

Executive summary

This report aims to identify barriers to reporting sexual assault and ultimately inspire social and institutional change to reduce or eliminate these barriers.

CHANGES IN THE JUSTICE SYSTEM and in society are urgently needed to offer viable paths to justice for all survivors¹ of sexual assault in Canada — almost 90% of whom are women.² Only about 5% of sexual assaults are reported to police,³ and only 11% of the cases that are reported eventually lead to a conviction.⁴

This report, which focuses on the experiences and insights of sexual assault survivors, aims to identify barriers to reporting sexual assault and ultimately inspire social and institutional change to reduce or eliminate these barriers. The 18 women whose voices are at the heart of this report described a range of negative, positive, and ambivalent experiences with the criminal justice system; they revealed factors that informed their decision about whether or not to report; and they shared their vision for making the system more responsive to survivors' needs.

Although only a small number of sexual assault survivors report to police, many others perceive benefits in reporting, including personal empowerment, validation, perpetrator accountability, and a chance to try to prevent the perpetrator from offending against others. Most participants in our project ultimately determined that the risks and costs of reporting outweighed the possible advantages for them and pursued a different course of action.

1 We recognize that not everybody who has experienced sexual assault identifies as a “survivor.” Some people may prefer “victim” or another term, while others do not wish to label themselves based on their experience. For the sake of concision, we have used the word “survivor” to refer to people who have been sexually assaulted.

2 Canada, “GSS”, Canada, Juristat, *Criminal Victimization in Canada, 2014*, by Samuel Perreault, Catalogue No. 85-002-X (Ottawa: Minister of Industry, 2015) at 6.

3 *Ibid* at 40.

4 Canada, Statistics Canada, *From Arrest to Conviction: Court Outcomes of Police-Reported Sexual Assaults in Canada, 2009 to 2014*, by Cristine Rotenberg, Catalogue No. 85-002-X (Ottawa: Canadian Centre for Justice Statistics, 2017) at 3.

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The women we spoke with identified a number of factors that made them disinclined to report sexual assault to police, including:

- **SOCIO-CULTURAL ATTITUDES** that minimize the seriousness of sexual assault and expose survivors to blame, shame, skepticism, and stigma. Immersed in such a culture, survivors may internalize victim-blaming messages and may hesitate to label the assault as violence. Although research shows that false allegations of sexual assault are rare — occurring at a rate of 2% to 10%,⁵ similar to the rate for other offenses⁶ — there is a culturally entrenched skepticism about sexual assault that does not seem to apply to other crimes. Therefore, survivors may fear that they will be met with unsupportive responses if they disclose their experience to others. (Part 5)
- **SURVIVORS' BELIEFS AND VALUES ABOUT THE JUSTICE SYSTEM**, often based on prior unsatisfactory experiences. A number of women who participated in this project expressed deep misgivings about the legal system's prejudices, its treatment of perpetrators, and the types of remedies it can offer. (Part 6)
- **CONDUCT OF INDIVIDUALS** working in the criminal justice system, which can either exacerbate or ease the intense stress involved in reporting. One of the most significant barriers to reporting shared by project participants was problematic treatment by police, lawyers, judges, and other justice system personnel, which can take many forms, including failure to communicate clearly and consistently with complainants; insensitive remarks; and adoption of myths and stereotypes about sexual assault. Conversely, a number of women also highlighted instances where criminal justice system actors were exceptionally helpful. (Part 7)
- **PERSONAL REPERCUSSIONS** of reporting, including the risk of retaliation by the perpetrator, privacy violations, impacts on financial security and employment, and a range of unwanted legal ramifications. (Part 8)
- **CONCERNS ABOUT THE CRIMINAL JUSTICE SYSTEM PROCESS**, from police report to trial. Many participants expressed concerns about the legal viability of their case, demands on their time and energy, psychological impacts of reporting and testifying (particularly the risk of re-traumatization), and limited control and choice. They also proposed measures to make the justice system process more survivor-centred. (Part 9)

5 David Lisak, Lori Gardinier, Sarah C. Nicksa, and Ashley M. Cote, "False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases," (2010) 16.12 *Violence Against Women* at 1331.

6 Government of Alberta, *Best Practices for Investigating and Prosecuting Sexual Assault* (Edmonton: April 2013), justice.alberta.ca/programs_services/criminal_pros/Documents/SexualAssaultHandbook-PoliceCrown.pdf at 16.

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Barriers to reporting are often compounded for survivors who experience systemic patterns of discrimination, as is the statistical probability of being sexually assaulted in the first place. The risk of being blamed or automatically disbelieved — in the justice system, as in the rest of society — is particularly acute for survivors who are marginalized based on race, Indigenous identity, class, occupation, disability, age, gender identity and expression, and/or other aspects of identity. Women with past negative experiences in the justice system, including overt or implicit discrimination or even abuse, may understandably lack trust in the system and feel reluctant to contact police in the aftermath of sexual assault. Furthermore, the drain of time, material resources, and emotional and physical energy involved in reporting may carry disproportionate consequences for women whose daily survival is already a challenge, such as single mothers living in poverty.

Participants' views of the criminal justice system and their experiences interacting with that system varied significantly. However, they tended to agree on the benefits of offering choices to survivors, adopting trauma-informed practices, improving access for diverse women, providing support services, and ensuring that the rights of complainants are not totally overshadowed by the rights of the accused.

The Canadian justice system can and must become more responsive to the needs of survivors. It can and must receive and handle all reports of sexual assault with the seriousness and respect they require. It can and must communicate to survivors that their rights matter — that *they* matter. Most importantly, it can and must put the voices of survivors and the human rights of all at the centre of justice system reform.

Now is the time to dismantle the barriers to reporting sexual assault, with survivors' knowledge guiding the way.