Have the opportunity to make the courts aware of the full impact of the crime
- Receive authorized services
- Have the opportunity to be heard at all stages of the criminal justice process.

For more information on your rights, refer to "A Summary of Virginia's Crime Victim And Witness Rights Act" brochure, also published by DCJS.

IF SOMEONE YOU KNOW HAS BEEN SEXUALLY ASSAULTED

It is difficult to see someone hurting when you care about her/him. You may feel helpless, angry, or depressed. Here are some important ways you can help:

- Ask the victim what she or he needs from you. Just listening and being there may be enough, or there may be other ways you can help. Let the victim decide what kind of help is needed.
- Give your unconditional support by listening and believing. Healing takes time, even with support.
- Remind the victim it is not her/his fault. Do not judge her/his actions. Even if you think the victim made poor decisions, remember that she/he still did not deserve to be raped. The victim is **not** responsible for the crime.
- Allow the victim to make her/his own decisions about whether to report, who to tell, etc. Support those decisions. This will help the victim regain control of her/his life.
- Encourage the victim to get a medical checkup. Offer to go with her/him. You can also call a sexual assault crisis center and request a companion.
- Encourage the victim to seek help from qualified sexual assault crisis counselors. **You** can also receive services and support from these counselors.
- Allow the legal system to work toward bringing the perpetrator to justice. Do not seek revenge on your own.
- Someone who has been sexually assaulted may act in ways that seem confusing, or different from how you think you would react. It can be difficult sometimes to be supportive. Seek the support you need to cope with your loved one's response to the assault.

OPTIONS AND DECISIONS

As a crime victim, you will have questions. What should you do? Generally speaking, a sexual assault victim has three choices:

- Not to report the crime to the police.
- Report the crime anonymously through a third party or confidential report.
- Report the crime to the police with the intent of prosecuting the offender.

Only the sexual assault victim can make this decision.

It may be difficult to make complex decisions immediately after the assault. Talking with someone who can give immediate support and information, such as a sexual assault crisis counselor, a victim/witness advocate, a family member or friend, may help you make a decision.

OPTIONS & DECISIONS

NOT REPORTING

NOT REPORTING

Not all sexual assault victims want to report this crime to a law enforcement agency. This is an individual decision. Without an official report, however, the law enforcement agency will not know that a sexual assault has occurred. Law enforcement agencies can only help the community when they are aware of crimes being committed. If the assailant was a stranger, the prospect of identifying the suspect greatly decreases over time, and crucial physical evidence will be lost as well.

Even if you choose not to report, it is important for your own well being that you receive medical attention immediately after the assault. You and/or your health insurance carrier will be responsible for all fees if you are not going to the hospital for the purpose of evidence collection (*Code of Virginia* §19.2-165.1).

THIRD-PARTY REPORTING/ CONFIDENTIAL REPORTING

A victim may wish to report a sexual assault and identify or describe the suspect but not prosecute. This can help law enforcement officers to determine patterns of sexual crimes in the community, or to determine if one sexual offender is committing multiple crimes. Sexual assault crisis centers can assist you in making a third-party anonymous report to law enforcement authorities.

Seek both medical attention and a supportive, knowledgeable person to help you through the emotional aftermath of the incident.

You are the main witness and without you, the prosecution of the sexual offender is nearly impossible. Please consider the option to prosecute carefully.

REPORTING

REPORTING WITH INTENT TO PROSECUTE

When a victim decides to report the crime to the local law enforcement agency and to prosecute (press charges), she or he needs to be aware of the steps involved:

- Initial law enforcement officer's interview
- Medical examination
- Investigator's interview
- Prosecutor's interview
- Court procedures

This may all seem overwhelming. An understanding of the benefits of reporting encourages many victims to choose to prosecute, resulting in the convictions of more *defendants*. Victim/witness advocates, sexual assault victim advocates, law enforcement officers, prosecutors, or crisis counselors in your community can provide the information you need.

NOTE: In order to qualify for crime victims' compensation, you must report the crime and be willing to prosecute.

INITIAL LAW ENFORCEMENT OFFICER'S INTERVIEW

Crimes are reported to the police department or the sheriff's office in the locality in which they occur. If the police department investigates, an officer will be sent to the scene of the crime or wherever you are. If a sheriff's office investigates, a deputy sheriff will be sent. You may also go directly to the nearest law enforcement agency.

The officer or deputy will ask you questions to determine the type of crime or crimes that occurred. The questions may be very personal and difficult to answer. Remember the officer or deputy is there to help you. He/she needs to ask the questions in order to begin searching for the suspect and to know exactly what crimes have been committed. You can request that a sexual assault advocate be with you during the interview to provide support.

The law enforcement officer will want to know where you were before the assault, who was there with you, where the actual assault took place, when the assault occurred, details of the assault (e.g. did penetration occur), a description or the identity of the suspect, and the possible location of the suspect.

Try to give the officer or deputy as complete a description of the suspect as possible. As soon as the officer obtains this necessary information, steps to find and interrogate the suspect can begin. The officer or deputy may call in an investigator (detective) to continue the investigation. You may not remember all the details or know the answers to all the questions asked. It is important to contact the officer later if you have information to add.

The officer will recommend that you go to a nearby hospital for a medical examination. The officer can help you arrange transportation, and should give you information about crime victims' compensation.

INVESTIGATOR'S INTERVIEW

At some point, an investigator (detective) may conduct a personal, in-depth interview with you. You may request a friend, family member, sexual assault victim advocate, or victim/witness advocate to be present during the interview. In most cases, the investigator will not come in uniform. In fact, you can usually choose to meet him or her in your home or at the police department or sheriff's office.

The investigator will have to ask many questions. They may be confusing or even embarrassing, but they are very important for the investigation of your case. Tell the investigator everything, even if you think it is unimportant. The investigator must have all the facts to make a complete report.

You may not remember some details until later. If this happens, as it frequently does, just say that you cannot remember. The investigator will understand. He/she is trying to prepare the best possible case to take to court. If you remember additional details later, report them promptly to the investigator.

If you do not know the person who assaulted you, the investigator may have you view a *lineup* or a series of photographs of suspects who fit the description you provided to the officer, to see if you can then identify the offender. The investigator may also ask you to help make a *composite* drawing of the person who assaulted you.

Often, victims of sexual assault know the offenders. If you do identify someone as the person who assaulted you, a warrant or indictment for his or her arrest will be obtained by the investigator, in most cases.

The investigator may request that you take a **polygraph examination** or "lie detector test." You have the right to refuse to take the polygraph test. Additionally, your agreement to take the examination cannot be the only

condition for initiating or continuing the criminal investigation (*Code of Virginia* §19.2-9.1), and the results cannot be introduced as evidence in court.

The polygraph machine records changes in your body such as heartbeat, blood pressure, and respiration. This data may assist investigators in identifying issues for further investigation. Someone who is a victim of a violent crime may have physiological responses that indicate stress when asked questions about the assault. This may interfere with the test's accuracy.

Shortly after the assault, some victims decide to change their telephone numbers, places of residence or work, or plan trips out of town. It is important to notify the investigator assigned to your case of any such changes, so that he/she may contact you as new information develops. When the investigator's report is complete, it will be given to the prosecutor.

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PROSECUTOR'S INTERVIEW

The commonwealth's attorney or his/her assistant is the attorney representing the Commonwealth of Virginia in criminal prosecutions. When the law enforcement investigation is complete and charges have been filed, the prosecutor will review the report. If he/she chooses to pursue the case, it will be prepared for *preliminary hearing* or *trial*.

The prosecutor may ask you to come to his/her office before court proceedings to discuss the case. Be open and honest in this interview. The prosecutor needs to know everything before court to avoid any surprises by the *defense attorney*. The best way to help in the *conviction* of the defendant is to fully cooperate with the prosecution.

You may need information about court. Call the victim/witness program in your locality. It is designed to give information to crime victims and to help prepare victims and witnesses for trial.

A sexual assault crisis center advocate may also be available to go with you to court and to help you with information. If there is no victim/ witness program near you, the prosecutor will work with you to prepare for trial.

COURT PROCEDURES

Prosecution may be a long process because of the length of time necessary for a thorough investigation, the time involved in analyzing evidence, the large number of cases handled by some courts, and other delays in preparing a case for trial.

The suspect may be released at any point during the criminal justice process on *bail* or *personal recognizance*. Bail is money or property posted with the court which releases the defendant from jail while securing the defendant's appearance in court. Recognizance is a promise to report on the next court date. If the defendant is allowed this type of release, he/she will not be in jail during the time before trial.

You may request to be notified by the Sheriff's Office (or the office of a regional jail, depending on where you live) if the defendant is released. Quite naturally, this may be a time of great concern for you. You may be fearful that the offender may try to contact or harass you. You can request that the law enforcement officer or prosecutor ask the magistrate or judge to order a "no contact" provision as part of the defendant's bond conditions. If the assailant was someone you lived with or with whom you had children in common, you may want to obtain a Protective **Order** (contact your local Court Service Unit to initiate this process). If there is a problem, call the victim/witness advocate, the investigator or the commonwealth's attorney's office.

Court procedures for juvenile defendants (under age 18) and defendants who are family or household members of the victim may differ from the following procedures.

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PRELIMINARY HEARING

Preliminary hearings are held in **felony** cases. Once an arrest is made, a preliminary hearing may be scheduled. Preliminary hearings for cases involving a child victim or a victim who had a relationship with the defendant which involved living together, marriage, or sharing a child in common, are heard in Juvenile and Domestic Relations Court. All other preliminary hearings occur in General District Court.

A prosecutor will be assigned to the case and should contact you prior to the hearing. You may contact the commonwealth's attorney's office or the victim/witness program in your locality if you have questions about your case.

At this hearing, there is no *jury*. It is held before a judge who will determine if there is enough evidence to send the case to trial. You may be asked to testify and the prosecutor will explain the procedures to you. You will be present as a witness.

The judge, prosecutor, defendant, defense attorney, court reporter, and bailiff will also be present. The court is usually open to the public, so others may also be present. However, the judge can exclude from the courtroom people who are not needed (*Code of Virginia* §18.2-67.8). You may ask a victim/ witness advocate, sexual assault crisis counselor, friend or family member to attend if you wish to have someone in court with you for emotional support.

If the judge decides that **probable cause** has been established, the case then goes to the **Grand Jury**. The Grand Jury reviews the evidence again and decides if the evidence presented is strong enough to go to trial. If so, an **indictment** will be returned at this time.

TRIAL

MISDEMEANOR TRIALS. If the charge is a *misdemeanor*, the trial will be held in Juvenile and Domestic Relations or General District Court (there will be no preliminary hearing). If the defendant is convicted, the case may be *appealed* to Circuit Court for a new trial. This trial will follow the same procedures as a felony trial (described below).

FELONY TRIALS. Following the preliminary hearing, if an indictment is returned, the trial of a felony sexual assault is held in the Circuit Court of the jurisdiction in which the crime occurred. You may be called as a witness, as before, and the same procedure will take place as in the preliminary hearing. As a material witness (a witness who has firsthand knowledge about the facts of a case), you may be asked to wait outside the courtroom before and after your testimony. However, the law requires that you may not be excluded unless the judge determines that your presence would impair the conduct of a fair trial (Code of Virginia §19.2-265.01). You may also be offered the option of using a separate waiting area during all court proceedings.

If the trial involves a crime committed by an adult, or a juvenile being tried as an adult, your case will be tried in Circuit Court before a jury unless the defendant, prosecutor, and judge agree to waive a trial by jury. If the jury is waived, the judge will hear the case and decide on the verdict and sentence. If a juvenile committed the sexual assault and the case is not transferred to the Circuit Court, the trial will be held in Juvenile and Domestic Relations Court. You will receive a *subpoena* telling you when and where the trial will be held. Be sure the investigator and prosecutor know where you can be reached. They should prepare you for the trial. Since the type of questions asked in a trial may vary from case to case, the prosecutor is best prepared to tell you what to expect.

During the proceedings and before the trial date, the *defense attorney* (the suspect's attorney) may try to contact you. You are not required to talk to him or her. Do not sign anything without first talking to the prosecutor assigned to the case.

At the trial, the prosecutor will ask you questions. It is important that you testify honestly from your own knowledge and memory. The defense attorney will also question (*cross-examine*) you. The questions may be more difficult and confusing, but try to remain calm. Do not allow the defense attorney to make you angry. Becoming angry may cause you to answer questions carelessly. Answer only the questions asked. If you do not understand a question, ask the person to repeat or rephrase the question.

After all the evidence is presented, the jury or judge will decide if the defendant is guilty or not guilty. To find the defendant guilty, the jury or judge must be sure, beyond a reasonable doubt, that the evidence proves that the defendant is guilty. All members of the jury must agree on their decision (verdict). If the defendant is found not guilty, this does not mean that you were not victimized or that the defendant did not commit a crime against you. It simply means that guilt could not be proven beyond a reasonable doubt, based on the evidence presented at trial.

In some cases, instead of a trial, the defendant may plead guilty or a *plea agreement* may be reached. This is an agreement between the prosecutor, the defense attorney and the defendant, where the defendant agrees to plead guilty to the charges or to less serious ones. There is no trial and you do not have to testify. The judge must approve the terms of the agreement. The plea agreement may contain a sentence or the judge may continue the case for *sentencing*.

If you are the victim of a felony and you submit a request in writing, the Commonwealth's Attorney must consult with you, either verbally or in writing, regarding the contents of a proposed plea agreement and your views concerning plea negotiations. If you also submit a written request to receive notice of any proceeding in which a plea agreement will be offered to the court, the Commonwealth's Attorney is required to provide advance notice, if practicable. In many cases, the victim/witness program provides these notices.

It is important to understand that:

- 1. the Commonwealth's Attorney directs the prosecution and has the authority to enter into a plea agreement, whether or not you agree with it; and
- 2. the court can accept a plea agreement, about which you were not consulted, given good cause.

TIPS ON TESTIFYING

- Before you testify, try to picture the crime scene, the objects there and what happened as best you can. Do not try to memorize what you are going to say.
- Dress appropriately. Neat, clean, conservative and comfortable clothes are suggested. You should dress as you would for a job interview.
- Always tell the truth. Tell accurately what you recall and what you know. If you do not know the answer, say "I don't know." DO NOT GUESS.
- Listen carefully to each question before you answer to be sure that you understand it. Take your time and think about your answer. If you do not understand a question, ask to have it rephrased or repeated.
- Speak clearly and address your answers to the judge or the jury hearing the case. You do not have to look at the defendant after you identify him for the court.
- Answer only the questions asked and then stop. Do not volunteer information.
- If the question requires a "yes" or "no" answer, answer "yes" or "no" unless your answer cannot be fully understood without an explanation.
- Answer only one question at a time. Do not answer "yes" or "no" to a long series of questions.
- Be polite, firm and clear in your answers, even if the questions are hostile.
- Stop talking if an objection is made by one of the attorneys or if the judge interrupts. The judge will tell you if you can finish your answer. If you have forgotten the question, ask to have it repeated.
- If you are asked whether you have talked about the case with anyone, answer truthfully. As a victim you probably have spoken to the

LESTIFYING.

police, the prosecutor, family and friends. The court is interested in what you know and how you know it.

- Be quiet in and around the courtroom. Talking about the case around jurors or witnesses may cause a *mistrial*.
- It may be helpful to reread these suggestions several times before your court date so you will feel more comfortable in court.

Remember that if you tell the judge or the jury exactly what you know, you will do fine.

TESTIFYING

SENTENCING

SENTENCING

Sentencing is the *disposition* of the case. In a misdemeanor, the judge will generally impose a sentence at the close of the trial. In a felony *bench trial* (a trial without a jury), or a trial involving a juvenile defendant, the judge may set sentencing for a later date. Request to be notified of the sentencing court date and tell the prosecutor or victim/witness advocate if you wish to attend. When an adult defendant is found guilty in a jury trial, the jury will recommend a sentence at the end of the trial. However, there may be another sentencing hearing date set to allow time for a *presentence investigation* to be conducted.

In certain cases, the judge may consider a *Victim Impact Statement* in determining the length and type of sentence for the defendant (*Code of Virginia* §19.2-299.1). The Victim Impact Statement gives a victim the opportunity to tell the court, in writing, the impact of the crime. This may include financial losses, physical or emotional injuries, and any major life changes that resulted from the crime. Victims may also be given the opportunity to testify, prior to the sentencing of a defendant, regarding the impact of the crime.

PROBATION

The trial judge can order post-release supervision by a probation and parole officer. Typically, offenders are under probation supervision when released from prison. However, without a court order, the offender will be released from prison without supervision.

Under current sentencing guidelines, all offenders convicted of crimes committed after January 1, 1995, will serve **at least** 85% of their prison terms before being considered for release. Prisoners can earn up to a 15% reduction of their jail sentences through adherence to prison rules and program participation.

Upon request, victims, family members of victims, and other interested persons can be notified of:

- the current prison location of an offender
- transfers from one prison location to another
- the release date of an offender
- a change of name of offender.

Crime victims registered with the Victim Services Unit of the Department of Corrections can have access to an automated offender status feature that provides information 24 hours a day.

If the offense occurred before January 1, 1995, you may be eligible to receive additional services. Contact the office listed below for more information.

You may obtain information about these services by contacting:

Victim Services Unit Department of Corrections 6900 Atmore Drive Richmond, Virginia 23225 (800) 560-4292

ROBATION

COMPENSATION FOR VICTIMS OF CRIME

If you are the victim of a crime in Virginia and if you were physically/emotionally injured during the crime, or if you were injured trying to stop a crime, or injured trying to catch a person who committed a crime, or if you are the surviving spouse, parent, grandparent, sibling, or child of a victim who was killed, then you may be awarded benefits, up to a maximum award of \$15,000, for certain unreimbursed losses such as:

- wages
- medical expenses
- mental health counseling expenses
- funeral/burial expenses up to \$3,500
- moving expenses up to \$1,000
- crime scene clean-up expenses
- pregnancy expenses resulting from rape
- other reasonable/necessary expenses incurred as a result of the crime (e.g. prescriptions).

In order to be eligible to apply you must:

- report the crime to law enforcement within 120 hours (5 days) after the crime (or show good cause for not doing so)
- cooperate with law enforcement agencies and be willing to prosecute
- file a compensation claim within 1 year* from the date of the crime (or show good cause for not doing so).

*A victim of child sexual assault has 10 years past the date of their 18th birthday to file a claim.

For more information or an application, contact the Criminal Injuries Compensation Fund:

Toll-free statewide(800) 552-4007 Richmond or out-of-state(804) 378-3434

Or write:

Criminal Injuries Compensation Fund 11513 Allecingie Parkway Richmond, Virginia 23235

SEXUAL ASSAULT MYTHS AND FACTS

People are sexually assaulted by strangers.

Most sexual assaults are committed by someone the victim knows and trusts.

Rape and other sexual assaults are sexually motivated.

Rapists use sex as a weapon. Power, control, and hostility are the primary motivations. Rape is intentionally brutal or humiliating; it is not an expression of uncontrollable passion.

Any victim can stop the assault when she/he wants to.

Some victims are intimidated and threatened with knives, guns, or other weapons. Many victims submit due to fear of death or injury. Many victims also physically freeze during an assault. Compliance is not consent.

It cannot happen to me. I am a respectable person and I do not put myself into threatening situations.

Anyone can be a victim. Many assaults occur in a victim's or perpetrator's home.

Some people "asked" to be raped by looking or behaving in certain ways.

No one asks to be raped. It is the assailant who decides to hurt someone. The victim is not to blame.

NYTHS & FACTS

GLOSSARY

- Advocate—A person who assists crime victims by providing emotional support, counseling, referrals and/or an explanation of the services available to them.
- **Appeal**—A review of the trial record by a higher court to see if any legal mistakes were made.
- Arraignment—A court hearing at which a judge tells the defendant about the charges against him/her and his/her rights to have a lawyer and a trial. If necessary, a lawyer is appointed to represent the defendant.
- Bail/Bond—Money or property posted as security with the court to assure the appearance in court of a person being released from custody.
- Bench Trial—A trial at which a judge hears the case and decides the defendant's guilt (no jury present).
- Commonwealth's Attorney—A lawyer elected by the people and employed by the state to prosecute criminal and traffic cases; also called a prosecutor.
- Composite—A picture of the suspect made from an artist's drawing or assembly of facial features.
- **Conviction**—The state of being found or proved guilty.
- Cross-Examination—The questions asked of the victim or other prosecution witnesses by the defense attorney during the trial.
- Defendant—A person who is accused of committing a crime in a criminal case.
- **Defense Attorney**—The lawyer for the defendant.
- **Disposition**—The final outcome or sentence in a case.

GLOSSARY

- Evidence—Testimony and objects that help to prove either the Commonwealth's or defendant's case.
- Felony—A criminal offense which carries a sentence of at least 1 year in jail.
- **Grand Jury**—A legal process at which 5–7 citizens sitting as a jury decides if there is enough evidence to bring the defendant to trial.
- Incest—Sexual intercourse between two persons who are related to each other and are prohibited by law from marrying each other.
- Indictment—A written document returned by the grand jury that legally accuses a person of committing a crime.
- Judge—A court official who listens to the case, decides if the defendant is guilty or not, and determines the appropriate punishment.
- Jury—A panel of twelve citizens that decides the guilt or innocence of a defendant and recommends a sentence.
- Law Enforcement Officer—A police officer, deputy sheriff, or state trooper.
- Lineup—A group of individuals who are viewed (in person or by pictures) by a victim or witness in an attempt to identify the person who committed a crime.
- Magistrate—A judicial officer who has the authority to bring criminal charges based on the sworn testimony of an individual or a law enforcement officer. He/she can also set bail.
- **Misdemeanor**—An offense which carries a sentence of up to 12 months in jail.
- Mistrial—A trial that is declared invalid either because of an error in procedure, or because the jury could not decide on a unanimous verdict.

- Offender—A person who deliberately violates the law.
- PERK—Physical Evidence Recovery Kit. A kit for medical personnel that includes the items and instructions necessary to collect and preserve the physical evidence of the sexual assault.
- **Perpetrator**—A person who commits a crime.
- Personal Recognizance—The release of an arrested person from jail on his/her promise that he/she will return to court for trial.
- Plea Agreement—An agreement made between the prosecutor and defense attorney in which the defendant agrees to plead guilty to a crime (sometimes a lesser crime than the original charge), and which may include a sentence. The judge must approve the agreement.
- Polygraph Examination—A test that uses a machine designed to detect stress by measuring changes in a person's heart rate, breathing rate, and blood pressure while questions are asked.
- Preliminary Hearing—A legal process at which the judge decides if there is enough evidence to send the defendant's charges to the Grand Jury.
- **Presentence Investigation**—A report prepared by a probation and parole officer to help the judge in deciding sentence. A victim impact statement may be included in the report.
- **Probable Cause**—Reasonable grounds to believe that an accused person has committed a crime.
- Prosecute—To bring criminal action against a defendant.
- **Prosecutor**—Another name for the commonwealth's attorney or assistant commonwealth's attorney.

GLOSSARY

- Protective Order—A court order which prohibits a person from having any type of contact with the victim.
- Rape—Sexual intercourse accomplished against the victim's will, by force, threat or intimidation of or against the victim or another person, or through the use of the victim's mental incapacity or physical helplessness, or with a child under age 13 as the victim (Code of Virginia §18.2-61).
- SANE—Sexual Assault Nurse Examiners. Nurses who are specially trained to perform physical and forensic (evidence collection) exams on adults and children who have been sexually assaulted (also known as Forensic Nurse Examiners).
- Sentencing—A hearing at which a judge imposes punishment on a convicted defendant.
- **Sexual Assault**—Sexual abuse of an individual by the use of force, threat, or intimidation.
- Sexual Assault Crisis Center—A group of trained staff and volunteers who provide 24-hour crisis intervention and emotional support, advocacy, and information on the legal, counseling, and medical options available to sexual assault victims, their families and friends.
- Sexual Battery—The sexual abuse of a victim against his/her will by force, threat, intimidation, or ruse, or through the use of the victim's mental incapacity or physical helplessness.
- Sexually Transmitted Infections—An infection transmitted through sexual contact with someone who is already infected. These infections include: herpes, chlamydia, gonorrhea, syphilis, hepatitis B, and HIV.
- **Sodomy**—A legal term used to describe oral or anal sex.

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- Subpoena—A written, legal order telling a person to be in court at a specific time and place to give testimony.
- Suspect—A person who is believed to have committed a crime.
- **Trauma**—An emotional shock to a person that creates lasting effects.
- **Trial**—The examination of evidence and applicable law by a judge or jury to deliberate specific charges.
- Verdict—The decision a jury or judge makes at the end of a trial about whether the defendant is guilty or not guilty.
- Victim—Anyone suffering physical, emotional or financial harm as a direct result of a crime.
- Victim Impact Statement—A written or oral statement by the victim which expresses the impact of the crime in economic losses, physical or psychological injuries and major life changes.
- Victim/Witness Program—A program, usually located in a commonwealth's attorney's office or law enforcement agency, which assists victims and witnesses of crime. Trained staff or volunteers can provide a variety of services including supportive counseling, explanation of the criminal justice process, and assistance with filing for victims' compensation.
- Warrant—A written, legal order authorizing a law enforcement officer to make an arrest.
- Witness—A person who testifies under oath as to what he/she knows, has heard or observed about a crime.

GLOSSARY

IMPORTANT INFORMATION

This section is included as a place to keep track of the appointments that you make and the professionals that you meet.

Medical Follow-Up	
Appointment Date/Time:	
Location:	
Physician:	
I will call on to check on results	3
of	F
Emotional Support Follow-Up	C
Appointment Date/Time:	天
Location:	
Counselor/Advocate:	
Criminal Investigation Follow-Up	Z
Appointment Date/Time:	
Location:	
Officer:	
Court Preparation	
Appointment Date/Time:	
Location:	
Prosecutor or V/W:	\leq
Additional Notes:	

OTHER IMPORTANT INFORMATION

Counselor's Name: Hotline Number: Police Department/Sheriff's Office: Emergency Number: Investigator's Name: Investigator's Number:	
Police Department/Sheriff's Office: Emergency Number: Investigator's Name:	
Emergency Number:Investigator's Name:	
Investigator's Name:	
Investigator's Number:	
_	
Prosecutor's Name:	
Prosecutor's Number:	
Victim/Witness Staff Person's Name:	
Victim/Witness Staff Person's Numb	er:
Hospital Emergency Room Number:	
Personal Physician's Number:	
Public Health Clinic Number:	

STATE AND NATIONAL VICTIMS SERVICES ORGANIZATIONS

Virginia Family Violence and Sexual Assault Hotline (800) 838-8238	
DCJS Info-Line(888) 887-3418	
Virginians Aligned Against Sexual Assault(434) 979-9002	3
Virginians Against Domestic Violence (757) 221-0990	5
Criminal Injuries Compensation Fund(800) 552-4007	7
Victim Services Unit of Department of Corrections (800) 560-4292	
Victims Services Section of DCJS(804) 371-4809	
National Organization for Victim Assistance (202) 232-6682	C
National Center for Victims of Crime (800) 394-2255	7

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