

Special duties of a prosecutor

Prosecutors have a special duty in rape cases to provide information to the rape survivor which can help reduce the trauma of the trial. Special arrangements can be made for the rape survivor. For example, the trial does not have to be held in a court room, you can give your information from behind a screen and you can have a person with you to support you during the trial.

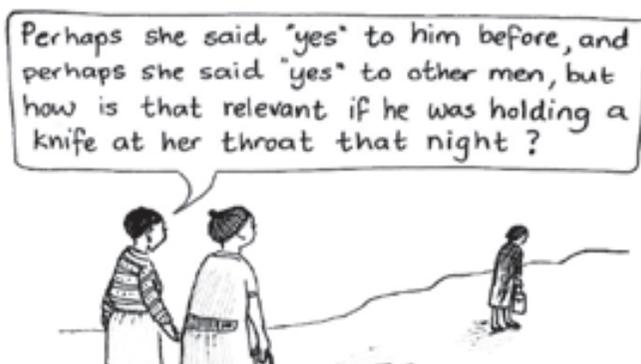


Bail

- The rape survivor should be informed if the accused rapist applies for bail. The rape survivor should tell the police if the rapist has made any threats. The court will consider this information, and the rapist will probably not be released on bail if he might be a danger to the rape survivor.
- Even if the rapist is given bail, he is *not allowed to have any contact* with the rape survivor. If he does, the rape survivor should tell the police and the rapist will be arrested and held in custody until the trial is over.

Privacy

The court is supposed to be closed to the public during the entire rape trial unless the rape survivor requests an open court. You should speak to the prosecutor about this if the trial in your case is not being held in private.



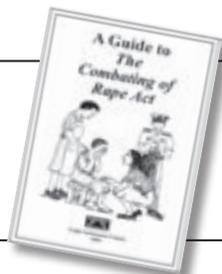
Reputation

The court will not listen to any evidence about the character or "sexual reputation" of a person who has been raped. There are very strict limits on questions that can be asked about the sexual history of the person who has been raped.

Punishment for rape

- If a person commits rape for the first time, they can be sent to prison for 5, 10 or 15 years.
- If this person rapes someone again they could be sent to prison for 10, 20, 45 years or for life.
- If the rapist knows that he or she is HIV+, the sentence given will be the most severe. The rapist could also be charged with attempted murder.
- If the person who commits a rape is under the age of 18, the judge will decide what punishment fits the crime. There is no minimum sentence for people under the age of 18.

For more information see the Legal Assistance Centre's *A Guide to The Combating of Rape Act*.



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Pocket GUIDE THE COMBATING OF RAPE ACT



Gender Research and Advocacy Project
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What is rape?

Rape is "the intentional commission of a sexual act under coercive circumstances."

Both men and women can be raped.

A "sexual act" can be:

- the insertion (to even the slightest degree) of the penis into the vagina or anus of another person
- the insertion of the penis into the mouth of another person
- the insertion of any other part of the body into the vagina or anus
- the insertion of any object into the vagina or anus
- cunnilingus, which is oral stimulation of the genitals
- any other form of genital stimulation.

“Coercive circumstances” means that a person is forced or threatened by:

- physical force or threats
- threats to cause another type of harm
- being unable to escape from a situation
- being unable to understand or prevent the situation, such as where a person is drunk/drugged/asleep/disabled
- the person pretends to be someone else or pretends what is happening is not a sexual act
- more than one person is used to intimidate the person into having sex
- one person is under the age of 14 and the other person is more than 3 years older.

Age of consent

By law, if someone under the age of 14 has sex with someone who is 3 years older than them, this is automatically rape.

An example of the age of consent:

If Jane, who is 13 years old, has sex with Simon, who is 18 years old, Simon can be accused of rape even if Jane agreed to have sex.

Changing your mind

Even if you both agree to a sexual act at the start, if one of you says “no” at any time and the other person continues, it becomes rape.

Rape within marriage

Marriage does not prevent rape. If a husband forces his wife or a wife forces her husband, it is rape. Rape is rape whenever a person says no or is coerced into sex.



A rape is a rape... even within a marriage!

What to do if you are raped

Keep the evidence

- Do not wash yourself.
- Do not change your clothes.
- Do not tidy up the place where the rape happened.
- Wrap any evidence in paper. Do not put it in a plastic bag.

Good evidence is important to make sure that the person who raped you will be found guilty and sent to prison.

Go to the police or a Woman and Child Protection Unit

- You should report the rape to the police so that the person who raped you can be caught. The police will arrange for you to see a doctor. They will also arrange for you to speak with a social worker. You should bring a change of clothes with you to the police station so that they can keep the clothes you were wearing during the rape as evidence.
- Your information will be kept private. Even the trial is private.



Go to a doctor, clinic or hospital

- See a doctor or nurse as soon as possible.
- The doctor can give you medication to prevent HIV infection and sexually transmitted infections.
- You could become pregnant from the rape. There are pills that can prevent pregnancy if they are taken right away.
- You will need information about the side effects of the medicines, and information about follow-up testing.
- The doctor may be able to collect evidence about the rape.

Rape and HIV

- It is very important for all rape survivors to have HIV counselling and testing.
- The medicine that can help prevent HIV infection is called PEP (post-exposure prophylaxis). It should be started as soon as possible after the rape. All district hospitals should have PEP. It is free if you cannot afford to pay.
- PEP should be taken for 28 days. You will be given pills for 3 days. Then you have to go back to the clinic to get the rest of the pills. Just taking PEP for 3 days will NOT help prevent HIV infection.

If you become pregnant from rape

- If you become pregnant from rape, you can get a legal abortion. You should get a pregnancy test right away if your next period is late, and you should tell your doctor if you want an abortion.
- You do not have to report the rape to the police to get permission for a legal abortion, although you will need to explain why you did not report the case.

See a counsellor

A rape is very distressing. You may feel scared, sad, guilty or ashamed. Counselling can help you deal with these emotions.

Delay

It does not matter if there was a delay between the rape and the laying of a charge with the police. But the sooner you report, the more likely the police will be able to find evidence to support your case.