



**BENTON COUNTY
SEXUAL ASSAULT RESPONSE TEAM (SART)**

**FREQUENTLY ASKED QUESTIONS AND RESPONSES
TO SEXUAL ASSAULT.**

March 2019

1. If a person experiences a sexual assault, what are the survivor's options?

There are many options for a person who has experienced sexual assault. Benton County believes in a survivor's right to choose the option that is best for them.

Below are just a few options:

Meet with an advocate to discuss options through the [Center Against Rape and Domestic Violence \(CARDV\)](#) or [Oregon State University Survivor Advocacy and Resource Center \(SARC\)](#). Both of these resources are confidential.

Medical options include a Sexual Assault Forensic Examination (SAFE) or a medical exam. Locally, this process can be completed at [Sarah's Place](#) or Oregon State University [Student Health Services](#). If the crime does not require mandatory reporting (see questions 4 and 5) the SAFE can be anonymous.

Meet with law enforcement to explore options, ask questions about the process and the criminal justice system, and hear about other resources. There are many options during the law enforcement process. (See question 7).

2. Can I talk to someone to get more information without having to make an official report?

YES. You may contact any or all of the below agencies (see links):

- [Sarah's Place \(Medical Care\)](#)
- [CARDV \(Center Against Rape and Domestic Violence\)](#)
- [SARC \(Survivor Advocacy Resource Center- OSU\)](#)
- [EOA \(Office of Equal Opportunity and Access- OSU\)](#)
- Law Enforcement
 - [Benton County Sheriff's office](#)
 - [Corvallis Police Department](#)
 - [Philomath Police Department](#)
 - [Oregon State Police](#)
- [District Attorney's Office](#)

3. If I have a Sexual Assault Forensic Exam (SAFE), do I have to report?

No.¹ A person does not have to report to law enforcement to have a SAFE Kit collected. A person has the option to have the SAFE Kit collected and stored anonymously. The SAFE Kit will be stored in evidence for up to 60 years.

A person always has the option to go back and report at a later date. If they decide to formally report, the SAFE Kit will be tested at that time. If the person chooses not to report, the SAFE Kit will not be tested. (See question 1, 2, and 7 concerning reporting options)

4. If the survivor is a minor (under age 18):

- a. Will the survivor's parents find out if they get a Sexual Assault Forensic Exam (SAFE)?

Patients between the ages of 15 and 18 can consent to the SAFE exam without involving their parents because it falls into the category of reproductive health services.

- b. Will a survivor's parents be notified if Law Enforcement is involved?

Law enforcement may be required in certain circumstances to contact a minor's parents or other responsible adult. Keep in mind that every situation is different. Survivors are encouraged to communicate with law enforcement any concerns they have and if a survivor does not wish their parents notified. Law enforcement will do their best to respect a survivor's wishes about parental notification.

5. What is "mandatory reporting?"

Certain individuals must make a report to law enforcement for crimes involving minors (persons under age 18), people over age 65, and vulnerable adults (adults with disabilities).

A survivor still has options even if law enforcement is notified. (See question 1, 2, and 7 concerning reporting options)

¹ The options under the law may be restricted due to mandatory reporting (minor-under age 18, vulnerable or elder adult) or domestic violence mandatory arrest laws. See question 5.

6. Does a sexual assault need to be immediately reported?

No. Actually most people wait to report when they have experienced sexual or intimate partner violence. Two large scale studies (National Women's Study and the National Violence Against Women Survey) found that only ¼ report the crime within 24 hours while most delay reporting their experience due to a variety of psychological and neurobiological reasons; such as struggling to remember details, increased negative feelings when they think about it; or worry about how it will affect their family or friends.

Many law enforcement officers are trained to understand that people who experience sexual assault may not immediately report. However, please consider the length of time before reporting the assault can affect what type of evidence may be available and physical evidence or witness information may be lost over time.

7. What are a survivor's options if law enforcement is involved?

You have options.² Law Enforcement wants to work with a person to listen to what they want to happen and how far a person wants to participate in the process. A person will be consulted throughout the process in what steps are taken and what they want to see happen. Law Enforcement will listen and respect a person's wishes and a person may change their mind at any time.

Some options include:

-Consultation with law enforcement to understand the process without making a formal report.

-Make formal report to law enforcement for documentation of the incident only (no follow up investigation)

-Make formal report to law enforcement, law enforcement conducts investigation, but no referral for criminal charges to District Attorney's office for potential criminal charges.

-Make formal report to law enforcement, law enforcement conducts investigation and refers to District Attorney's office for potential criminal charges.

The District Attorney's office will review the investigation and consult with the person about how the matter can proceed.

² The options under the law may be restricted due to mandatory reporting (minor, vulnerable or elder adult) or domestic violence mandatory arrest laws.

8. What if the sexual assault involved drugs or alcohol? Will a survivor or witness get in trouble for using such?

It is not unusual for victims, witnesses, or suspects to have consumed some type of alcohol or drug. The consumption of drugs and alcohol by either party do not control what will happen in a case.

In many instances, law enforcement is concerned with the more serious crime of sexual assault or violence.

9. If the sexual assault survivor was drinking or using drugs, how are you able to determine they were assaulted?

Evidence of a sexual assault comes from multiple sources and Law Enforcement has a number of ways to investigate a case. In addition to a survivor's statement, further evidence may be in the form of witness statements, scientific evidence, medical evidence, changes in behaviors, technology, etc... If a survivor does not remember or was physically helpless during the sexual assault, this evidence can sometimes stand on its own.

Even if there were no additional evidence, in the criminal justice system, one person's word, if believed, is enough to prove any fact. If a survivor says they were sexually assaulted, that can be enough evidence to proceed.

10. Will a sexual assault survivor be believed if they don't recall all details or fail to tell all the details at once?

Law enforcement approaches any case with an open mind and begin the investigation with the presumption that the information reported is accurate.

Many law enforcement officers are trained to understand that people who have undergone traumatic experiences may have difficulties in talking about or remembering an event. A part of that training includes the fact that not all details will be remembered and that memory is a dynamic process which may result in additional information or details being recalled at a later time.

11. The sexual assault happened a while ago. Can a person still make a report to law enforcement? Will the person be seen as less credible given the length of time? (How long after the incident, can a person make a report?)

A person can make a report to law enforcement at any time after the sexual assault, even years after. It is normal for most survivors not to report right away. The length of time before reporting the assault can affect what type of evidence may be available, but it does not automatically make a person not believable. Law Enforcement is trained to know there are a number of reasons why a person doesn't report right away.

It is often the case that sexual offenders have offended in the past and continue to offend. Even if a survivor does not wish to prosecute or the case cannot go forward, a report can help other survivor's cases or to locate an offender or develop a pattern of evidence that can be used against an offender.

12. If police ask questions about what the survivor was doing that day/night, does it mean they don't believe the person? Why are they interested in what the survivor was doing rather than asking about what the other person did?

Questions of what the survivor was doing do NOT mean Law Enforcement does not believe the survivor. Law enforcement is trained to ask questions that address many aspects of the incident. Some of those questions may seem challenging and confusing.

If a person is concerned by a question or curious as to why the officer wants to know, please ask. The officer will let them know their line of reasoning which lead to that question.

13. What constitutes "consent" to a sex act?

There is no legal definition of what it means to "consent" to a sex act in Oregon. The law uses a common sense approach and looks at the total circumstances. No situation is like another and the law accounts for this.

A person can withhold consent either verbally or non-verbally. Meaning, if someone says "no" or "stop" or puts up physical resistance this can show a lack of consent.

But a person does NOT have to verbally or physically resist a sex act to show lack of consent. ([ORS 163.315](#)). This means a person does not have to say "no" or "stop," and does not have to hit, kick, push, or do any other act to resist. However, the lack of resistance may be considered to determine if the sex act was consensual.

A person can also be incapable of giving consent in the following 5 ways under Oregon Law:

- 1) If forcible compulsion is used: Meaning use of physical force or a threat that places a person in fear of death or physical injury to themselves or others or if the person fears they will be kidnapped. [ORS 163.305\(2\)](#)
- 2) If the person is “mentally defective:” Meaning the person suffers from a mental disease or defect that renders them incapable of appraising the nature of their conduct. [ORS 163.305\(3\)](#)
- 3) If the person is “mentally incapacitated:” meaning the person is rendered incapable of appraising or controlling their conduct at the time of the offense. [ORS163.305\(4\)](#)
- 4) If the person is “physically helpless:” meaning a person is unconscious or for any other reason physically unable to communicate unwillingness to an act. This includes when someone is sleeping or intoxicated to a point of physical helplessness. [ORS163.305\(5\)](#)
- 5) When someone is under the age of 18, they cannot by law consent to sexual activity. [ORS 163.315](#).

14. Can a survivor get a restraining order against the person who did this?

It Depends. A restraining order, referred to in the legal process as a protection order is a way the court can prevent contact. There are several kinds of protection orders with different qualifications.

Please see the link below for more details on protection orders:

<http://www.dvrc-or.org/wp-content/uploads/2017/11/CivilRestrainingOrders.pdf>

15. How long will the criminal justice process take? How much will the process interfere with a person’s life? Why does it take the time it does?

The length of time for the criminal justice process can vary depending on a number of factors.

The investigation may take time due to the need to interview involved parties, the processing of forensic evidence (if applicable), and the complexity of the investigation. If you have concerns about what is happening or the time of an investigation, please talk to law enforcement.

The court system may also take time due to availability of the court and the many parties involved, including the victim, the witnesses, the Defense Attorney, the District Attorney, and the Judge. If you have concerns about what is happening or the time of court process, please talk to the District Attorney handling the case and/or the assigned victim advocate.

The impact on a person's life is individual and no one will have the same experience. It can include time away from jobs, schooling, family, friendships, and other responsibilities. There may be impacts on a person's emotions, health, and day-to-day activities. It is important to find balance and support. Resources in the community may be helpful. (see question 19)

16. Does a survivor have to talk to the defense attorney/investigator?

A victim³ and witness have a choice whether to talk to a Defense Attorney or Defense Investigator. They have the right NOT to talk, they also have the right TO talk to them. Additionally, a victim has a right to have an advocate and/or District Attorney present with them if they choose to talk to a Defense Attorney or investigator.

Always be sure you know who wants to talk with you. Its good practice to ask the person's name and who they work for. If they say they work for the DA's office, you can ask which DA's office-the Defense Attorney's office or the District Attorney's office?

If you are unsure about the person or situation, get a name and phone number and give yourself time to think and ask any questions of others. For instance, you can call the District Attorney's office or CARDV to see if they know the person.

17. Will the defendant have access to survivor's counseling records?

A defendant generally will NOT have access to counseling records. There are laws in place to protect counseling records and limit others access. However, this is not a blanket protection and there are some exceptions. Keep in mind that even if access is allowed, this doesn't mean this evidence is admissible or usable in a court case.

18. If a survivor's case goes to court, will the survivor have to testify in the same room as defendant?

If a matter proceeds to a trial, a Defendant has the constitutional right to confront witnesses who testify. This means witnesses must testify in court with the defendant present. Don't panic. Remember, in the court process you are never alone. There are number of services offered to lessen any impact or anxiety.

³ In the criminal justice system, a survivor of sexual assault charges has the legal title of "victim." The legal title of "victim" confers certain rights and is not intended to disparage.

19. Is What I'm Feeling Normal?

A survivor of sexual assault may experience a range of conflicting feelings and emotions. There is no “one” way to feel and these may often change. A survivor can reach out to support services to discuss these. There are many resources available. The links below are only a few examples.

[Oregon Attorney General’s Sexual Assault Task Force](#)

[Rape, Abuse & Incest National Network \(RAINN\)](#)

[CARDV](#)

[SARC](#)

[Oregon Crime Victim and Survivor Services](#)

20. What if the survivor is an OSU college student or staff, what services are available on campus?

OSU has several resources available for students and staff impacted by sexual misconduct, including incidents of sexual assault, domestic violence, and stalking. The resources may be confidential.

Confidential resources available include:

[The Survivor Advocacy Resource Center \(SARC\)](#), located at: 311 Plageman Hall

[Counseling and Psychological Services \(CAPS\)](#) (students only), located at: 500 Snell Hall

[Student Health Services \(SHS\)](#) (students only), located at Plageman Hall

For information about reporting to the University, contact [EOA](#) or email: equal.opportunity@oregonstate.edu

21. How can friends watch out for each other when going out together?

Below are two links from Rape, Abuse & Incest National Network (RAINN) concerning safety

<https://www.rainn.org/articles/steps-you-can-take-prevent-sexual-assault>

<https://www.rainn.org/articles/your-role-preventing-sexual-assault>