

Responding to Violence Against Sex Workers

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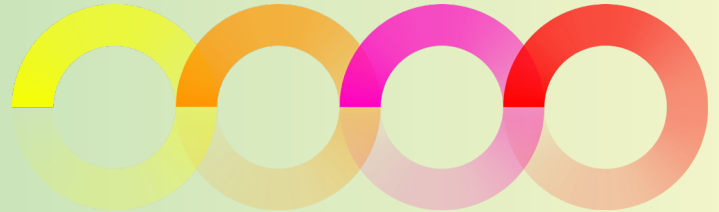
INTRODUCTION

Unfortunately, sex workers are routinely subjected to sexual violence whether it be on or off the internet, so we want to discuss some of the legal options available to sex workers in this situation.

Sexual violence in all its forms is crime, and it is also compensable, meaning you are entitled to seek compensation for its impacts.

However, there are many ways to respond to sexual violence, both legal and non-legal. Don't feel limited within the confines of the legal system. This document explores the following:

1. What is sexual violence and cyber sexual violence?
2. What are some legal options available if you've experienced sexual violence?
3. What does the criminal justice process look like for survivors?
4. What does the lawsuit process look like for survivors?
5. What are some of the benefits and drawbacks of relying on the criminal or civil system?
6. Provide some general advice on what options available if you're ever injured on the job.



WHAT IS SEXUAL VIOLENCE?

SEXUAL VIOLENCE: ...any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent.¹

Sexual violence is an umbrella term that can include sexual assault, sexual harassment, stalking, indecent exposure, and more.

CYBER SEXUAL VIOLENCE: This is using the internet to facilitate sexual violence, it could include sharing damaging content, sexual harassment, posting edited images, revenge porn, etc.²

WHAT ARE THE LEGAL OPTIONS TO RESPOND TO SEXUAL VIOLENCE?

Legally, there are two main options available to survivors of violence:

¹ www.uottawa.ca/sexual-violence-support-and-prevention/definitions

² www.uottawa.ca/sexual-violence-support-and-prevention/cybersexual-violence

1. The criminal justice system; and,
2. Personal injury litigation.

THE CRIMINAL JUSTICE SYSTEM

Many survivors feel confined to the criminal justice system. It creates a hazardous situation for sex workers injured on the job as they are rightly concerned about being outed and criminalized if they report to the police.

Below is a brief overview of how the criminal justice process can look if you report sexual violence:

1. You report to the police;
2. Depending on whether you were the victim of a physical attack, they may ask you to do a sexual assault kit at a hospital;
3. They will connect you with victim's services;
4. They investigate, which can include interviews of yourself and the perpetrator;
5. If a prosecutor believes there's enough to pursue criminal charges against the perpetrator, they will proceed with filing charges;
6. The perpetrator could plead guilty, or they could try to plead not guilty, which would lead to a trial

This is, of course, a very pared-down summary, and we know police routinely dismiss sex workers. But, overall, if it goes the way it should - that is how the process should look, broadly.

Another Legal Option under the Criminal Legal System is a Peace Bond

WHAT IS A PEACE BOND?

A peace bond is a protection order made by a court under the Criminal Code. It is used where an individual appears *likely* to commit a criminal offence, but there are no reasonable grounds to believe that a crime has actually been committed.

The Court can impose specific conditions to prevent the Defendant from harming the individual seeking the peace bond.

A peace bond is not a criminal conviction, but breaching the conditions on a peace bond is a criminal offence.

Peace bonds can be enforced anywhere in Canada and can be in place for up to one year. If the threat persists after one year, the peace bond can be renewed.³

SEXUAL VIOLENCE AND PERSONAL INJURY LITIGATION

Personal Injury, defined: personal injury law is focused on injuries to your body and your mind as a result of someone else's actions or (in)action.

Survivors of sexual violence can seek compensation against their perpetrators and other entities that may have created the environment for them to be hurt/injured.



³ www.justice.gc.ca/eng/cj-jp/victims-victimes/report-signale/peace-ordre.html

Examples of Personal Injury Claims may include:

- HARASSMENT/STALKING: when someone engages in a pattern of intimidation, threatening or offensive conduct to harm you, make you feel unsafe, or undermine your physical/emotional wellbeing.
- SEXUAL ASSAULT occurs when a person is forced, coerced or tricked into sexual acts without consent.
- ASSAULT OR BATTERY: including threats of physical violence and physical violence.
- OCCUPIER'S LIABILITY: when you're injured on someone else's property because they failed to keep the property safe for you and other visitors to their property

suing for, and for how much);

5. **Receive a Defence:** The perpetrator hires their lawyer and files a statement of defence;
6. **Discoveries:** This is where your lawyer gets to question the perpetrator about the incident, and the perpetrator's lawyer questions you;
7. **Mediation:** where each side tries to negotiate a resolution; and,
8. **Trial:** Most cases do not get to this stage



PERSONAL INJURY LAW PROCESS

Each case can encounter different procedural issues as it proceeds, your lawyer will let you know what you can expect, but generally, it goes as follows:

1. **Consult:** You consult with a lawyer;
2. **Hire a lawyer:** You sign a retainer agreement (this sets out the terms of your relationship with your lawyer);
3. **Write a demand letter:** your lawyer may write a cease-and-desist letter, or a letter demanding that your perpetrator compensates you for what they have done to avoid litigation.
4. **File a Claim:** The lawyer writes and files a Statement of Claim with the court (this document sets out what you are

CASE STUDY:

SUSAN AND MARK

Susan works as an escort through an agency. Over time, she has built a steady group of regular clients with whom she feels comfortable. Sometimes, she avoids the agency fees and secretly arranges to meet her regular clients at her apartment.

One of Susan's regular clients is Mark. She's been seeing him for a few months and has had a few appointments with him at her home. When she sees Mark at her home, he often brings small gifts or tips her, so she doesn't mind extending the duration of their appointments; she develops somewhat of a friendship with him, and they mutually share some info about their personal life.

Recently, however, Mark has begun to pressure Susan into dating him and seeing him for free. Susan is not interested, begins to feel uncomfortable around Mark and stops responding to his texts and calls.

Mark becomes increasingly hostile and begins to harass Susan. He creates a fake social media account, pretending to be Susan, posting her images, and sending nude photos to her family members.

Susan is worried about her physical safety, she doesn't know what will happen with the agency, and she is scared Mark will be able to get a hold of her family members through social media.

WHAT SHOULD SUSAN DO?

1. Susan should notify someone who she trusts that this is happening;
2. Report Mark's social media accounts so that they can be taken down/suspended;
3. Document what Mark is doing;
4. Seek mental health support, visit a doctor and ask for a referral to mental health support;
5. If she wants to, Susan should consider her legal options.

SUSAN'S LEGAL OPTIONS:

1. Report Mark's harassment and threats to the police

If Susan chooses this option, I'd want her to consult with a criminal lawyer first so that they could at least inform her of her rights when dealing with police and perhaps attend with her at a police station to provide a report.

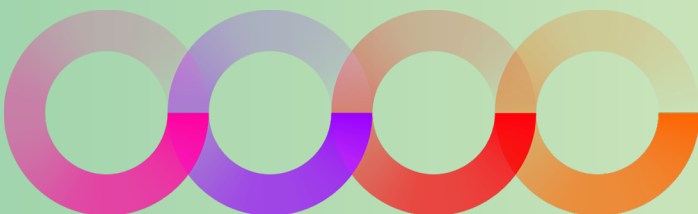
2. Obtain a Peace Bond

Another way Susan could get help through the criminal justice system may be to seek a peace bond (see process detailed here: stepstojustice.ca/questions/abuse-and-family-violence/how-do-i-apply-peace-bond/)

3. Consult with a personal injury lawyer

From a personal injury perspective, Mark is inflicting mental distress on Susan, sharing private photos, and harassing her online; each of these are things she can sue him for. So, Susan could retain a lawyer to write a cease and desist letter, threatening to sue Mark if he continues to harass her.

This could help stop the immediate threat he poses to her. If Susan wanted to exercise this option, she should keep screenshots of any communications from Mark and evidence of his harassment of her. I'd also want Susan to seek out mental health support. Not only would this be helpful if she decides to sue Mark, but also, it could help her cope with the distress inflicted by Mark.



Importantly, none of these are guaranteed solutions to make Mark stop or to fix all of the issues brought on by this situation. Still, one or combination of these options could help Susan protect herself and recover from this situation.

COMPARE AND CONTRAST

Overall, there are many tools available to sex workers who are physically or mentally injured by clients, or anyone. Everyone's needs and situations are going to be different and no one way is perfect.

BENEFITS AND DRAWBACKS OF THE PERSONAL INJURY SYSTEM:

There are several issues with the personal injury approach. Sometimes abusers will receive a cease and desist letter, escalate their conduct, and become more unpredictable. If a survivor decides to sue a perpetrator, they must re-tell their story many times over, and a defence lawyer will question them.

On the other hand, personal injury can help lessen the power imbalance between sex workers and clients.

Even with the updated criminal code provisions prohibiting the purchasing of sexual services, clients know sex workers are hesitant about going to the police. Still, when someone is hit with a letter from a lawyer that

gets sent to their home or work, threatening their money - it can flip that dynamic right away.

BENEFITS AND DRAWBACKS OF THE CRIMINAL LEGAL SYSTEM:

Some survivors want their abusers to be prosecuted, and going to the police may feel like a secure option when your physical safety is threatened.

On the other hand, relying on the police is risky as a sex worker. Routinely sex workers are not taken seriously. At worst, sex workers find themselves criminalized when they report violence to the police. In addition, survivors don't have any decision-making authority during the criminal trial process, the prosecutor represents the state, and the accused has their own lawyer.

CONCLUSION:

There are many options available to sex workers subjected to violence, both legal and non-legal. But, no matter what you decide, here are some tips on what to do if you're a sex worker who has been threatened, harassed or assaulted:

1. Tell someone you trust
2. Seek medical attention, as soon as you can, go to your family doctor, a walk-in clinic, etc
3. Seek community: try to connect with a local sex worker advocacy group to see what supports are available, attend at a rape crisis centre (you don't have to be sexually assaulted to access support through these centres)
4. Document what happened to you
5. Consider consulting with a lawyer

Maggie's Toronto Sex Workers Action Project

WHO WE ARE

We are one of Canada's oldest by and for sex worker justice organizations. Our mission is to advocate and fight for the rights of all sex workers in society, by offering a wide variety of services, educational resources, and creating community so that we may live and work with health, safety, and dignity. We believe in the full decriminalization of sex work and believe it is a crucial step towards sex worker justice.

We offer supportive programming for sex workers including weekly drop-ins, harm reduction services, outreach programs, legal supports and broader advocacy including food security efforts, public health initiatives and educational workshops for sex workers.

Learn more about our work and upcoming projects at maggiesto.org or check us out on instagram @maggiestoronto. You can reach us through email at info@maggiesto.org.

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