



**flew** Family Law  
Education for Women  
Women's Right to Know

**fodf** Femmes ontariennes et  
droit de la famille  
Le droit de la femme à savoir

## Legal Advice for Survivors of Sexual Assault: Ontario's ILA Pilot Program

May 25, 2017

**Tamar Witelson, Legal Director, METRAC**  
**Karen Bellehumeur, Jellinek Law Office**

Funded by:



[www.onefamilylaw.ca](http://www.onefamilylaw.ca)



# METRAC

## **METRAC, Action on Violence**

- works to prevent violence against women and youth
- a not-for-profit, community-based organization

[www.metrac.org](http://www.metrac.org)

## **METRAC's Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

[www.owjn.org](http://www.owjn.org)

## **FLEW, Family Law Education for Women in Ontario**

- provides information on women's rights and options under Ontario family law and other relevant laws when families break down
- in 14 languages, accessible formats, online and in print

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)  
[www.undroitdefamille.ca](http://www.undroitdefamille.ca)

# Presenters

**Tamar Witelson**

Legal Director, METRAC



**Karen Bellehumeur**

Jellinek Law Office



# Topics to be Covered

1. Introduction – Why do survivors need legal advice?
2. What is the ILA Pilot Program?
3. Who qualifies for free legal advice?
4. What kind of advice does the ILA provide?
5. How to apply
6. Additional Resources

*Information is accurate as of the date of this webinar, May 25, 2017*



# Introduction

# Why do survivors need legal advice?

- Self-reports suggest that more than 500,000 women are sexually assaulted in Canada every year
- In 80% of cases, sexual assault happens between people who know each other
- Between intimate partners, sexual assault can be part of an ongoing pattern of abuse

# Why do survivors need legal advice?

- The rate of survivors who report sexual assault to police is dropping – down to 5% in 2014
- 71% of survivors polled about reporting to police said the experience was negative
- Fear and/or lack of understanding about the law and legal system can be a barrier to getting help

# Why do survivors need legal advice?

- Knowing rights that a victim of crime has in the criminal justice system can help a survivor ask for support
- *Canadian Victims Bill of Rights* states rights to:
  - **Information** about criminal justice process and services
  - **Protections** considered, including security and privacy in court

# Why do survivors need legal advice?

- *Canadian Victims Bill of Rights* states rights to:
  - **Participation** to give views during the process
  - **Restitution** considered as a money payment from the offender to the victim
- *Ontario Victims' Bill of Rights, 1995*
  - similar principles for the criminal justice system
  - includes rights in civil court

# Why do survivors need legal advice?

- Ontario *Victims' Bill of Rights, 1995*
  - rights in civil court
    - person convicted of sexual assault or attempted sexual assault or spousal assault presumed to have caused emotional harm to the victim and responsible to pay damages

# Why do survivors need legal advice?

- Information about what to expect in the criminal justice system helps a survivor make an informed choice
- Information about other legal options helps a survivor choose what is best in their situation
- Elements of the criminal justice system can have a negative impact on survivors or “complainants” of sexual assault

# Why do survivors need legal advice?

## Facts about the criminal justice system

- Police decide whether to lay a charge
- Crown prosecutor decides whether to go forward with a case
- Crown is not the lawyer for the complainant
- The complainant is a witness, not a “party”
- The complainant does not have a right to be represented by a lawyer in Court

# Why do survivors need legal advice?

## Facts about the criminal justice system

- The complainant must testify, but can ask for other options
- The accused has the right to cross-examine the complainant
- The accused does not have to testify
- The accused is considered innocent unless the Court believes **beyond a reasonable doubt** that the accused committed the sexual assault

# Why do survivors need legal advice?

## Summary

- more information to decide **if** they want to report to police
- what to expect during the criminal justice process
- other possible legal actions for a survivor
- different solutions or “remedies” that different legal actions can provide
- next steps



# What is the ILA Pilot Program?

# Independent Legal Advice

What does “independent” legal advice mean?

- the survivor is the lawyer’s client
- lawyer represents only the survivor’s interests
- conversations are confidential under rules of “solicitor-client privilege”

# What is the ILA Program?

- 2 year pilot program in Ontario
- announced in March 2016
- **Up to 4 hours of free legal advice** for sexual assault survivors
  - survivors of all genders
  - 16 years or older
  - recent and past incidents
  - sexual assault happened in Ontario
- No time limit to apply for advice

# What is the ILA Program?

Sexual assault events covered by the ILA program include:

- unwanted sexual touching or sex
- the use of force, threats or intimidation to make you do something sexual that you do not want to do

# What is the ILA Program?

- Operating in 3 locations in Ontario
  - Ottawa
  - Thunder Bay
  - Toronto (Barbra Schlifer Commemorative Clinic)
    - Only for woman-identified and non-binary gender-identified persons
- Information: 1-855-226-3904 (free)
  - 7days/24 hours

# What is the ILA Program

- Ontario government-selected lawyers are available to give legal advice to survivors
- lawyers take a survivor-centred approach
- lawyers may discuss:
  - how the law may apply in your case
  - what facts are relevant
  - your legal options

# What is the ILA Program

- The ILA program will not pay for:
  - a lawyer to prepare legal documents for you
  - a lawyer to represent you in a legal proceeding
- If you can pay for a lawyer yourself, you may be able to continue working with the same lawyer who gave you independent legal advice

# Presenters

**Tamar Witelson**

Legal Director, METRAC



**Karen Bellehumeur**  
**Jellinek Law Office**





What kind of advice does  
the ILA provide?

# What kind of advice does the ILA provide?

- things to consider when talking to police
- what can happen if you are going to criminal court
- the possibility of a human rights complaint
- how the Criminal Injuries Compensation Board works
- the possibility of a civil action (lawsuit)
- if there are relevant family law issues

# What kind of advice does the ILA provide?

- making a complaint under a workplace policy
- whether your union might help you
- if there is a professional body that regulates members and has a complaint process
- how a university/college complaint process could apply

# Questions to ask an ILA lawyer

- How does the law apply in your particular case
- What results are possible from each different legal option
- What is the process for reporting and what to expect, for each different legal option
- How different processes can (and can't) work together

# Common Questions Discussed with an ILA lawyer

- This incident happened recently. Would this be considered sexual assault under the law?
- An incident happened several years ago. What might happen if I report it now? If I go to police will I have to go to Court?
- I have a case in the criminal courts, or at the Human Rights Tribunal, or another process. I don't really know what's happening, can you help me prepare?

Source: Barbra Schlifer Commemorative Clinic



# How to Apply

# How to Apply

- Get a voucher request form online
- Complete the form
- Form must be filled in by the person requesting legal advice
- Submit the form by email or regular mail
- You will get a reply:
  - by email in 3 days
  - by regular mail in 10 days

# How to Apply

If you qualify for the ILA Program:

- you will receive up to four, 1-hour vouchers and a list of lawyers
- you can choose which lawyer to contact
- you can talk to a lawyer on the phone, or meet a lawyer in person
- you do not have to use all of your vouchers to pay for the same lawyer

# How to Apply

## Voucher request form:

<http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=vvpd&NO=004-VVPD-010E>

## Information by phone:

1-855-226-3904 (free) – 7days/24 hours

# How to Apply

- Email to:  
[ILAvoucher@ontario.ca](mailto:ILAvoucher@ontario.ca)
- Mail to:  
Independent Legal Advice  
P.O. Box 809  
Toronto Adelaide Retail  
Toronto, ON  
M5C 2K1

**Instructions**

To request one 2-hour voucher, you can:

1. Complete this form online, save and email it to [ILAvoucher@ontario.ca](mailto:ILAvoucher@ontario.ca), or
2. Fill out the form, print and mail it to the address below:

 Independent Legal Advice  
 PO Box 809  
 Toronto Adelaide Retail  
 Toronto ON M5C 2K1

Applicant Information				
Last Name		First Name		Middle Initial
Date of birth (yyyy/mm/dd)		Gender <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other		
Which Pilot site do you live in? <input type="checkbox"/> City of Toronto <input type="checkbox"/> City of Ottawa <input type="checkbox"/> District of Thunder Bay				
Residential Address				
Unit Number	Street Number	Street Name		PO Box
City/Town			Province	Postal Code
Telephone Number		Please indicate whether it is safe to leave you a voice message at this number? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Did the incident occur in the province of Ontario? <input type="checkbox"/> Yes <input type="checkbox"/> No				
How would you like to receive your voucher? <input type="checkbox"/> Email (specify address) ▶ _____ <input type="checkbox"/> Regular mail (specify address) ▼ _____				
Mailing Address				
Unit Number	Street Number	Street Name		PO Box
City/Town			Province	Postal Code
<input type="checkbox"/> Same as Residential Address				
Collection of Personal Information				
Your personal information is being collected for the purpose of determining your eligibility for the Ministry of the Attorney General's Independent Legal Advice Pilot Program and to administer the program. The use and disclosure of your personal information will be restricted to these purposes or any consistent purpose. The Ministry will not otherwise disclose the personal information you have provided, except as required by law. Questions about the collection should be directed to the Independent Legal Advice Pilot Program, PO Box 809, Toronto Adelaide Retail, Toronto, Ontario M5C 2K1, 416-326-2476.				
<input type="checkbox"/> I have read and understand the notice of collection of personal information.				
Affirmation				
<input type="checkbox"/> I affirm that the information contained herein is complete, true and accurate, and I as the applicant meet all the eligibility criteria.				
Name				Date (yyyy/mm/dd)

# Review Questions: Can the ILA Program help?

1. A 16-year-old girl says that last year, her boyfriend's father touched her sexually. He said he would say she asked for it, if she told her boyfriend.
2. Your husband forced you to have sex on your honeymoon in Niagara Falls. You can't forget what happened. You are still married and living in Thunder Bay. You don't know what to do.
3. Your boss cornered you in your office, rubbed your body and said he would like to do more sometime. It happened in Windsor last year. You are living in Toronto now.

# Review Questions: Can the ILA Program help?

1. A 16-year-old girl says that last year, her boyfriend's father touched her sexually. He said he would say she asked for it, if she told her boyfriend.

Yes, the ILA can help a person who is 16 or older. It does not matter that the incident took place when she was younger than 16. She can contact the ILA any time after the incident happened.

# Review Questions: Can the ILA Program help?

2. Your husband forced you to have sex on your honeymoon in Niagara Falls. You can't forget what happened. You are still married and living in Thunder Bay. You don't know what to do.

Yes, the ILA can give advice to a person living in Thunder Bay. It does not matter that the incident happened in another Ontario location, or if it was a long time ago. It does not matter that the incident was with your husband or that you are still married. One of the options you may want to talk about with an ILA lawyer is how your family situation and legal rights may be affected by any other action you may take.

# Review Questions: Can the ILA Program help?

3. Your boss cornered you in your office, rubbed your body and said he would like to do more sometime. It happened in Windsor last year. You are living in Toronto now.

Yes, if you are living in Toronto, you can qualify for ILA advice about an incident of sexual assault that happened somewhere else in Ontario. The ILA will give advice about all types of unwanted sexual touching.

# Presenters

**Tamar Witelson**

Legal Director, METRAC



**Karen Bellehumeur**  
**Jellinek Law Office**





# Additional Resources

# Independent Legal Advice Program

## Contact the ILA Program:

- Information: 1-855-226-3904 (free)
  - 7days/24 hours

## In Toronto:

- **The Barbra Schlifer Commemorative Legal Clinic**

[schliferclinic.com/help/help-from-a-lawyer/](http://schliferclinic.com/help/help-from-a-lawyer/)

416-323-9149 (ext. 278) (legal intake); 416-3231361 (TTY)

# Domestic Violence and Abuse

**For information, if your partner or family member is abusive or violent:**

**Assaulted Women's Helpline** <http://www.awhl.org/>

- 24 hours/7 days; multiple languages
- Toll-free: 1-866-863-0511; TTY: 1-866-863-7868

**Legal Aid Ontario** [http://www.legalaid.on.ca/en/getting/type\\_domesticviolence.asp](http://www.legalaid.on.ca/en/getting/type_domesticviolence.asp)

- Available to every immigration status
- Free telephone interpretation services for languages other than English and French
- Toll-free: 1-800-668-8258; TTY: 1-866-641-8867

**Family Violence Authorization Program (Legal Aid Ontario)**

- Free 2-hour emergency meeting with a lawyer
- Offered through some shelters and community legal clinics
- Toll-free: 1-800-668-8258; TTY: 1-866-641-8867

# Domestic Violence and Abuse

## **Barbra Schlifer Commemorative Legal Clinic**

- Toronto: 416-323-9149 x278 (legal intake) TTY: 416-3231361
- Free counselling, referral, legal and interpreter services to survivors of violence (Family, Criminal and Immigration law)

## **Network of Sexual Assault/Domestic Violence Treatment Centres**

[www.sadvtreatmentcentres.net](http://www.sadvtreatmentcentres.net)

## **Victim Services in Ontario**

<http://services.findhelp.ca/ovss/>

# Domestic Violence and Abuse

## Ontario Coalition of Rape Crisis Centres

[www.sexualassaultsupport.ca/](http://www.sexualassaultsupport.ca/)

## Sheltersafe

[www.sheltersafe.ca/](http://www.sheltersafe.ca/)

## Ontario Association of Interval and Transition Houses (OAITH)

[www.oaith.ca/](http://www.oaith.ca/)

Support services: [www.oaith.ca/find-help.html](http://www.oaith.ca/find-help.html)

# Additional Resources

## **What You Should Know About Family Law in Ontario (Resource from the Ministry of the Attorney General)**

[www.attorneygeneral.jus.gov.on.ca/english/family/familyla.pdf](http://www.attorneygeneral.jus.gov.on.ca/english/family/familyla.pdf)

## **Family Law Information Centres (FLICs)**

[http://www.legalaid.on.ca/en/getting/type\\_family.asp](http://www.legalaid.on.ca/en/getting/type_family.asp)

## **Family Law Services Centres (FLSCs)**

<http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc>

## **Family Law Education for Women (FLEW)**

<http://www.onefamilylaw.ca/en/resources/>

## **Femmes ontariennes et droit de la familles (FODF)**

<http://undroitdefamille.ca/>

## **Ontario Women's Justice Network (OWJN)**

[www.owjn.org](http://www.owjn.org)

# Additional Resources (General)

## **Victim Crisis Assistance and Referral Services (VCARS)**

- Immediate, on-site service to victims of crime 24 hours a day, 7 days a week
- province-wide, services available in many languages
- Toll-free: 1-888-579-2888
- Toronto: 416-314-2447

## **Find a community legal clinic near you**

[www.legalaid.on.ca/en/contact/contact.asp?type=cl](http://www.legalaid.on.ca/en/contact/contact.asp?type=cl)

**Phone:** 1-800-668-8258 (free)

## **Court Prep**

[www.courtprep.ca](http://www.courtprep.ca)

- provides information on the Canadian legal system and prepares victims and witnesses to give evidence

# Finding a Lawyer to Hire

- **Lawyer Referral Service, Law Society of Upper Canada**

[www.lsuc.on.ca/with.aspx?id=697](http://www.lsuc.on.ca/with.aspx?id=697)

1-800-268-8326 (free)

416-947-3330 (Toronto); 416-644-4886 (TTY)

- **Justice Net**

Reduced fee lawyers for people with low income who are not eligible for Legal Aid

[www.justicenet.ca/directory/search/](http://www.justicenet.ca/directory/search/)

1-866-919-3219 (free)