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MS. JULIE GREEN
MLA, YELLOWKNIFE CENTRE

Oral Question 818-18(3) Sexual Assault Reporting

On August 16, 2019, you asked questions in the Legislative Assembly regarding the outcome of the stakeholder engagement session on sexual assault investigations that was held June 11 and 12, 2019 in Yellowknife.

The purpose of the stakeholder engagement was to seek input and guidance from a variety of service providers throughout the Northwest Territories on two initiatives that are being implemented by police services elsewhere in Canada: Third Party Reporting of Sexual Assaults and Advocate Review of Sexual Assault Investigations. The Department of Justice has prepared a report that captures the major themes that were heard during the engagement session, as well as the next steps that the GNWT intends to take.

The "What We Heard" report has recently been shared with those that participated in the June engagement session. I am pleased to share the report with you as well. Thank you for your continued interest in this very important subject. If you require further information, please contact my office.

Louis Sebert
Minister of Justice

Attachment

- c. Mr. Tim Mercer, Clerk of the Legislative Assembly
Mr. Martin Goldney, Deputy Minister, Justice
Mr. David Hastings, Legislative Coordinator



Government of Northwest Territories
Gouvernement des Territoires du Nord-Ouest

**What we heard:
Sexual Assault Investigations
Stakeholder Engagement Session
June 11-12, 2019**

**Prepared by Community Justice and Policing, Department of Justice
August 2019**



What we heard: Sexual Assault Investigations stakeholder engagement session June 11-12, 2019

Sexual assault is one of the most underreported crimes in Canada. Only 1 in 20 sexual assaults are reported to police, and therefore police-reported sexual assault data do not reflect the true extent of sexual assault and sexual violence in Canada¹. Research shows the underreporting has a wide range of reasons, including the shame, guilt and stigma of sexual victimization and the perception that the violence does not warrant reporting². Sexual assault is a highly gendered crime: women are over six times more likely to be sexually assaulted than men, and nearly half of female victims are young women aged 15-24. Indigenous women are over-represented in reported sexual assaults, and Indigenous people are about three times more likely than non-Indigenous people to be sexually assaulted in Canada.

The RCMP, who are contracted to provide policing services in the NWT, have committed to improving their internal policies for sexual assault investigations. The GNWT, as the contract holder, hosted a stakeholder engagement session June 11-12, 2019 to discuss two initiatives that are being implemented by police services elsewhere in Canada: third-party reporting and advocate reviews of sexual assault files/investigations. 26 people attended from all regions in the NWT. The list of organizations that sent representatives is included in Appendix A.

This report presents the major themes that were heard during the session, and the next steps the GNWT intends to take with its partners.

¹ Cristine Rotenberg and Adam Cotter, *Police-reported sexual assaults in Canada before and after #MeToo, 2016 and 2017*, (Statistics Canada: 2018).

² Shana Conroy and Adam Cotter, *Self-reported sexual assault in Canada, 2014*, (Statistics Canada: 2017).



Third-Party Reporting

Third-party reporting is a process that allows a survivor of sexual assault to report the incident to police anonymously, through a trained advocate. This “third party” collects as many details about the incident as possible and provides them to police without identifying the survivor. There are various models of implementation, but in most jurisdictions, a third-party report does not result in a police investigative file being opened.

Participants at the stakeholder engagement agreed that the most important consideration was the survivor’s safety. It was unambiguous that the purpose and process would need to be explicitly communicated to the public, survivors, and advocates to ensure they understood what this new service would involve. Stakeholders felt the service should be available 24 hours per day by phone, but that some delay would be acceptable if the service was provided in person. It was evident throughout the discussion that stakeholders anticipated there would be a high volume of survivors of sexual assault who would choose to use this service should it be implemented.

Benefits

Stakeholders indicated they felt that third-party reporting would allow survivors to tell their stories and to feel heard. It would give them time to understand the process and decide which choice was best for them. They could tell their stories to someone they trust, who could connect them with appropriate resources.

The stakeholders saw this option as a way to empower survivors, giving them more control over their stories and connecting them with better supports. The NWT’s community-based victim services program already offers a similar service, providing person-centred services to survivors whether they choose to report to police or not. However, victim services workers are not currently trained to receive third-party reports.

Stakeholders maintained that this process might help to increase survivors’ trust in RCMP, and could encourage them to report to police later. It could be a particularly valuable option to engage people who are reluctant to provide information about a crime. Participants indicated that it is sometimes difficult for survivors to approach the RCMP. They said that they have had clients who fear the consequences of reporting to the police. There can also be language and cultural barriers.

Some participants noted that third-party reports would provide additional data about what is happening in the community. Standardized risk assessments like ODARA could be more accurate, assisting providers to make more appropriate referrals.

Challenges

Stakeholders were concerned about whether NWT organizations had the capacity to take on this responsibility. They felt it would be difficult to find an organization with staff who could receive the



reports while respecting the diversity of survivors: they identified age, gender, language, culture, and other factors that could increase the challenge of providing the service.

Several participants pointed out that support services in communities can already be difficult to access. They were concerned that providing a new service could add to the burn-out challenges staff are already facing. Some also felt that the person who receives the report could experience vicarious trauma, especially over a long period of time.

Although third-party reporting does not typically include the use of sexual assault evidence kits in the process, stakeholders had questions about the use, storage, and processing of these kits, and how that affects service and expectations. There were concerns related to the brief window of time that evidence can be collected after an assault, and the strict chain of custody requirements for evidence to be preserved for potential criminal legal proceedings. This discussion emphasized the ongoing importance and need to communicate with stakeholders and service providers about the use, purpose, and process of the evidence kits.

Who could the third party be?

Participants felt a non-government community-based agency with paid staff members should receive the reports. They felt the volume of reports would likely be high enough to require new positions to be created, and that the workload would be too much for existing agencies to take on. They indicated they felt the program would need front-line and management staff. A toll-free phone line and website with simple information could be among the public information supports available to the service provider.

There was general agreement among stakeholders that the service should be available both within the community with a trusted service provider, and anonymously by phone. The survivor's choice and empowerment should be a priority.

Some participants indicated that victim services workers and shelters are already providing a similar service but are not trained or funded to do so, and have no agreed-upon processes for passing the information to the police. Any organization that took on this role would require trained staff with support, and be co-located with another agency in the community. Training would need to be a priority, and should include working with all ages and genders, police and legal system requirements, confidentiality and privacy. Staff would also need to know the language and culture of the community, the history and impact of residential schools, and gender equality. They should be fully trained in self-care, mental health, trauma, and resiliency.

Participants questioned whether it was realistic to hope that the perfect staff member could be found: they described the perfect person as someone who is good with statistics, uses key words, has education in first aid or health, and knows the law. This would be especially challenging if the goal was to identify many staff members who live throughout the territory, share these ideal qualities and are not already employed.



What would be the best process?

Participants felt the process of making the report should be barrier-free: reporting in person or by phone, in any location the survivor felt safe. Some suggested a written report could be dropped off anonymously at a designated office.

There was general agreement that the main goal of providing this service should be to improve supports to survivors, not to accept a particular number of reports. Telling the story makes the survivor feel validated. The third party could offer support, encourage the survivor to tell their story, and give them the choice about what would happen to it. The ideal approach would be to provide all of the supports and services that would be available at a sexual assault crisis centre.

Participants felt that the report should include the perpetrator's name, any details of the offence, whether alcohol was involved, and whether the police can contact the survivor through the third party if additional information becomes available. They felt the survivor should be able to tell their story to the third party without making a report to police.

The report should be saved and filed under a tracking number that is similar to the police coding system. The third party should act as a liaison if the RCMP want to reach out to the survivor after receiving the report. The formats should be consistent across the territory, to make it easier for police to compare them to files with similar evidence.

Policies would need to be developed in line with territorial and federal law. Participants felt that at a minimum these policies should include how long the report is kept and what information is collected.



Advocate Reviews of Sexual Assault Investigations

This initiative has been implemented in other parts of Canada, and is intended to help address the influence of systemic and gendered bias in the investigations of violence against women. It can support public confidence that police are properly responding to reported sexual assaults by creating a collaborative and confidential file review model. Advocates are trained to review cases that were reported to police, investigated, and did not result in a charge. The team identifies trends, processes, and systemic issues that can be addressed.

The “Philadelphia Model” has been adapted for use with Canadian police forces, and the RCMP have completed the privacy and security policy work that is required to implement this kind of file review. The advocates conducting the reviews would be required to complete a security clearance and sign a confidentiality agreement, and an RCMP representative would participate as a resource and to maintain file security. Review teams in different parts of Canada could have different processes and membership structures, but all of the teams reviewing RCMP files would receive support from RCMP Headquarters.

Several stakeholders were familiar with and impressed by the work of similar review teams in other parts of North America, and particularly with the Violence Against Women Case Review (VACR) project in Ontario, led by presenter Sunny Marriner.

Stakeholders were clear that the team would need to have a clear purpose, be well supported, and able to adapt its membership to varying community needs. They indicated the importance of ensuring the file review team was made up of advocates from different organizations and backgrounds, and that regional differences must be taken into account in the composition of the team. They also agreed that community engagement would need to be conducted to make sure the process was understood. The most important outcomes would be increased reporting of sexual assaults, increased confidence in the RCMP, and improved consistency in investigations.

Benefits

Stakeholders agreed that advocate file reviews could identify obstacles to reporting, find solutions to process issues, and advocate for community services to address systemic issues. They also agreed that advocate-led reviews would make them more confident that investigative files were complete. Over time, the quality of investigations would likely improve and survivors would feel confident that reports are investigated accurately and thoroughly.

The review team could make recommendations to police, such as conducting more interviews or looking at evidence again. They could also ask clarifying questions about how the investigation was conducted.

Challenges

A number of participants expressed concern about having an RCMP member on the review team. They spoke candidly about historical trust issues with the RCMP that still continue today, and about the appearance that the police would determine what the review team was allowed to see, say, or decide.



Some suggested ways to address the concern: the RCMP representative could sit in a corner, or could be non-voting, or could be in plainclothes, or could be a public servant rather than a police officer. However, none of these suggestions fully satisfied the group. Participants remained concerned that reviewers could be intimidated by the presence of the RCMP and that the feeling in the room could be affected.

Some participants were concerned about the requirement for reviewers to have RCMP security clearances. They pointed out that this could potentially exclude advocates with valuable life experience.

Participants were also apprehensive about the sustainability of the initiative. They felt advocates would need to be compensated, as the file reviews would represent a significant investment of time and expertise. The team members would need to be supported in their own wellness and self-care.

What about the process?

Stakeholders were concerned about protecting survivor privacy, and emphasized the importance of community and survivor awareness of the advocate file reviews. From a person-centred perspective, it's integral that survivors understand when they make a police report that the file may be reviewed by advocates. There should be serious consequences for breaching confidentiality, reviewers should declare conflicts of interest, and there should be a complaint process for survivors who think there has been a privacy breach.

Many stakeholders were concerned about the potential for privacy breaches, and suggested removing all identifiable information from the files. After much discussion and an explanation of how the VACR reviews in Ontario have been conducted, the group agreed that files should not be redacted. The survivor should be seen as a whole person and the reviewers need to be able to have access to everything the investigator considered when making a decision about the file. To mitigate the risk of privacy breaches, strong conflict of interest and privacy processes would need to govern the team's reviews.

Stakeholders also discussed the VACR project's approach to the survivor's consent. The review is part of the investigation process, not external to it. The group felt that consent would need to be made clear at the beginning of the reporting process, and that this should be part of the discussion with communities. When the police inform the survivor that the investigation is concluded without a charge being laid, they should indicate there is a review process and the survivor will be contacted if something changes in the investigation.

The RCMP should be informed of any concerns that are identified in the file review, and be given a chance to respond and correct them. The purpose of the review is ultimately to ensure police investigations comply with standards and processes, but also to identify common themes or concerns that can improve trust in the process. Several stakeholders suggested that if the review team recommends that the police do more work on the file, the survivor should have input and be part of the process.



Stakeholders indicated that there should be reports summarizing the review team's work. These should contain no identifying information about the cases reviewed but should provide an overview of what was done, what recommendations were made, and what the response was. Specific recommendations to the RCMP should be kept internal as they would always be based on confidential case-specific details.

What else needs to be considered?

The group agreed that the file review team should be geographically diverse, a multidisciplinary team that includes professionals like nurses, elders, and victim services providers. The reviewers would need to be able to advocate for all survivors regardless of their gender, culture or background. Different file reviews might require people with different expertise. Reviewers would need to be there as a representative from an organization, and not as an individual.

Team members would need to be able to work collaboratively and be able to raise concerns about the RCMP or government without fear of reprisal. For example, some participants described investigative processes for licensed professionals: people who may work for the government are appointed to review evidence and can speak about the issues they identify.

Stakeholders agreed that the RCMP representative should not have a leadership role on the team. The RCMP role should be as an administrative support function, not part of the committee decision-making process, but available to provide information or guidance upon request. Stakeholders felt the person should not be in uniform, and should be in a longer-term placement in the community to build relationships and trust.

Everyone agreed that the work would be slow in the beginning. It will take time for team members to get used to reviewing files. The team should review as many files as possible, but it may be unrealistic to try to review all of them. Working in small groups might make it easier, especially at first.

Participants were clear that communities need to be aware of the new step in the process. Some suggested visiting communities to speak with leadership, survivors, and others in small groups or one-on-one.



Next Steps

Although Department of Justice staff and representatives from G Division had undertaken significant research and jurisdictional scans related to this work prior to the stakeholder engagement June 11-12, 2019, the value of hearing from the people who support survivors every day in the NWT cannot be overstated. The engagement provided the GNWT and the RCMP an opportunity to hear those perspectives, as well as for all of these partners to hear and learn from each other.

The overwhelming message the GNWT heard from stakeholders was that support for the overall well-being of survivors and their privacy was paramount in consideration of these initiatives. Care needs to be taken to ensure we don't add additional work and emotional burden to existing service providers without adequately providing for their well-being.

How a decision is made is just as important as the outcome of the decision itself. The GNWT will continue to work with the RCMP and engage with stakeholders as we consider both initiatives. It was clear from the stakeholder engagement, as well as from best practices in other jurisdictions, that both of these initiatives have the potential to improve how we support and improve our overall response to survivors of sexual violence.

In the fall and winter of 2019/20, the GNWT will follow-up with stakeholders to discuss implementation models and identify organizations that are interested in partnering to do the work. This work will include an overview of what we heard from stakeholders during the June 11-12 engagement session have already shaped the NWT approach. The GNWT will provide further information regarding best practices in jurisdictions that are already providing these services in other parts of Canada, and what providers should consider in deciding whether they are ready to help with implementation. As we move forward in planning for the next steps, what we hear from the people who provide services to survivors every day in their work will be central to shaping our approach. Should either initiative be implemented in the NWT, the GNWT will ensure the initiatives are properly supported, taking the valuable insight we heard from our partners into consideration.

We want to thank all of the participants for the generosity of their time, effort and attention to this work, and for the support they are providing every day to the people they serve.



Appendix A – Participating Organizations

- The Rainbow Coalition
- Kát'odeeche First Nation
- Inuvik Justice Committee
- Tulita Dene Band
- Tlicho Community Services Agency
- Native Women's Association of the NWT
- Fort Smith Victim Services
- Behchoko Victim Services
- Tłjchq Government
- Hay River Health and Social Services Authority
- SideDoor Youth Ministries
- Status of Women Council of the NWT
- NWT Health and Social Services Authority
- RCMP, G Division
- RCMP Headquarters, Sexual Assault Review Team
- Department of Health and Social Services, GNWT
- Department of Justice, GNWT