

Justice is your right



A SELF-HELP GUIDE
for survivors of rape &
sexual assault & their supporters
by Women Against Rape

*Justice is Your Right:
A Self-Help Guide for Survivors of Rape
& Sexual Assault and their Supporters*

Updated May 2020

This Guide is the result of a collective effort based on years of experience as rape survivors and campaigners. We thank the thousands of women whose struggles for justice have informed it. Special thanks to WAR women Sally Freeman, Ruth Hall and Lisa Longstaff, and to Nina Lopez (Legal Action for Women).

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A Self-Help Guide for survivors of rape and sexual assault, and their supporters

There is no excuse for rape or sexual assault – whatever happened, you are not to blame. Nothing you did in any way justifies what you went through.

This Guide explains your rights at each stage of the legal process, and how you can put pressure on the authorities to win justice. While it deals mainly with the rape of women and girls over 16, many of the principles are the same for the rape of children, though some laws and procedures are different. Men and especially boys are also victims of rape and sexual assault and we hope that this Guide will be useful to them too. We also hope that it will encourage victims of other violent crimes to spell out any obstacles they may face in their struggle for justice.

Most of the information presented here is based on the direct experience of women reporting rape – what, according to the law, police and prosecutors were to do, what they actually did, and what helped to get cases back on track when things started to go wrong.

As many people now know, the great majority of rape survivors are denied justice. Most rapes – around 80% according to the British Crime Survey – are not reported to the police. Many who do report have withdrawn from the case when police make unreasonable demands to search their phone, medical and other records going back years which are clearly unconnected with the case.

Despite a 40% increase in reports of rape over 2012-2018, in 2019 convictions fell to 3% – the lowest in a decade. The impact of the 2019 demands for victims to hand over their mobile phone and social media history has caused even more women to withdraw during an investigation. It is clear from leaked evidence that the Crown Prosecution Service changed its policy, resulting in the cases of more vulnerable women being dropped before court rather than thoroughly prepared and prosecuted. An application to challenge this change of

policy in a Judicial Review was refused in March 2020. After a decade of some improvements in prosecutions, both of these policy changes indicate a return to prejudiced judgements about women's character and sexual history.

We are determined to change all that. While the system may seem daunting, this booklet aims to guide you through it. Not everyone has a bad experience when reporting, but many women do. If things do go wrong, this Guide lets you know that you are not alone and helps you work out how best to press for justice. At the same time you help to bring change for everyone.

As well as informing, strengthening and encouraging survivors, their friends and relatives, and other anti-rape campaigners, the Guide aims to strengthen those police officers, prosecutors, forensic doctors, advocates, judges and other professionals who want to see justice done.

Some police officers and others in the criminal justice system do their best to gather the evidence necessary for a successful prosecution. Some have told us that when they support rape survivors they face inertia, reluctance and even hostility. They are concerned that police investigations are often careless, negligent, even biased against victims. As a result, prosecutions fail and rapists are free to rape again. If survivors are insisting on their right to justice, professionals will be in a stronger position to get the backing and personnel to do their job thoroughly.

We are determined to make it easier for women who report the crime of rape so that many more women feel confident to report and many more rapists are prosecuted. This is the only way rapists will learn that society stands with women and against rape.

This Guide is a work in progress. Please send us your comments and experiences, so we can update it and make it more accurate and informative. We are based in London, and some practices will differ around the country. If the policy or practice is different where you live, please let us know.

Some basics of self-help to keep in mind at all times.

- ◆ Always take someone sympathetic with you when you deal in person with police, doctors, lawyers or anyone else in a position of authority.
- ◆ Do a BRIEF summary of your case (try to write it in one paragraph). It will help you to explain it to others and get support.
- ◆ Keep a detailed account of everything that has happened to you in date order, and of any further intimidation or sighting of your attacker.
- ◆ Make sure to report everything to the police.
- ◆ Keep a diary of all your dealings with the authorities, including phone calls and any meetings you have with them. The person who has attended with you should do the same. If the whole story is on paper it is much easier to prove mistakes and get them righted. Write everything down in two columns. Put the date on one side, followed by the name of the person/s you spoke to, their rank, who they work for (e.g. local police, social services, your MP, Victim Support) and in the second column what they told you.
- ◆ You can get help from a lawyer, Victim Support, CAB, a rape crisis or other support group, and your local MP. Take your one-paragraph summary with you.

Please find samples on p.62.

1. How the law defines rape.

The law defines rape as the penetration of your private parts or your anus or mouth by a man's penis without your consent. Any degree of penetration is enough. He does not have to have gone all the way in, and he does not have to have ejaculated. You do not need to have resisted physically. It doesn't matter what your relationship is with the man – he may be your husband, partner, ex-partner, relative, friend, acquaintance or a total stranger – if you didn't consent to penetrative sex on that occasion it is rape.

- ◆ Penetration of your private parts with another part of his body, or with an object, is an assault by penetration – also a serious offence. Other offences which do not involve penetration are: sexual assault and causing a person to involve in sexual activity without consent.

- ◆ In recent years, a lot of new offences have become law so the list of possible criminal charges is extensive (see 19. What are the charges?)

- ◆ A lot of the advice in this Guide applies to these offences as well. Women can also sexually assault other women or children, but this is much rarer.

What is consent?

Consent means that you agreed by choice and that you had “the freedom and capacity to make that choice”. (See 15. Consent, drink and drugs.) There are some situations where the law “presumes” that you didn't consent, for instance if you were asleep or unconscious, if violence was used or threatened, or if the man has overpowered you with a substance like drink or drugs. In theory, in these situations you don't have to prove that you didn't consent but in practice the police and courts might presume that even if you were drunk, drugged or frightened you did consent so you will need to make clear that you did not or could not consent.

- ◆ According to the law, it is not rape if the man “believes” that you are consenting, but he is supposed to show that it was “reasonable” for him to believe that.
- ◆ You are entitled to change your mind at any time, even if earlier on you were expecting to have sex. You may have been happy to have sex but then the man turns violent or behaves strangely and you try to stop him. The law says it is rape if he ignores what you are saying about not hurting you, or pays no attention to whether you are upset or whether you are resisting, such as trying to pull away from him.
- ◆ In most cases rapists claim that you consented to sex or that they believed you consented, even if you were too drunk to consent.

2. I’ve just been raped.

If the rape has just happened, get away from your attacker to a safe place so you are no longer in danger. You could go home, to a friend’s, a hospital, a police station or a sexual assault referral centre (SARC). If you live with the attacker and need to go somewhere other than your shared home, try to gather your crucial ID documents before you leave. Do not shower, use the toilet, change clothes or clean your teeth as this might destroy important evidence. You should be examined without delay. This is particularly important if you have been drugged and then raped because some drugs leave the body very quickly.

3. I’ve suffered domestic rape and other abuse and I’m afraid he will take the children.

Domestic violence often includes rape.

- ◆ Domestic Violence is being redefined and renamed Domestic Abuse, which is less focussed on physical acts, to take account

of emotional and financial abuse.

◆ The government defines domestic violence as: “any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to: psychological, physical, sexual, financial, emotional.” In 2015 a new offence was introduced in law of “controlling or coercive behaviour in an intimate or family relationship”. But this is not a legal definition.

◆ The Domestic Abuse Bill has not yet been passed by Parliament. We have been lobbying for changes to the bill (you can read about it on our website).

◆ It is very hard to get protection and justice in these cases. Two-three women are killed by partners or ex-partners every week. On average, women are attacked 35 times before they report domestic violence. When attacks are reported, police action can be inadequate and little protection offered.

◆ There are many problems with the way domestic abuse crimes are investigated and prosecuted. A frequently used charge is Common Assault but this is what’s called a Summary Offence or an Either Way offence – it can go to a magistrates court or crown court, but a charge must be laid within 6 months of the offence. This does not give victims enough time to get away from their attacker. Also, the violence involved is often greater and the fear more intense than that assumed by a Common Assault – many victims suffer grave mental and physical injuries, are terrorized and traumatised, their confidence shattered. This has to change and other charges should be used.

YOUR RIGHTS

If you are fleeing domestic violence, try to get support from a friend, a family member, a refuge service . . . so you are not dealing with the police on your own and you are in a better position to insist on safety measures.

◆ In an emergency call the police on 999.

◆ The police and some local authorities can provide personal

and house alarms. Reports to them should always be recorded, in case of future attacks.

Another way of getting protection for yourself and your children is to apply for a non-molestation order. Reporting to the police also provides evidence to help you get one. These are civil injunctions obtained from the family, civil and magistrates court and some can carry the power of arrest. The order can be made as an emergency which means it is served on the perpetrator without you having to go to court with him. If the order is breached, the perpetrator will be called back to court and possibly arrested. For other sources of information on how to apply see 26. Resources.

- ◆ Many local domestic violence charities have an Independent Domestic Violence Advocate, who can support you through the process of finding safety and any legal protection you might need. Contact your local services and/or local authority to find out what's available in your area.

- ◆ A person who is not the victim can report (called "third-party reporting"). This takes it out of the woman's hands, which might be needed. But the woman may have a very good reason why it is not in her interest to contact the police, so if possible, discuss it with her first.

I'm afraid he will take the children

If we have children with a violent man, the situation can become more difficult as there is an assumption of contact for fathers and shared care.

- ◆ The Family Courts are putting children in danger by forcing them to be in contact or even live with violent fathers. These courts must make children's safety the priority, not the father's contact. Mothers are damned if we report violence and damned if we don't – either way, the courts often either disbelieve mothers, or ignore children's wishes, or decide we have harmed our children because they witnessed domestic violence. They have been heavily influenced by the fathers'

rights lobby. A dispute between parents can even result in the child being sent to live with the violent father.

◆ WAR is part of the Support Not Separate coalition (SNS), which opposes the unwarranted removal of children from mums and nans. We join monthly protests outside the Central Family Court and work with mothers who are fighting to keep their kids safe. Most of the cases brought to SNS involve domestic violence and rape.

◆ There is a mass movement in the UK to stop violent fathers being allowed to persecute their ex partners through the Family Courts. These Courts are secretive and draconian, with professionals and social workers often very dismissive of the bond between mothers and children. They are often ignorant of the criminal law, and work on the assumption that every child has a right to see their father (read: every father has a right to his child), no matter what the father is like, even if he has been convicted of serious violence. For more information, including a self-help guide, <https://SupportNotSeparation.blog>.

4. Should I report the violence to police?

Women sometimes feel shame or guilt after a rape. Whatever you've done or not done can NEVER excuse a sexual attack. As a rape survivor who recently won compensation said:

"I could have been lying in the park, naked, dead drunk with my legs spread but it doesn't mean a man has the right to rape me."

◆ In deciding whether or not to report to the police, remember that this is the only way to get your attacker arrested and prosecuted. Although there is no guarantee that your attacker will be prosecuted, reporting him may stop him from attacking you – or someone else – again.

◆ If you are unsure what to do, get the medical and other physical evidence collected anyway so it doesn't fade or get lost; you can decide later whether or not you want to go ahead with a prosecution. You do not have to report the rape to the police.

But if you are attacked again by the same man, and decide then that you want him prosecuted, this medical evidence will be very important. (See 9. The Medical.)

5. I'm worried about being arrested or deported.

Asylum seekers or other women whose immigration status is uncertain may not want to report for fear of being deported. Sex workers may be worried about being arrested for offences related to prostitution; others involved in illegal activities may also not want to come forward. If you are worried about any of this you may want to report anonymously to a third party, a women's or sex workers' organisation for example, so that the attack can be put on record in case anyone else reports the same man. The police have sometimes granted amnesty in order to get evidence of serious crimes like murder. But this is rare and there is no guarantee that they won't take action against you. If you want to discuss your options, please contact WAR. We will do what we can to back you up, whatever you decide.

6. I'm scared they might prosecute me.

◆ Sometimes the police may treat you as a suspect, arrest you, or they may offer you a caution. (See also 13. What if they discourage me...?) Cautions are often presented as a "slap on the wrist" and people can feel pressured into accepting them, especially if they are experiencing guilt or trauma from the attack. A caution is not a conviction, but it can still have very serious consequences, and will be on your record indefinitely. It could affect your visa status or job prospects.

◆ The police cannot force a caution on you, they can only offer a caution which you can either accept or reject. Before you make a decision you should get legal advice from a solicitor.

If you have accepted a caution and regret this decision you should seek legal advice to challenge it.

7. Reporting to the police.

THE FACTS

- ◆ You can file a report online by visiting <https://www.met.police.uk/ro/report/ocr/af/how-to-report-a-crime/> or by calling the national non emergency number 101, which is staffed 24/7. If you are in immediate danger, call the national emergency line at 999. You may also go straight to a police station or visit the closest Sexual Assault Referral Centre. Please remember you are able to report on someone else's behalf.
- ◆ New procedures have been introduced in recent years. A major change is that Sapphire (the Specialist London Police Rape Teams) have been abolished and a lot of police stations have been closed.
- ◆ When you report, a uniformed officer will initially only ask you a few basic questions, like the time and place of the attack, a brief description of the attack and of the attacker. The police will take only brief notes at this stage. They will make another date to take a full statement from you. If the rape is recent, they will arrange for you to be medically examined.

YOUR RIGHTS

- ◆ You should be medically examined without delay. The police will generally take you to a different location, in London it will be a Sexual Assault Referral Centre (SARC). These are medical centres, normally based in hospitals staffed by women doctors and counsellors. (See 9. The Medical.) Some are part-funded by the police, but are not run by the police. More of these centres are being opened around the country and you are likely to get better treatment there. (See 26. Resources.)
- ◆ If the police visit you at home they should bring an Early Evidence Kit, and take some samples, e.g. of urine, from you. All

police forces should now have these kits. Once this evidence has been taken you will be able to go to the toilet, but if the rapist has touched your mouth you should not eat, drink, or brush your teeth until you have been seen by a forensic medical examiner (doctor).

- ◆ Dealing with people in authority is often intimidating. They might be prejudiced, patronising, not believe you or even try to prosecute you for something else. Remember: justice is your right. Don't allow them to put you off.

- ◆ Don't meet with the police alone. While in face-to-face contact with them – whether at home or at the police station – have someone with you at all times. It is easier to insist on being taken seriously if you are not alone and it is always better to have someone with you for support. Any friend or relative can be good, but the calmer, more determined and on your side the person is, the better. If you can't think of anyone, call a Rape Crisis Centre or Victim Support and ask them to find a volunteer to be with you.

- ◆ Keep close tabs on your own case. Some police give you a false sense of security by telling you the investigation is proceeding fine though little is being done. The best way to make sure it is progressing properly and smoothly is to insist on knowing what they are doing at every stage.

8. Who will I deal with during the investigation?

- ◆ A SOIT officer – Sexual Offence Investigation Trained – will interview you in detail. Most (but not all) SOIT officers are women. If you only want a woman SOIT officer, make sure you ask for one before your initial police interview. They will question you in a lot of detail at first, and after the facts are clear to them they will take your statement. The SOIT officer will also be your “chaperone” or “liaison officer”, responsible for keeping you informed about all developments in the case. They are supposed to be trained to relate to rape survivors, and skilled and sympathetic, and whilst many are, that is not

always the case. However, they are not the “investigating officer” or “Officer in the Case (OIC)” – the person in charge of the investigation. If your SOIT officer is not sympathetic or not keeping you informed, ask to speak to the investigating officer and they can appoint someone else to liaise with you.

RANK STRUCTURE OF THE METROPOLITAN POLICE

Commissioner
Deputy Commissioner
Assistant Commissioner
Deputy Assistant Commissioner
Commander
Chief Superintendent
Superintendent
Chief Inspector
Inspector
Sergeant (PS or DS)
Constable (PC or DC)

Officers trained to investigate are called detectives and range from Detective Constable to Detective Chief Superintendent.

YOUR RIGHTS

◆ It should never be a PC who makes decisions about a rape case. A PC might assist with the case but the investigating officer must be a DC or above. Police officers themselves have publicly complained about being put in charge of rape investigations when they don't have the training, experience, or the support they need to do the job properly. Find out the name and rank of your *investigating* officer. If their rank is too low or you are not satisfied with their work, complain. You can make a complaint at any point of the investigation (see 22. Complaining about the police). Officers with less experience, like PCs, should be closely supervised by a higher rank.

◆ The investigating officer should be a trained detective so s/he can give ongoing supervision and direction to junior officers. S/he, in turn, will be supervised by a more senior officer, so try to find out who their line manager is in case you have concerns to raise.

◆ **If you feel uncomfortable dealing with a male officer, you can ask for a woman officer.** You may not always get one, particularly if you are out of London. Women officers aren't necessarily more understanding than men, though they can be, so do not ignore any concerns you might have.

◆ Both your SOIT officer and your investigating officer have phones and email addresses supplied by the police force. You should get both.

◆ **Having things in writing makes it more formal and will help make them more accountable, so if you can, email them rather than phoning them.** This prevents your information and requests from being lost in the system or not passed on. And this way there is a record of everything you have asked and their responses.

◆ **Keep a copy of any letters and/or emails you send to or receive from the police or anyone else involved.** If you have not heard back within a reasonable time call to make sure it was received and passed to the right person. If not, send again, stating when the first copy was sent.

◆ **Keep a diary of every time you speak to or meet an officer. Write down their name and rank, the date and time, what they said or did, and what you said or gave them.** This record can be very valuable, and if they know you are doing it they are less likely to be careless.

9. The Medical.

If you report within a few days of the crime, the police will try to get you medically examined at a sexual assault referral centre (SARC). In London these SARCS are called 'Havens'.

THE POLICE SAY

The Havens

Based on your individual needs, we make referrals on your behalf to a whole host of agencies working independently of the police. One example is the Havens.

The Havens are specialist centres in London for victims of rape or serious sexual assault. Their role is first and foremost to help you both physically and emotionally.

Either the uniformed officer you first speak to or your SOIT officer can take you to a Haven and wait with you while you're there. Depending on the circumstances of your assault, a sexual offence examiner may take swabs from both intimate and non-intimate parts of the body. They will also document any physical injuries and may photograph non-intimate injuries. The staff may also ask for the clothes you were wearing, in order to gather any forensic evidence.

Once the examination is complete, the SOIT or uniformed officer will take you home or to a place of safety.

If you don't want to report what has happened to the police, or aren't ready to speak to police, you can contact the Havens directly. Find out more on our Support for victims of rape and sexual assault page.

(Source: <https://www.met.police.uk/advice/advice-and-information/rsa/rape-and-sexual-assault/what-happens-after-you-report-rape-or-sexual-assault/>)

THE FACTS

◆ Medical examinations can be really difficult but they cannot be avoided. A medical can confirm that the man had sex with you, any injury you've sustained, and other important facts:

drugs, alcohol, where the rape took place . . . Even slight injuries can be vital in a trial, to prove you didn't consent. They will gather samples from your body, and keep the clothes you were wearing when you were attacked. Don't avoid telling the doctor about any part of the assault, however embarrassing. Take a trusted friend with you for support, even if they are outside the room when you are examined.

- ◆ Getting a medical examination, particularly when you might have been drug raped, will be vital in your case and the quicker you have one done, the more likely it will be that the drug will still be in your system.

- ◆ SARC's doctors in London are women.

- ◆ SARC's are the best people to go to for a medical. They will also treat your injuries, check you for Sexually Transmitted Diseases (STDs) and pregnancy (later) if necessary.

- ◆ A police doctor ("forensic medical examiner") who is not part of a SARC will gather evidence but will not treat you. If your injuries have put you in hospital, a police doctor should examine you and gather samples, usually before your injuries are treated by the hospital staff.

- ◆ Unless you go to a SARC, it can take a long time to get a police doctor to see you, and if you ask to see a woman doctor and there isn't one available, it can take even longer. To preserve evidence, try not to urinate, wash, brush your teeth, eat, drink or chew gum, smoke, drink alcohol or take medication before you are examined by a police doctor.

- ◆ Some areas may not have women doctors available. Most doctors are respectful and sensitive – but even if they are not, don't let it put you off being examined. You can complain later.

- ◆ If you seek medical help from your GP, it is not a "forensic" examination, as they are not trained to gather evidence. Ask the GP to make a full record because often their records are minimal, for instance just noting a remark you made without recording your injuries. Their record of any injuries, however, could be useful evidence, so make sure the police are informed of it.

YOUR RIGHTS

◆ You can get all the vital evidence collected without committing yourself to reporting the crime to the police, so do it even if you're not sure yet about reporting. To get the evidence collected, find your closest SARC and contact them to make an appointment as soon as possible.

◆ The SARC staff should respect your privacy. They will tell the police that a rape has been reported but will not provide your name or address. In some cases they might contact you to let you know that the police want you to come forward but they should not pressurise you into reporting it if you don't want to.

◆ The results of the medical examination do not have the confidential status of normal medical records. They can be read by anyone connected with the assault: police officers, doctors, lawyers, judge, etc. You will be asked to sign to show you consent to this. Once you sign, you can't change your mind. All this should be explained by the nurse or counsellor before the examination.

◆ Anything you tell the nurse or doctor while being examined can be used in court, such as any gynaecological problems you have had in the past, abortions, STDs, etc. They will ask you if you had sex in the past two weeks and it is important that you are honest. However, any other sexual activities in the past are not relevant and therefore none of their business. You do not have to answer questions on any other medical history when you are examined. If you don't mention such personal information they should not be able to get access to your private medical records to bring it up in court. But think carefully before you authorise anyone to have access to your previous medical records. Allowing the police access can result in personal unrelated information being disclosed to the defence. If you refuse access, the defence would have to formally apply to the court, and permission may well be refused. If you want them to access only a section of your medical records, for example, that you told your GP you had been

raped which is useful evidence, you can authorise restricted access from a specific date to a specific date.

NB If you have a history of mental ill-health and have ever taken any medication, seek advice before you authorise any access to your records as the rapist's defence may use this against you in court.

◆ After the examination the police have a duty of care, although they also have a lot of discretion. You may want them to contact friends or family, or an employer, to explain the situation. They also have to take you home or wherever you want to go, not just take you to a bus stop or let you walk home. They also have to arrange transport for return medical appointments to the SARC (not for counselling-only appointments). If you can't go home because your attacker lives there, the police can help you find a refuge or pay for you to stay at a hotel temporarily.

10. Giving a statement.

The police should arrange to take a far more detailed statement from you at a time and place that is convenient.

THE FACTS

◆ The police will ask if you want to rest after seeing the doctor and before you give your statement.

◆ This time, they will want you to talk about the crime in detail. Your evidence is crucial in helping the police find or identify the person who attacked you and in bringing them to justice. They will take notes as you speak and write a statement for you to sign, or you'll be interviewed on video. This can take many hours and will include some very detailed questions. You might find it upsetting to answer some of these questions. Trauma and exhaustion may make you confused or make it impossible to recall some details. They will go through the circumstances of the crime or crimes several times with you before writing or recording a statement. This repetition is supposed to help

you recall all the events accurately and in the correct order. It can be very draining.

YOUR RIGHTS

- ◆ If you get upset or tired, tell the police officer to stop so you can take a break and try again later.
- ◆ The police have no right to ask you about your previous sexual relationships. If they ask these questions tell them so and refuse to answer if they ask. They are not relevant and could be used to try to discredit you in court. However they might need to ask you when you last had sex or what relationship (if any) you have with your attacker. You should answer this fully.
- ◆ In addition to your statement you should be offered the chance to make a “victim impact statement” or “victim personal statement” in your own words, to set out how you have been affected by the attack. This could have an impact on the sentence if the man is convicted. It is up to you if you want to do this. If you do, it will go to the accused and can be challenged by the defence. The victim impact statement is not always taken at this stage; it can be done later. If you are not asked to make one and want to, then tell the police you want to.

11. Written or video statement?

Since 2007 rape survivors have been routinely recorded on video when they give their statement, known as an ABE video (Achieving Best Evidence). But you do have a choice: you can make your statement on video, or ask the police to write down what you say and you then check it and sign it. They should explain to you the advantages and disadvantages of both. Sometimes the police assume that the statement will be made on video; they think it is quicker and easier and they don't offer you the choice. But it is up to you; they have to do what you decide.

Doing a video statement.

- ◆ A video statement records accurately what you say, in your own words. *But*, if you are hesitant about saying some things when you are interviewed (for example personal matters that you might not want people to know), then your hesitation could look bad on the video, and this can affect your credibility in court.
- ◆ The advantage of a video statement is that it shows all your emotions as you describe what happened.
- ◆ It can be used in court instead of you speaking so you don't have to tell your story in person, which you might find less traumatic. Without a video statement, you will have to describe the attack in person. Just because a video statement has been made, it does not have to be used, so if you later feel you prefer to give evidence in person, you can make the decision then.
- ◆ Your video statement will be played in court and the defendant will see it. If you give evidence in person behind a screen, he will not be able to see you. (See 19. Court)
- ◆ In court, after your account is given on video, or in person, you will be cross-examined by the defence barrister. If you do a video statement you might have the choice of being cross-examined over a video link with you in a different room and not in the courtroom itself. (Video links were introduced to help children or other vulnerable witnesses who may be intimidated by the courtroom.) You don't have that choice if you do a written statement.
- ◆ However, being cross-examined over a video link instead of in person can have serious disadvantages.
- ◆ It is usually much more effective to appear in court yourself. (See 19. Court.) It is hard to look so far ahead but you may want to consider the pros and cons of being in the courtroom yourself. Some people are sure they want to appear in court themselves, and they prefer to do their statement in writing, look over it and sign it rather than making their statement on video. Others worry about being frightened or intimidated.
- ◆ Have a friend with you for support when you give your statement. They will not be allowed in the room where you are

videoed because if you look at your friend for reassurance, when the defence barrister sees the video, s/he may imply that you were looking to be told what to say.

- ◆ You should be asked to watch the video a week or two before the trial if the case goes to court, in the presence of your SOIT officer at the police station. You cannot take the film home. If while you are watching, you recall something else that is crucial, the officer should get this put on video too.

Doing a written statement.

- ◆ There are several disadvantages to doing a written statement. The main one is that you have to rely on the police writing it for you, you can't write it yourself.

- ◆ The police can do this in the station, or if you prefer, come to your home. It can take many hours, or even a couple of days, as they do not type it but write it out by hand. Be sure to have a friend with you at all times. It should be someone calm and reliable, whom you can talk freely in front of. It can't be anyone involved in the case, even if it is one of the first people you told about the rape afterwards. (The police call this, "evidence of first report") because they could be called as a witness and they need to keep their memory of the event separate from yours.

- ◆ Watch out for mistakes. Make sure that what the police write down is exactly what you have said. They often put things in their own words, which can change the meaning slightly. At the end check your statement with a fine-tooth comb before you sign it. No-one can tell in advance what will turn out to be crucial. Any little inaccuracy can be used against you in court. If you are tired, continue on another day. *Don't sign until you are completely satisfied this accurately reflects your experience.*

- ◆ The police will not give you a copy of your statement. There is no law against it, but they say that if you have been re-reading your statement and studying it, you won't come across well in court, or the defence will use it against you. They usually refuse to give it to you, until you get to the court on the first day

of the trial. But at that time it can be hard to take anything in.

- ◆ Your statement belongs to you and so if you want it earlier, ask for a copy. Alternatively you should be able to get a copy of your statement through a lawyer, if you choose to. But it may be safer to make your own record.

- ◆ If your friend is able to write notes later of what you said, that could be very helpful. In any case, after you get home make detailed notes of exactly what you said to the police. A trial can be months or even years later, and you may feel better if you can remind yourself of important details, rather than leaving it until the day of the trial when the police give you your statement.

- ◆ Your statement may also be valuable for any compensation application you might make later.

- ◆ If you do a written statement the jury gets a copy, which they'll have with them during their deliberations. If you do a video statement they see it only once, they don't get a copy, though they can ask to see it again. They will have a copy of the attacker's statement.

However you give your statement, you have rights.

- ◆ Victims whose first language is not English have the right to a police-approved interpreter who speaks your language. But if you suspect the interpreter is inaccurate, biased against you, pressuring you not to continue, or are connected to others in your community who would cause you problems if s/he broke confidentiality, it's your right to ask for another one.

- ◆ If you are under 16, or have a learning disability or mental health problems, you should refuse to be interviewed without an "appropriate adult" present.

- ◆ You do not have to answer what you think are irrelevant questions. You can ask how they think this information will help your case. Try not to be defensive; you need to show that you want to help the police with the investigation, but if you are worried that the questions are not relevant and might affect your case improperly you should say this, and make a note of it.

- ◆ If you remember something important after you finished your

statement, be sure to go back and make a further statement. Sometimes this is held against you, for example, the defence might suggest you tried to embellish your story, so try to get everything right the first time, but stick up for your right to add to your statement or change it as your memory gets clearer. It is better to have all the information and explain why you didn't give it the first time round, than for crucial details to be left out or misunderstood.

- ◆ Some people have found their statement so inaccurate or unsympathetic that they refuse to sign. If that happens, get outside help. (See 26. Resources.)

- ◆ The police will generally pass on to Victim Support the contact details of victims of crime but in cases of domestic violence and sexual offences, they are supposed to ask your permission first.

- ◆ If your case goes ahead, the rapist will be able to see your written statement or watch the video at his solicitor's office, but he can't take them away with him.

12. The police investigation.

THE FACTS

- ◆ Whilst many police officers will do their best, it is important to be aware of what can go wrong, so that you can help to keep your case on track.

- ◆ The police may take days, weeks or even months to arrest the person who has raped you, or just invite them for questioning.

- ◆ They may not gather the evidence: not interview possible witnesses, not search the place where it happened, not get CCTV evidence, not retrieve phone records. . . they may even lose crucial evidence. Yet the case against your attacker is likely to depend on this evidence.

YOUR RIGHTS

- ◆ Don't be scared to question what the police are telling you

or what they are doing/not doing. They are paid to investigate and bring your attacker to justice, and it is your right to know what is happening with your case and what else might be done. Don't let them make you feel foolish or imply you should be grateful.

- ◆ Ask why your attacker hasn't been arrested, especially if you know who or where he is. Are they *really* gathering evidence?

- ◆ One woman was told that the man "wasn't in" when they went to arrest him. She called the police every week, but it took them three months to find him despite having his name, address and car registration.

- ◆ Phone the police, then write to them by email or post, with a copy to your MP, and keep a copy yourself. You can write to them: "I phoned you on [date] and wrote to you on [date] and you still haven't . . ." If it's in writing they won't be able to deny it.

- ◆ Ask your friends for evidence that may possibly help. Anything that backs up your account, including of what you were doing around the time of the rape, may be useful, even if it doesn't relate directly to the rape. For example, the fact that the man was there, that he got you a drink or was seen leaving with you, is evidence.

- ◆ One woman was taken to a cashpoint by her attacker and ordered to withdraw money. The police claimed there was no CCTV evidence. When she asked the bank herself, they said there HAD been CCTV – but because the police did nothing for two months, it had been wiped. Without even interviewing her, the police recorded it as "no-crime" and closed the investigation. (See 13. What if the police close the case.) She sued the police under the Human Rights Act for negligent lack of investigation. Her legal action was based on the right not to be subjected to inhuman and degrading treatment. The Act protected her from discrimination as someone with mental health problems. In 2009, she won £3,500 in a settlement by the police before the case came to court.

- ◆ You can ask your SOIT officer, or the investigating officer, to tell you what evidence they have gathered. Make a list for

yourself of what should be gathered.

- ◆ In 2019, the police introduced a new Digital Consent form that they ask women to sign to consent to their social media records being trawled through. Police would take your mobile phone and access your Facebook and all other social media.

- ◆ Your mobile phone may have private information or texts on it. If the phone record is downloaded, that information goes to the defence, and to the jury. Even if you delete it, it can still be accessed by the police. Many women find this very intrusive and have withdrawn from investigations. There is a legal challenge to this abusive practice, with lawyers arguing that such trawls should be part of reasonable lines of inquiry.

- ◆ At the time of going to print, we don't know of any cases where women have successfully refused to give digital consent and the authorities continued with the prosecution.

- ◆ On the other hand, sometimes we want to point out evidence on our social media that is useful in the prosecution of our attacker. We have found the police quite reluctant and incompetent in their efforts to get this information. Sometimes the police lab doesn't retrieve this evidence, or even destroys it or loses it by accident. In one rape trial a juror said the police told the court they had not looked into phone text evidence because it would have cost too much money. One woman found they had checked only the handset (which had limited records) instead of the billing history. Ask exactly what they have retrieved before you go to court.

- ◆ There is some evidence you are not allowed to see by law, such as the statements of the accused, and those of witnesses. These go to court without you seeing them.

13. What if they discourage me, press me to withdraw or close the case?

THE FACTS

- ◆ In November 2013 a whistleblower Police Constable James Patrick gave evidence to the parliamentary Public

Administration Select Committee. He had analysed allegations made to the Met police in the financial year 2012/2013, and reported that the police often bully women into withdrawing their allegation of rape, and they target the most vulnerable victims. In February 2013 the Independent Police Complaints Commission published a report saying that in the Sapphire Unit in Southwark in 2009, it was a "standard operating procedure" for police to press women to withdraw from prosecutions. Journalists confirmed that this same policy was used elsewhere.

◆ Since then **official reviews consistently show the majority of police forces still do not record rape properly, and this affects investigations.** The 2019 audit by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) found more than one in 10 audited rape reports were incorrect. Inaccuracies in rape reports have arisen when paperwork was not completed, or when a report of rape was recorded as an "incident" rather than as "rape". In some cases it was closed too soon based on the prejudices of an officer who is ignorant about consent or decides the victim is not credible.

◆ Victims with mental health issues or addictions and sex workers are particularly vulnerable to being struck from police records, not investigated and not passed to the CPS for prosecution.

◆ Other reviews have exposed how the police terminated investigations at too early a stage, labelling it No Further Action or Administratively Finalised. Cases may never be looked at by a specialist in how to deal with more vulnerable victims, and they are thus left without protection, and may suffer repeat attacks.

◆ Many women have told us they were put off by being told how few rape cases make it to court, how few lead to a conviction and how badly they will be treated in court. Home Office research has shown the police sometimes put pressure on women to withdraw their allegations. In many cases, the police or the CPS drop the prosecution.

◆ At the same time, women who are unsure may be talked into reporting by the police or others, sometimes with disastrous

consequences. Victims themselves are the best judge of whether or not to report. You must decide.

YOUR RIGHTS

- ◆ Don't be put off by any negative comment from the police. You are entitled to be believed and treated with respect. Whatever you were doing at the time, nobody had the right to rape you. You have a right to protection from the man who committed a crime against you. Although it's good to report as soon as possible, it's never too late.

- ◆ If the police say they believe you and are investigating, make sure they do what they have promised. As a victim of a sexual offence you are entitled to an update every 28 days. If the police don't keep you updated, put it in writing to them and ask for the updates. The onus is on them to check you still want that, or you tell them only when something significant has changed.

- ◆ If you are being discouraged, intimidated or pressured to withdraw your allegations, ask the officer for their name and their shoulder number, and write it down. Tell them the man who assaulted you is a danger to you and/or other women or girls. Say you want to get outside advice – and do so as soon as possible! (See 26. Resources.)

- ◆ You cannot be forced to sign a statement withdrawing an allegation of rape.

- ◆ There is a difference between withdrawing and retracting your allegation of rape. Withdrawing means you no longer want to co-operate with a prosecution, for whatever reason – fear, pressure, etc. Retracting means it didn't happen, or you lied.

- ◆ *Withdrawing or retracting your allegation is irreversible.* This is dangerous because you can be prosecuted for making a false allegation. This is still rare, but such prosecutions are more common now. And judges are giving shockingly high jail sentences as high as 10 years. However, some CPS prosecutors recognise that women may have withdrawn under pressure from a rapist or relative, and so on principle they do

not prosecute women for false allegations. For more than a decade, WAR has campaigned with women against being prosecuted for lying. The most common charges for this are: wasting police time or perverting the course of justice, In other countries, the penalties are much lower, such as a fine or a few months in prison.

- ◆ Having withdrawn an allegation of rape could be used against you if you are ever attacked again later – it would give police and prosecution an excuse not to believe you, and not to pursue your attacker.

- ◆ If you are not sure you want to report, don't let the police or anyone else push you into it. Tell them you want time to think about it and make up your own mind.

- ◆ If the police investigate your attack, a senior officer can close it, or refer it to the Crown Prosecution Service (CPS) who make a decision about whether to prosecute your attacker. If they tell you they are closing your case, ask them if they have referred it to the CPS and if they have not, ask them why not. If you can, put it in writing.

- ◆ In cases where a suspect was identified and arrested under caution, then closed, you can challenge a police or CPS decision to close it by asking for a **Victim's Right to Review** of either authority. It must be done within three months of you being informed the case is closed. In some cases, the police close a case without referring it to the CPS, despite what their information says (quoted after the next heading below).

- ◆ If you think the police investigation was extremely negligent, seek advice from a lawyer specialising in actions against the police.

- ◆ A Review will mean the case is looked at afresh by a more senior police officer, for rape it's a DCI. They consider if the decision to close it was wrong, for example compelling evidence was disregarded or significantly misinterpreted, the relevant policies were not considered or the law was incorrectly applied. They have the power to reopen the case.

- ◆ The CPS has the power to order the police to gather more evidence.

- ◆ To challenge a CPS decision see 17. The CPS.

14. Keeping informed (bail and other developments).

The SOIT officer will keep you informed of how the investigation is going at least every 28 days or as soon as there are any updates.

Once the suspect has been arrested and interviewed and all of the evidence has been collected, the Officer in the Case will write to the Crown Prosecution Service [CPS] detailing the circumstances surrounding the offence and send it along with all the written evidence e.g. statements, reports from scientists and doctors.

This case will then be passed to a specially trained lawyer at the CPS who will review all the evidence and make a decision, with a second reviewing lawyer, on whether there is sufficient evidence to proceed to a trial. This decision is made by the CPS.

Once this decision is made the SOIT officer will contact you to explain what happens next.

THE FACTS

- ◆ Many SOIT officers are good at their job, but if you feel they are not doing their job of keeping you informed or offering you enough support with your case, don't feel like it's your fault.

YOUR RIGHTS

- ◆ The police have a duty to tell you if someone has been arrested, released, cautioned or charged. The Code of Practice for Victims of Crime requires notification within one working day for vulnerable or intimidated victims of rape, and otherwise within five working days. Where possible they should try to inform you before the perpetrator is released.
- ◆ The police can release the accused on pre-charge bail until

their court hearing, or detain them. The police should consult you when making bail decisions, and they should ensure that all bail conditions help protect victims prior to making the bail decisions.

- ◆ They must also tell you what bail conditions have been put in place to stop him contacting you or in any way intimidating you. Men accused of rape are rarely held in custody after arrest. They are usually only held if they have a previous conviction for murder, have broken bail conditions before (such as by intimidating and threatening you or other witnesses), or are likely to leave the country (e.g. if they don't live here). If there is a breach of the conditions, report it immediately and the accused is liable to arrest for breach of bail conditions, and be brought to court within 24 hours. The court can then decide to rerelease the suspect on bail or keep them in custody.

- ◆ The police custody officer is responsible for ensuring bail conditions are workable. If the bail conditions that have been set are not workable, ask your SOIT officer and investigating officer to try to change them.

- ◆ Again, don't only phone the police, write to them by email or post, with a copy to your MP, and keep a copy yourself.

- ◆ Make sure that the police keep in touch with the CPS about what charges are being brought, and that they consult you and keep you up to date about any changes.

15. Consent, drink and drugs.

THE LAW SAYS

A person consents if they agree by choice, and have the freedom and capacity to make that choice.

THE FACTS

- ◆ Legally, men should not have sex with someone who is incapable of making an informed decision to consent to sex. However, there are many shades of incapacity, and it is

supposed to be up to a jury to decide, after assessing all the evidence. If a woman has had any alcohol or taken drugs, it is often used in court to claim she consented to sex, even where witnesses have said she was unable to stand up. Although it is not supposed to be a moral judgement, victims of rape often face judgments about what they did or didn't do, from the police, court, families and friends, and in such cases there might be police reluctance to gather the independent evidence that could back victims up. So it is particularly hard to get such cases to court and to get justice. It is not impossible though, and you should not be put off from trying.

YOUR RIGHTS

- ◆ You have to be able to choose whether or not to have sex with a particular person. It's rape if you are not able to give your consent. If you have taken, or been given, drink or drugs and you are incapable of agreeing or refusing to have sex, and if the man knew this at the time, he is guilty of rape.
- ◆ Make sure you tell the police how much you had to drink. Do not understate it.
- ◆ If you were asleep or unconscious when the man began to have sex with you, it is automatically rape. Sex is only consensual if you consent *at the time* it is happening. Sometimes the police – and the lawyers in court – focus on what happened *before* you went to sleep or became unconscious, to imply that you hinted to the man you'd like to have sex. They are not following the law.
- ◆ If you are sure you didn't consent but are unable to remember clearly what happened before you went to sleep, make clear that, at the time when the man penetrated you, you were asleep or unconscious and *unable to consent*.
- ◆ There is a lot of moralism about women drinking and taking drugs. Whatever anyone thinks, the law says it cannot be an

excuse for rape. Stand up for your right not to be raped even if you were drunk or had taken drugs. If you think the man was getting you drunk on purpose, was pushing you to take drugs, or even targeted you deliberately because he believed that you would be incapacitated as a result of what you had taken yourself, make this very clear in your statement.

◆ If you took drugs for recreation, don't let it put you off reporting. The police have said that they will not prosecute you if you have been sexually assaulted and they discover recreational drugs when they medically examine you, or if you tell them about it.

If you think you may have been drug raped (the man drugged you).

◆ If you think the man drugged you, samples of blood, urine and any vomit should always be taken as soon as possible. It often happens that a woman is quite sure she has been drug raped, but the police say that it is too late to gather evidence as the drugs may have left her system, or that for whatever reason the tests have not shown the drug.

◆ Insist on samples being taken as soon as possible. The Sexual Assault Referral Centre (SARC) should do this automatically. If you are not near a SARC, make sure the police forensic doctor does it. Or, a police officer should use an Early Evidence Kit to take from you a urine sample for drugs and alcohol, and a mouth swab and mouth rinse to check for semen.

◆ Drugs can be found in blood and urine hours or even days after, it varies depending on the drug used and other factors. Some drugs may leave no trace after a few hours, but rohypnol can stay in the body for up to five days. Ideally the test should be done within 60 hours of exposure. Drugs are detectable in the urine longer than in the blood. Marijuana can be found in urine up to 30 days later, while opioids can be found up to three days later, and Benzodiazepines between two and seven days later. More detailed info can be found on the internet, see for example <https://drugs.com/illicit/rohypnol.html>

◆ It is very distressing not knowing what happened to you or

even what you yourself did, and you deserve sensitive and compassionate treatment: if you are not, ask why not, and try to take someone understanding with you.

◆ If over time you remember bits and pieces of what happened to you, ask to make an additional statement.

16. Can I see the police record of my case?

◆ You may want to see what information the police are keeping on your case to make sure it is accurate. If you suspect their records are wrong (for example because you've heard officers repeat inaccurate information about you or about what you reported) you can apply for a copy of their records.

◆ The GDPR (General Data Protection Regulation) 2018 enables you to obtain information held about your case on the Police National Computer. The process is called making a "Subject Access Request". Go to the website of your local police service, and apply online or download the paper form 3019. You should not be charged for the service, and results should be sent to you within 40 days. You must be specific about what records you seek; it is too vague to write "everything held about my case". You need to provide your Crime Reference Number, any CAD numbers, and any CHAS numbers, the names of the people and the dates of the events you are looking for. Some records will be withheld if you are not allowed to see them, such as witness statements, and people's names may be hidden to protect their identity. This is very sensitive personal information, so ask for it to be sent to you in a secure envelope and if possible using the post office "Signed for" service or Recorded Delivery. (More info <https://www.which.co.uk/consumer-rights/advice/how-do-i-make-a-subject-access-request>.)

◆ If they refuse to give you your records you can apply for them through the Information Commissioner. See the "Access information from a public body" section at www.ico.gov.uk.

17. The Crown Prosecution Service (CPS).

THE LAW SAYS

The CPS, not the police, is the authority responsible for deciding whether the attacker is prosecuted and taken to court.

THE CPS SAYS

We will apply our rape policy without discrimination in all cases. It is the duty of the CPS to review, advise on, and prosecute cases, ensuring that the law is properly applied, [and] that all relevant evidence is put before the court.

- ◆ They have to find out if there is enough evidence to provide a *“realistic prospect of conviction”*.
- ◆ If there is enough evidence, *“we believe that rape is so serious that a prosecution is almost certainly required in the public interest.”*
- ◆ They will, *“take into account the impact on the victim or their family when making a charging decision.”*
- ◆ Where a specialist rape prosecutor has decided not to proceed with a case, *“a second rape specialist must confirm the decision.”*

CPS quotes are from its Policy for Prosecuting Cases of Rape, Sept 2012.

THE FACTS

- ◆ Many of the cases the police refer to the CPS are not prosecuted. Don't be disheartened.
- ◆ “Insufficient evidence” is the most common reason the CPS gives to close a case. This is sometimes because the police have not gathered the evidence properly, or the police and/or CPS are interpreting it in a prejudiced way. Maybe they believe the man instead of believing you, or they think there is some contradiction and they don't come back to you and ask you to explain it.

- ◆ The real reason why they have turned down your case may have nothing to do with the evidence. They might have made a judgment about you and decided you will not be a “strong enough” witness. They say they take into consideration your “background” and “credibility”, but their judgment may be prejudiced.
- ◆ If the prosecution goes ahead, you will be treated as a witness in a crime against the Crown. You will not be offered a lawyer. That is the case with all victims of crime.
- ◆ Until recently the CPS lawyers who presented the prosecution evidence in court did not prepare the case with the victim; they only looked at the file and met you for the first time in court. They never discussed your evidence with you before you took the stand. This is beginning to change, with provisions for a pre-trial witness interview (PTWI) – where a prosecutor talks through significant evidential problems with the victim. The prosecutor is only allowed to question you about evidence they have concerns over, and their interview with you has to be recorded and disclosed to the defence. In most cases, prosecutors do not meet with the victim before the trial other than saying a formal hello in court.

YOUR RIGHTS

- ◆ It's important to make sure the police have all the evidence possible so they can present the strongest case to the CPS. Make sure they know that you feel strongly that the man should be prosecuted.
- ◆ If you feel that they have not gathered all the evidence – for example have not interviewed possible witnesses or gathered enough detail from you – outline your concerns in writing, with a copy to WAR.
- ◆ If your case has been dropped, ask who made the decision. The decision to drop a rape case is supposed to be taken by two specialist CPS lawyers.
- ◆ If you have been turned down and want your case to continue, you will need help quickly. While it is unusual to get the CPS to re-open a case it does happen. Contact WAR or a lawyer

who specialises in actions against the police or judicial review, to consider whether the decision can be challenged. The time available to challenge the CPS decision is very short so you must act right away.

- ◆ The CPS introduced a Victim's Right to Review in 2013, which you should apply for within five working days (but they can consider it up to three months later). This gives the impression that victims can challenge the CPS decision not to charge or to challenge which charge has been laid. However, although former DPP Keir Starmer, made it clear that it is very unlikely that such a Review will result in cases being reopened, it has resulted in re-investigation and reconsideration in some cases.

- ◆ While it is unusual to get the CPS to re-open a case it does happen. Contact WAR or a lawyer who specialises in actions against the police or judicial review, to consider whether the decision can be challenged.

- ◆ If the CPS drop the case, ask to meet with them. They say this will not change their minds but they will explain their reasons not to prosecute. We have been to a number of these meetings and have usually found the CPS stubborn and unapologetic. BUT: If your priority is still to get your attacker charged, once they meet you they may refuse to prosecute because they have discussed the evidence with you, and say it would give you an unfair advantage in court.

- ◆ If you don't manage to get a prosecution, you might win a clearer explanation of what their decision is based on. And your complaint will help put pressure on them to stop dismissing rape cases generally.

- ◆ In some circumstances you can take a private prosecution. In 1995 two rape victims dismissed by the police and CPS because they were sex workers won the first private prosecution for rape in England and Wales. The man, who had raped both of them, was convicted and sentenced to 11 years in prison on the same evidence the CPS had dismissed as "insufficient". The women were helped throughout the case by WAR, the English Collective of Prostitutes and Legal Action for Women, who found committed lawyers who worked for no fee (they

were later reimbursed) and helped to keep the legal team accountable. We proved that juries can leave their prejudices aside and convict rapists if the evidence is thoroughly gathered and properly presented. There is no legal aid for private prosecutions, and most lawyers will not waive their fees in this way. A private prosecution can cost tens of thousands of pounds, which rules it out for most people. But if you are ready to do the work of gathering evidence and support, it's worth considering.

18. What are the charges?

THE LAW SAYS

◆ Under the Sexual Offences Act 2003 a man can be charged with one or more offences, including rape, attempted rape, sexual assault, or assault by penetration. There are specific offences to protect children under 13 and under 16 years old, and to deal with rape or sexual assault within the family, and when abusing a position of trust.

◆ A man can also be charged with other related offences like Actual bodily harm; Assault by penetration; Attempted murder; Breach of non-molestation order or similar order; Coercive control; Common assault/battery; Female genital mutilation (FGM); Grievous Bodily Harm; False imprisonment; Forced marriage; Harassment (and online harassment); Kidnap; Putting someone in fear of violence; Stalking; Threats to kill; Threatening behaviour; Voyeurism.

◆ You can look on the CPS website to find out what these are and work out which charges relate to your attack <https://www.cps.gov.uk>

THE CPS SAYS

The CPS should select charges *which reflect the seriousness of the offending and must never accept a guilty plea just because it's convenient.*

We understand how important it is for victims to be kept informed about the progress of a case.

◆ *If a prosecutor decides to drop a case, or substantially alter the charges they “will notify the victim within one working day and will also offer to meet the victim to explain personally the reasons for the decision.” (CPS Policy for Prosecuting Cases of Rape, Sept 2012)*

THE FACTS

Despite their guidelines, the CPS doesn't always tell you what is going on or if they have changed the charges. The best way to ensure that you know is to ask. You cannot directly contact the CPS lawyer handling your case but your SOIT officer or the investigating officer can. Ask your SOIT officer what is happening if they have not kept you up to date.

This is one woman's account:

"He was charged with rape, attempted rape, actual bodily harm, threats to kill, false imprisonment and administering substances, and was remanded in custody. The trial date was set . . . Shortly before the trial the police came to my home to tell me that the case was not going to court and only two charges of assault were going ahead (which he had now admitted to after previously denying everything).

"My daughter was 15 and we were told that the man had been charged with both rape and having sex with a minor. But at the trial we found out that the CPS had dropped the charge of sex with a minor. The rape case was lost because the police lost some of the evidence, and since there was nothing to fall back on he was allowed to get away with it altogether. The CPS don't tell you that they can drop and pick up charges along the way, and they may not even inform you or even the police. Afterwards the CPS said they hadn't wanted to include the lesser charge because the jury would be more

inclined to find him guilty of that and let him off on rape. But why couldn't he be guilty of both? As it was, he wasn't found guilty of anything."

YOUR RIGHTS

◆ Informing the victim is a CPS obligation under their Code of Practice for Victims of Crime. You should be informed and consulted "*if the charge is withdrawn, discontinued or substantially altered*", but this doesn't always happen. Even if the CPS don't contact you directly, the police should inform you, and you can ask the police to convey any objections you may have to the CPS. You should also write to the CPS and to your MP and others. Make clear how upset you are and how bad it will look for them if a rapist gets off and then rapes again. Make sure the police tell the CPS that you are in touch with your MP.

◆ Keep checking on the charges with the police, as you may not be told of any changes.

19. If the case goes to court.

THE FACTS

The case is brought by the Crown Prosecution Service (CPS), not by the victim so you are not in charge of what happens. You are the main witness in the case but you cannot have a lawyer of your own.

◆ It takes months before a rape case comes to court. Even when you are notified and go to court prepared to give evidence, there may still be delays.

◆ The first court hearing is the Plea and Case Management Hearing (PCMH). This is when the accused is asked to plead. if he pleads not guilty the date for trial will be set then. You should be informed by the witness care unit about this hearing but will not be asked to attend.

◆ The courts are old-fashioned and you might find the judge and barristers stuffy, rude, condescending or patronising. They often speak softly and can be hard to hear.

◆ When you give evidence, the man's defence lawyers will try to trip you up and discredit you. It's their job to defend him. Try to remain calm and clear, no matter what is said about you. The defence barrister might come out with lies about you and accuse you of things you have not done. They say, "I put it to you that" this or that happened. It is frustrating that you often have no way to disprove these lies. You can only deny them strongly and try to back up the truth with whatever evidence or arguments you have.

◆ The CPS should ensure that the barrister for the prosecution is familiar with the case and knows something about you. But they may not be as prepared or as effective as they should be. They may not have met you before and just say hello on the day of the trial.

◆ They should protect you from irrelevant and illegal questions about your sexual history or other attempts to smear your character. Unfortunately, some CPS barristers do not properly prevent questions or implications about your sexual history. If these questions are asked by the defence barrister, try to stay calm and ask why it is relevant to the case. This should alert the prosecution barrister and the judge to the fact that the line of questioning is improper and that they should intervene.

Deciding between giving evidence through a video link or appearing in person.

◆ If you did your statement on video, before the court case starts, you should be offered a choice of how your evidence will be presented:

1. The court can hear what happened to you by watching your video statement. You will be watching it in a different room (sometimes even a different building). You can then be cross-examined (questioned) by the man's lawyer via a video link.
2. Or the court can watch your video statement while you are

in the courtroom, and then you can be cross-examined.

3. Or you can take the witness stand and the prosecution barrister can take you through the evidence, from beginning to end.

- ◆ Ask for a video link if you want it. But if the court or CPS has arranged it without asking you, object if you don't want it.

- ◆ The witness service should explain the advantages and disadvantages of using a video link. When deciding what to do, consider your options carefully. While it can be traumatic to stand up in court against your attacker – and sometimes women simply cannot face it – using a video link may also have disadvantages:

1. The jury has to decide whether they believe you or your attacker. If you choose to give your evidence via a video and to answer questions via video link, you will not be seen in person but on a TV screen. Your video image will have less impact than you in person. Some women who give their evidence through a video link find it frustrating: they end up feeling that the jury got to see the accused, day after day, and that they should have seen the victim too. They are worried that the man would have been coached in how to appear and behave and win the jury's sympathy, but his victims are never in court to appeal to the jury in person.

2. If you appear in court, you can ask to have a screen to shield you from having sight of your attacker and the public gallery. If a video image of you is used, everybody in court can see it.

3. If you are on a video link, when you are being cross-examined by the defence barrister all you can see is the face of the barrister, who may be trying to discredit you. You can't see the judge or anyone else's face for reactions, human contact or moral support.

4. It may be even harder for you to hear via video link than it is in court, and it may be hard for the jury to hear you, especially if you speak very quietly or get upset.

5. Some women prefer to appear in person because they want to let the court know that they are truthful and will not

be intimidated. Some women make a point of staring down their attacker in court. Others feel so shaken by his presence in court that they find it virtually impossible to speak.

- ◆ Sometimes, for one reason or another, the video statement cannot be used and you have no choice but to appear in court.
- ◆ More cases are successfully prosecuted when the victim gives evidence in person so if you can, it is preferable. However, if you cannot face it, try to explain your need to use a video link. If you are frightened of, or upset by your attacker, say so. The judge is supposed to tell the jury that you are entitled to these protective measures. Ultimately, it must be your choice how you give evidence as you are the one who has to go through it, so do not let anyone pressure or influence you; do what you feel is best.

YOUR RIGHTS PRE-TRIAL

- ◆ You should be shown the courtroom in advance, usually by someone from the witness service at the court, or the police SOIT officer, or an Independent Sexual Violence Advocate (or ISVA, many anti-rape charities employ someone whose job is to help you through the investigation and prosecution and represent your wishes). They explain who everyone is, and some basic procedures. The police are to book the visit for you.
- ◆ You should be offered a screen in court which should prevent anyone from seeing you except judge, jury, barristers, clerk and usher to the court. The defendant should not be able to see you. At the pre-trial visit ask to try out the screen.
- ◆ Screens or video links must be applied for prior to trial – it is important to check with the SOIT officer that this has been done. These arrangements are called "special measures" and the police have a special form; this should be sent to the CPS prior to the trial.
- ◆ Check that you can enter the witness service area through a back entrance, instead of through the main entrance where you risk seeing the defendant, his friends or relatives. Look at the witness room where you will be waiting. The defendant's

witnesses should not be in the same area, to protect you from intimidation.

YOUR RIGHTS AT THE TRIAL

- ◆ Make arrangements with the police for how you are getting to court. They should be able to pick you up in a car or meet you at the station and escort you safely into the court building through the witness entrance.
- ◆ Be prepared for long delays and cancellations. Trials are notoriously unpredictable and witnesses can end up waiting for hours, or even being told to come back another day.
- ◆ When you give evidence a witness service volunteer should be able to sit behind you in court, if you wish. Arrange this at the pre-trial visit.
- ◆ All witnesses are entitled to expenses for travel and subsistence for each day they have to attend court. Get a CPS claim form from the witness service. Submit any receipts.
- ◆ If you did your statement on video it will be shown to you a week or two earlier to refresh your memory. Your SOIT officer should be there. Try to have a friend with you for support.
- ◆ If you did your statement in writing, it will be shown to you on the first day of the trial. Read it carefully.
- ◆ You might find the process easier if someone you know and trust is in the courtroom for moral support. They will have to sit in the public gallery.
- ◆ Every rape survivor has the legal right to anonymity; the media can report the facts of the case but they cannot reveal your name or your address.
- ◆ Try to spell out what happened as clearly as possible. Don't be intimidated if the lawyers or judge talk down to you.
- ◆ You are not allowed to bring character witnesses in a rape trial, unless they are challenging something specific and substantial a defence witness has said. Even then it is not usually possible.
- ◆ Stand up for yourself in court. You have no say in how the CPS presents the evidence. But you can ask to speak

to the CPS solicitor and barrister before you give evidence and raise with them anything you may be worried about. You can emphasise that you want to be protected from questions that are not relevant to the case. If such questions are asked despite your best efforts you may have to ask the judge why such questions are relevant.

◆ Never, ever let anyone put words in your mouth. They may want a "yes or no" answer, but if what they "put to you" is not *exactly* what happened, restate the truth in your *own* words instead.

◆ Try to look at the jury as well as the barrister when you answer questions. The jury are the people making the decision, so they need to understand what took place and that you are a truthful person.

◆ This is your chance to tell your story, especially if you are giving evidence in person rather than using a recording. Have in mind what points *you* want to get across, and use the questions as an opportunity to do this. If there is any information you have not disclosed to the police and CPS, discuss it with them before you raise it in court, in case there is any problem with it and so they are not caught unawares.

One woman said:

"My CPS barrister told me to let her lead me, to just answer her questions. And there were some specific pieces of information she told me I was not allowed to say. Since I didn't know the rules I was too afraid to mention that the attacker had threatened to shoot several of the teenage witnesses. Now I wish I had asked more questions, as the jury were never told this. He was found not guilty."

◆ If you are told not to say certain things, ask why. Keep in mind that for legal reasons some details must not be mentioned. For example information about the man's previous convictions or "bad character" is only allowed if the CPS has requested permission and the judge has granted it because

it is considered directly relevant to your case. If permission has been refused and you mention previous convictions or character, the prosecution case is likely to collapse.

◆ In recent years, judges have been trained and encouraged to inform the jury that victims behave in different and unpredictable ways and that for example, crying or speaking without emotion should not be assumed to show they are truthful or not. Judges also can point out some of the myths and stereotypes about rape that juries might hold, such as rape always involves physical injuries.

20. Will I get protection?

THE FACTS

After questioning, even when he was arrested and charged, the accused is normally let out on bail. There will be bail conditions applied, that he is not to contact you, perhaps restricting where he can go. (See more on bail conditions under 14. Keeping Informed.)

YOUR RIGHTS

◆ If you think you are in danger tell the police why and ask for protection.

◆ *Witness intimidation is a very serious crime.* If your attacker tries to intimidate you, even in a devious way such as getting his friends to contact you or making silent phone calls, report every incident immediately to the police and also to your SOIT officer, and keep your own record of all dates and details. Don't be fobbed off if the police tell you they can't trace a call from a number-withheld phone. They do have the technology to trace such calls. If your attacker intimidates you, the police should arrest him straight away and either hold him in custody or make his bail conditions stricter.

◆ The police, Victim Support, Council or your housing provider can help make your home safer, although what resources they

give you varies depending on where you live and the degree of danger they think you are in. They can install a special alarm that triggers an emergency police response and brings up the history of violence you have suffered on their computer. They can give you a mobile phone that connects straight through to the police. They can fit a fire retardant box behind your letter box, check your locks and window locks and fit a spy hole. In some cases it may be possible to get a CCTV camera. They can give you a rape alarm such as a fluorescent garlic spray that will make a very loud alarm noise. You can get such things even if the crime you reported happened a long time ago – you may still be considered vulnerable and you are entitled to protection.

◆ If this is not enough protection, the police should put you in a safe house. You may be entitled to re-housing, especially if you are a council tenant, but you'll need an experienced advocate or lawyer to help with this. Ask Victim Support for their help because local authorities can be very bureaucratic and public housing is scarce.

21. Compensation – applying to the Criminal Injuries Compensation Authority (CICA).

The CICA is a government scheme to compensate victims of crime. To be eligible, you must have reported the attack to the police and you must have co-operated in the investigation, for example by giving evidence or trying to help the police identify a suspect.

THE FACTS

◆ You need to apply within two years of the crime. In some cases, such as child abuse, this deadline can be extended, but there has to be a good reason why you delayed. Being under 18 is considered a good reason. Not knowing about the existence of compensation is not considered enough.

◆ You can apply for compensation whether or not the case

goes to court. Even if your attacker is found “not guilty” you may still get compensation. You may be turned down at first, but you can appeal and you may well win in the end.

- ◆ You cannot get compensation if you withdrew the charges, even if you did so under pressure.

- ◆ A compensation claim comes under civil, rather than criminal, law so it has a lower standard of proof than in a criminal court. You don't have to convince the CICA "beyond reasonable doubt" that you were the victim of rape or sexual assault. You only have to convince them "on the balance of probabilities" – in other words, you have to convince them it's more likely than not that you were a victim of a crime.

- ◆ However, many are still denied compensation. Make sure that you give them all the relevant details of your case and any evidence you might have to show that you were the victim of the crime. This will help to determine the application in your favour.

- ◆ The CICA guidelines allow them to take your "conduct and character" into account. They decide whether you are blameless and worthy of public money. You may get less compensation, or none at all, if you have criminal convictions yourself or if the CICA is prejudiced against you. They apply penalty points according to how many years you served in prison; for details, see their guidelines. They are not supposed to deduct money for very minor crimes but since 2012 they do if your conviction is “unspent” (recent).

- ◆ They may also judge your “conduct”, that is, whether they think you contributed to the crime committed against you. In rape, they may try to blame the victim’s behaviour. They are not supposed to blame the attack on you if you used drugs/ alcohol, or if you are or were a sex worker. So if you are refused compensation for any of these reasons you should appeal. We have long been campaigning against this and have helped win many awards.

- ◆ If the case is going to court, the CICA will wait to see whether there is a conviction. But you should not wait for the court to apply, as it may push you past the two year deadline.

- ◆ Getting compensation can take months or even years. The

CICA asks the police for information on your case, and they are often slow to respond.

YOUR RIGHTS

◆ In recent years, WAR has helped coordinate a massive grassroots national campaign to rid the scheme of its discrimination against survivors of sexual offences. We brought together hundreds of survivors who had been refused for different reasons to make a powerful and unified demand for change. This has resulted in some of the worst rules being challenged and defeated in court and the government announced a review of the scheme in 2019. One victory was that the Same Roof Rule was abolished – which had prevented victims who had been sexually assaulted by someone living with them before 1979. This was won in a High Court challenge, and thousands of victims who had been assaulted as children are now entitled to an award. More information about this campaign can be found on our website. We are still fighting against the CICA using a victim's criminal convictions to deny an award for rape.

◆ The police will often not inform you that you can apply for compensation; they say they don't want it to be used against you. (In court, barristers sometimes suggest a woman made up a rape in order to claim compensation.) If you are worried about this, wait to apply until after the case, as long as you get your application in within two years of the assault. Most people hear about it from Victim Support, who can help you to apply. You will have to fill in a form. (See 26. Resources.)

◆ Once you have sent the papers to the CICA, if you do not get confirmation from them within one week, make sure you call them to ask if they have received your application form and documents.

◆ If you haven't heard anything after six months, ring them on their helpline 0300 003 3601 to check that they have received information from the police. If not, ask the CICA which officer they have written to. The police have to provide the information

but you may have to push them to do it. Contact the police yourself, or ask a lawyer or Victim Support to press the police to send the information. If the police still won't act, ask your MP to write to them.

- ◆ You may also have to press your doctor to reply to the CICA's request for information. Compensation claims are often held up by delays in the medical evidence being sent to the CICA.

- ◆ There is a standard amount allocated to rape of an adult, but if you have physical or severe psychological injuries in addition to regular trauma of rape, or if you have had to take time off work, you will need specific documentation to prove this.

- ◆ If you are turned down you can appeal against the decision. We have won many cases on appeal. You have 90 days to appeal a refusal or reduction in the amount awarded.

- ◆ There are two stages in an appeal:

1. The Review: another CICA worker looks at your papers again.

2. If they turn you down again, you can ask for an Appeal Hearing. This is a tribunal: you attend and your appeal is heard by two or three professionals from the community. The CICA will have a lawyer present to oppose your claim.

- ◆ They have cut Legal Aid to get a lawyer to help you prepare the case, and to represent you at your appeal hearing. You are expected to represent yourself or pay a lawyer to do it.

- ◆ At the appeal hearing the police may not turn up, or they may give prejudiced or inaccurate information. The CICA normally takes what the police say as gospel. That is why keeping evidence of conversations, meetings and letters during the investigation can be very important to your claim. Try to talk to the police beforehand. Remind them of what you have suffered. If there are any problems in your case explain why these problems are not your fault and that even if you can't get justice you hope you can at least get compensation.

- ◆ One woman says: *"I was nearly turned down but we put so much pressure on the police that they had to admit the mistakes they made during the investigation. They wrote to the CICA backing my case and we were awarded the full compensation, without having to appeal."*

◆ If the case goes to court the defence may claim that you have falsely alleged rape just to get compensation. Don't let it stop you applying! They can do this even if you haven't applied for compensation. If you find it offensive to imply that you would make a rape allegation for cash, you can make this clear in court.

◆ We helped a woman win after the CICA claimed she had given "misleading signals" to a family friend who later attacked her when she was asleep. Another woman who was initially refused despite having taped the rape (part of a series of rapes by her drunk husband) was also successful following our intervention. Even if you feel let down by the first decision, don't be put off: appeal.

◆ You may be able to get help from Victim Support, Rape Crisis or WAR.

◆ A CICA award may affect your entitlement to welfare benefits or how much you get unless you protect them by creating a Trust. This is important to do, or you may lose out. You should seek legal advice on setting up a trust, and you may have to pay a fee for this. The Trust should be set up within 52 weeks of the award – before then the compensation award is not taken into account when calculating your benefit entitlement. [See Child Poverty Action Group Welfare Benefits and Tax Credits Handbook 2019/20, p490-491, and p498-499, available in print and online]

◆ If you've claimed benefits such as Universal Credit, ESA, PIP, Disability Living Allowance specifically as a result of injuries from sexual violence, the DWP cannot recover any of these benefits retrospectively from Criminal Injuries Compensation that is eventually paid for the attack. And there are strict rules for when and how the DWP can recover benefits. [See Child Poverty Action Group Welfare Benefits and Tax Credits Handbook 2019/20, pg 1208-1209]

◆ You can find law firms who post online basic advice on setting up a Trust. Most want you to pay for their help to do it and some don't state their fee for that, which can vary from £500-£2,000. But it might be worth it depending on your circumstances and what award you get.

22. Complaining about the police.

You can make a formal complaint about your case direct to the police, or through Victim Support or other agencies, or to the Independent Office of Police Conduct (IOPC), which replaced the Independent Police Complaints Commission (IPCC) a few years ago.

THE FACTS

- ◆ To make a complaint to the IOPC you must complete their Complaint Form. at <http://iopc-complaints.egressforms.com>. If you prefer to download the Complaint Form and send it in by email or by mail, instructions are found at <https://www.policeconduct.gov.uk/complaints-and-appeals/make-complaint>. In the Complaint Form, you will be asked details about the incident you are complaining about, including the time frame, where the incident took place, the details of your complaint (what was said and done) and an incident reference number (if you have one, but this number is not compulsory).
- ◆ The IOPC will usually only investigate a complaint themselves if it involves a serious injury or a death in custody. Instead, your complaint is likely to be investigated by your local Department of Professional Standards (DPS), which is a part of the police force dealing with complaints. The DPS do not always record complaints properly, so it's worth making your complaint to the IOPC as they will give you proof it has been received.
- ◆ The burden of proof is on you, the complainant, to prove that there was police misconduct; it is not for the police to prove that they did nothing wrong. So it is important to enclose with your complaint all the proof you have, including statements from any witnesses who can verify your version of events. If you can show there is an element of discrimination it may help your complaint be treated more seriously.
- ◆ Try to draft your own statement of complaint. The investigating officer from the police will ask to meet with you to take a statement but sometimes they do not record all the relevant details or emphasise your concerns. Make your statement

as clear as possible. Outline everything that took place in chronological order and end with a summary of all your points, what you want investigated and questions you would like answers to.

- ◆ After the complaint has been investigated, if you are unhappy with it you have a right to appeal to the IOPC. This will usually only be successful if you can show that the police withheld information you were entitled to, or if some of the points you raised have not been investigated, or if you can show why you disagree with any findings or disciplinary action imposed.

- ◆ After the complaint has been investigated, if you are unhappy with it you have a right to appeal to the IPCC. This will usually only be successful if you can show that the police withheld information you were entitled to, or if some of the points you raised have not been investigated, or if you can show why you disagree with any findings or disciplinary action imposed.

- ◆ The IOPC does not conduct the investigation again. They will only consider the investigation by the DPS and whether it has been correctly conducted. If they decide your matter has not been properly investigated, they usually ask the officer who investigated your complaint to conduct further work.

- ◆ If successful, a complaint against the police can result in disciplinary action against the officers. It will not lead to compensation. It is highly unlikely to result in re-opening the prosecution against your attacker unless it demonstrates that there is new evidence of the rape or sexual assault – evidence that has not been considered by the police.

- ◆ The IOPC and DPS are widely criticised for nearly always endorsing the police, even when there is strong evidence against them, and for making wishy-washy recommendations. It is too early to evaluate the IOPC, but early indications are it is no better than its predecessor the IPCC. Send WAR a copy of your complaint.

YOUR RIGHTS

◆ The more we insist on our rights, the more accountability we are likely to get. Complaints from victims of rape and domestic violence have increased, which is good, but we have not seen any indication that this resulted in justice.

◆ If things are going wrong during the investigation, complain immediately to the Detective Inspector (DI) in charge of the unit dealing with your case. Keep a record of the call, including the date, their rank and name (ask them to spell it). Tell them you will get legal advice. If your investigating officer is a DI and you need to complain higher up, contact the Chief Constable or Borough Commander. You can get their name from the website of the local police force.

◆ You can make a complaint at any stage of the investigation – if you feel it's not being dealt with seriously, you can make your complaint formally to the IOPC which will then appoint a DPS officer to consider it.

◆ However, if you start the process of making a formal complaint while the case is still being investigated, it may hold up the investigation. Alternatively, they might decide that the complaint cannot be considered whilst the criminal investigation is ongoing, and the complaint might be put on hold. So instead of making your complaint right away, you might want to warn them that you intend to make a formal complaint after the case is settled. This may help the police stay focused on the job and on dealing with any problems.

◆ In police complaints procedures, the emphasis is usually on smoothing things over and trying to make you feel better about what has happened, rather than correcting it or changing police practices. Don't be fobbed off by what they call "local resolution", this usually means the police make a verbal apology in a meeting with you without admitting they did anything wrong. They say things like, "we are sorry if you felt that way or had that impression ..." implying you are too emotional or are over-reacting.

◆ Get outside help. To make a formal complaint, an experienced

lawyer is invaluable. If you qualify for Legal Aid it should cover your costs. Even if you can't get a lawyer, you can get others to help you – e.g. your MP, Victim Support, Rape Crisis, WAR. In some extreme cases, you may be able to sue the police, but this is much harder because only certain things they do are considered unlawful. So find a lawyer experienced in actions against the police.

- ◆ Be sure to make your points in writing or by email so the police cannot deny or misquote what was said over the phone. Having a written record can make all the difference.

- ◆ Keep a copy of your letter. Send a copy to your MP, to Victim Support and to WAR, and put it in the letter that you are doing so. Your MP is supposed to back you up if you ask for help. They have the power to press for answers from the police, and they will always get a reply. Some MPs are more helpful than others. Some just pass on to you whatever the police tell them. Even if your MP doesn't want to help, it is good for the police to know that the MP and others have been informed. Ask your MP for a copy of any letter they write and any response.

23. Complaining to the CPS. Victim's Right to Review.

THE CPS SAYS

We aim to deal with complaints sensitively, fairly and in confidence. If your complaint is justified we will apologise, try to put the matter right and take steps to ensure it does not happen again.

THE FACTS

It is not easy to get the CPS to apologise and even harder to get them to “put the matter right”. But we have occasionally succeeded in getting them to re-consider cases they had closed. There is a complaints procedure and a Victims Right to Review (VRR).

There are three stages to the complaint procedure:

- Write the complaint to the CPS office that originally dealt with your case.
- If you are not happy with the response, write to the Chief Crown Prosecutor in your area saying so.
- If you are still not satisfied write to CPS Correspondence Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS Tel: 020 3357 0899 enquiries@cps.gsi.gov.uk They may then send it on to the Director of Public Prosecutions or Chief Executive.

◆ OR, you can apply for a **Victim's Right to Review**. You can apply for it online. A different specialist prosecutor at the CPS would look at the evidence and see whether they would have come to a different decision. It's not for them to get or order more evidence, but they can look at new evidence. Read their Guidance carefully to see if this VRR Scheme applies in your case: <https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme>

YOUR RIGHTS

◆ If your case has been dropped you are entitled to know the reasons why. You have a right to meet with the CPS office that dealt with your case. But when arranging any meeting, ask them to confirm in writing beforehand that this will not mean your case has no chance of being re-opened or getting to court. This may limit what they can discuss with you.

◆ Go to this meeting, question them closely, record it or take good notes. What they say may give you clues, for instance, about what your attacker or some witnesses have said to discredit you. The CPS may have believed them and you may be able to put them right.

◆ Take someone with you, ideally a solicitor or trusted friend. Make sure you understand everything they say – don't let them demoralise you or make you feel foolish with their legal jargon.

◆ This meeting is in most cases only for them to explain their

reasons for dropping the case. They may be very nice but tell you straight out that they will not change their minds and that their decision is final whatever you say.

- ◆ They may tell you that you cannot appeal. If they do, don't listen to them. You might still be able to challenge their decision legally by taking it to "judicial review" – see below. A lawyer can advise you about this.

- ◆ Consider carefully whether you think there is a chance of getting a conviction at the end of it, and if you have the energy to follow through on this.

- ◆ If you really want to press for your case to be re-opened, some possible avenues are:

1. Think about what NEW evidence there could be. If you have evidence that wasn't available before, or was not gathered by the police, this can be a basis for re-opening a case and arresting a man even if he was told he wouldn't be prosecuted. After years of pressing the police and CPS, and always being refused, one woman found a duvet cover, still soiled by the rapist, at the back of a cupboard, got it privately tested and the case was re-opened as a result.
2. A specialist lawyer experienced in actions against the police may help you uncover new evidence or present the case to the CPS better than the police did. They can ask for a formal review of the decision, or they can legally challenge — "judicially review" — the decision, that is, take it to a high court. This must be done promptly and in any event no later than three months after the decision. The High Court has been known to refuse cases even within the limit if they considered them not to be "timely". This does not mean that the High Court will say that the prosecution has to be re-opened, but a finding that the decision was "unlawful" or "irrational" will usually result in this. It is vital you contact a lawyer as soon as possible. (See 26. Resources.)
3. Go to the media. If the CPS knows that a newspaper or TV programme is scrutinising the basis for their decision, they may be ready to reconsider. If you have a strong case, you don't even have to go through all the

stages of a formal complaint first. You might be fast-tracked.

If you have got to the end of the complaints procedure, the complaint can be referred to the Attorney General, but this is only to ascertain whether the CPS followed procedures correctly.

One woman got her story published.

"The newspaper published the graphic diary of Beth Ellis, who says she was raped as a child by her stepfather. She detailed the way police and prosecutors mishandled her case and refused to take any action against her alleged assailant. The CPS . . . agreed that the inquiries by South Wales police were "not thorough" and "not an acceptable standard". It called for local prosecutors to work alongside them in "a much more proactive role". (Guardian 9 April 2008)

The police were instructed to make a thorough review of the case, and the CPS then reconsidered whether to prosecute, on the basis of this new investigation.

24. Complaining about the judge.

THE FACTS

◆ Judges are meant to oversee a trial impartially, ensure the rules of law are enforced and explain the details and meaning of the law to the jury. They also give a summing up of the evidence presented before the jury decides on whether the accused is guilty, and after that they say what sentence the accused should serve.

◆ Only judges who are senior enough and have had specialist training are allowed to sit in rape trials. They are called "rape ticketed" judges. Over the years, women's protests and public outrage at biased rulings have made judges more careful.

However even recently some women have said the judge was biased towards their rapist.

YOUR RIGHTS

- ◆ If you feel the judge is biased against you, as some women do, you can complain. But very few complaints are upheld. No rape ticketed judge has ever been removed from sitting on rape trials, to our knowledge.
- ◆ If you decide to complain about the judge's decisions in your case, seek help from a lawyer.

25. Can I sue my attacker?

- ◆ You can take your attacker to court for damages (another word for compensation). This would be a civil rather than a criminal case, so the level of proof needed to succeed is lower. He would not go to prison, but if the judge finds in your favour, the attacker would have to pay you an amount set by the court. It is only worth doing if he has enough money to pay your damages and cover your legal costs. If you think this is worth doing, consult a sympathetic solicitor.
- ◆ You can sue someone else who is responsible for putting you in danger. For example, recently some victims of child abuse sued a local authority (London Borough of Hackney) for “breach of duty of care” when the council fostered them with a rapist.

26. Resources & help.

- ◆ Women Against Rape does not offer traditional, one to one counselling. We believe that fighting for justice is one way to recover from sexual and domestic violence. If you are looking for one to one counselling, you can contact Rape Crisis Centre who will put you in touch with your local branch or nearest counselling or therapeutic service. <https://Rapecrisis.org.uk>

- ◆ To find your nearest Sexual Assault Referral Centre www.nhs.uk/Service-Search/Rape-and-sexual-assault-referral-centres/LocationSearch/364
- ◆ When you first report to the police, they should give you a booklet of useful information, including where to get other support.
- ◆ Independent Office for Police Conduct www.policeconduct.gov.uk
- ◆ For information about how quickly things should happen and when you should be informed, see The Code of Practice for Victims of Crime, A Guide for Victims www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime
- ◆ Crown Prosecution Service (CPS), Rose Court, 2 Southwark Bridge, London SE1 9HS Tel: 020 3357 0899. enquiries@cps.gsi.gov.uk
- ◆ The rules the CPS is supposed to apply are in the Code for Crown Prosecutors www.cps.gov.uk/publications/docs/code-for-crown-prosecutors
- ◆ Criminal Injuries Compensation Authority <https://www.gov.uk/claim-compensation-criminal-injury> Tel 0300 003 3601
- ◆ To find out your MP's name www.theyworkforyou.com, or call the House of Commons on 020 7219 3000. Most MPs have a website, where you can get the details to visit their surgery (usually weekly or every two weeks). Take someone with you.
- ◆ To find a solicitor in your area who specialises in actions against the police, contact the Law Society on 020 7242 1222 or go to www.lawsociety.org.uk but this is not easy and we may be able to help you find a good one.
- ◆ For advice, support or a refuge space, call 24-hour National Domestic Abuse Helpline: freephone 0808 2000 247. Or see <https://nationalhelpline.org.uk>.

- ◆ For info and help on non-molestation orders:
<https://www.gov.uk/injunction-domestic-violence>;
<https://www.womensaid.org.uk/the-survivors-handbook/getting-an-injunction/#1447866353477-75b7be82-883e>;
<https://rightsofwomen.org.uk/wp-content/uploads/2014/10/guide-to-domestic-violence-injunctions.pdf>
 Or National Centre for Domestic Violence.

27. Glossary of terms

- ABE:** Achieving Best Evidence, a term given to rape victim's video statement
- CAB:** Citizens Advice Bureau
- CICA:** Criminal Injuries Compensation Authority, a statutory body set up to pay compensation to victims of crime
- CPS:** Crown Prosecution Service
- DC:** Detective Constable
- DI:** Detective Inspector
- DPP:** Director of Public Prosecutions, the head of the CPS
- DPS:** Department of Professional Standards, which polices the police
- DS:** Detective Sergeant
- GBH:** Grievous Bodily Harm, a legal term for assault causing serious injury
- GP:** General Practitioner, or doctor
- Haven:** The Havens are specialist SARC centres in London
- HMIC:** Her Majesty's Inspectorate of Constabulary, government body that monitors the police
- ILOPC: Independent Office for Police Conduct**
- Legal Aid:** money for the legal costs of people without savings or on very low incomes
- MP:** Member of Parliament
- OIC:** Officer in the Case, the officer in charge of the investigation, also called Investigating Officer
- PC:** Police Constable
- PCHM:** Plea and Case Management hearing

Project Sapphire: Metropolitan Police unit which specialises in investigating rape and sexual assault

PS: Police Sergeant

PTWI: Pre-trial witness interview, conducted by the CPS

Rape Crisis: services for women and girls who have been raped or sexually assaulted

Rohypnol: a drug which has been used to facilitate rape

SARC: Sexual Assault Referral Centre, a specialist medical centre for people who have been raped or sexually assaulted

SOIT officer: Sexual Offence Investigation Trained police officer

28. Sample summary of a case.

I need help with a complaint about a police rape investigation. We live in the county of P...In 2019 my daughter was raped when she was 16 by an older man who lives locally. It went to court but he was found not guilty earlier this year. The police made a lot of mistakes, e.g. lost evidence and messed up her video statement. Police apologised verbally for errors. We want to complain to try to prevent this happening to anyone else and also it should be on record so that if he intimidates her or threatens her we can get some protection. Do we need a solicitor with experience of police complaints? We don't have much money, so are there any who are willing to help with the complaint on legal aid? Should we complain to the police station or to the IOPC? How do we do this? Is there a specific format to follow or form we need to fill in? Also my daughter really needs counselling – has been through hell, and now is using drink, drugs, and self-harming. She got in trouble at school and I am worried she will get in trouble with the law. We found an organisation which provides 10 weeks of counselling, but they have a 7 month waiting list.

29. Sample diary of events and dealings with the authorities.

23 September: Reported rape at Paddington Green Police station by man I met in a pub called The Black Swan. He said his name was JS. Spoke to SOIT officer PC NAME, Shoulder number ... Planning to do video ABE statement

24 September: Taken to SARC, Paddington for examination, then taken home

28 September: Did ABE with PC [NAME] – it took 7 hours!!

12 October: Got 3 calls between 1-3am. Number withheld, nobody spoke. Reported to police by phone.

14 October: Investigating officer is called DC [NAME]. He says they think they found the attacker, and wants me to attend the station to ID him later today.

Women Against Rape

WAR was founded in 1976. It is independent of the police, the CPS and the Home Office. It receives no funds from them. Its services are based on self-help and it provides support, legal information and advocacy.

It campaigns for justice and protection for all women and girls, including asylum seekers, who have suffered sexual, domestic and/or racist violence.

WAR has won changes in the law. Its 15-year campaign succeeded in making rape in marriage recognised as a crime. It has set legal precedents, including by working on the first successful private prosecution for rape in England and Wales. And it has secured compensation for many, many women. This work has helped to change the attitudes to rape of both individual women and men, and of institutions.

When acting in individual cases, WAR takes account of the implications for other cases. It aims to make each individual advance useful to others who are seeking justice.

For more information:

Women Against Rape

Crossroads Women's Centre

25 Wolsey Mews, London NW5 2DX

Tel: 020 7482 2496 minicom/voice Fax: 020 7209 4761

<https://againstrape.net> war@womenagainstrape.net

@Againstrape

May 2020

Rape survivors can insist on their rights.

This Guide aims to fortify rape survivors when pursuing justice. It suggests ways of tackling obstacles that may be put in the way of those who report rape. It is based on decades of experience of survivors working with advocates on their cases and campaigning together for justice.

What people say about the Guide:

'This Guide is lucid, it is clear, it is to the point. I recommend it.'
Ian Macdonald QC

'People will grow in confidence and feel less intimidated by the authorities.' **Sally Freeman, mother of rape survivor**

'I've learnt that I am not the only one challenging corruption, lies, bias and incompetence.' **Anoushka Arabella, rape survivor**

'All who work with survivors should have this Guide.' **Annie Rose, Independent Sexual Violence Advocate, Respond**

'An incredibly useful tool for anyone who has been raped.'
Debaleena Dasgupta, solicitor

'Knowing our rights can make the difference between winning and losing.' **Cristel Amiss, Black Women's Rape Action Project**

'Will be read by men supporting partners and friends, women and men, who are rape survivors.' **Giorgio Riva, Payday men's network**

<https://againstrape.net>