

# SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING

*Your Rights, Your Responsibilities*

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A GUIDE FOR  
UNIVERSITY OF VIRGINIA STUDENTS

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## GENDER-BASED VIOLENCE AT THE UNIVERSITY OF VIRGINIA

The University of Virginia community depends on conduct that fosters scholarship and trust among its members. Sexual assault, domestic violence, and stalking are violent acts that not only undermine any sense of community, but, by violating our Standards of Conduct, also contradict the University's mission. Anyone can be a victim of intimate violence. Repeated studies indicate that one in every four college women experienced rape or attempted rape between the age of 14 and college graduation. Of those women, 80 percent know their attackers.<sup>1</sup> Other sources indicate that 28 percent of college women experience abuse by a partner in the context of an intimate relationship.<sup>2</sup> And it is estimated that 10 percent of all men will be sexually assaulted in their lifetimes.<sup>3</sup>

*\*See footnotes after "Mediation"*

## UNIVERSITY SERVICES AND PROGRAMS

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### FOR SURVIVORS

The University provides a full range of medical and counseling services to students who have been assaulted. The UVa Hospital's Emergency Department has specially trained nurses and crisis response staff who are sensitive to the particular experiences of sexual assault and battering survivors. Student Health provides follow-up treatment and care. Counseling for students who are victims of sexual and domestic violence or stalking can be found on-Grounds at Student Health's Counseling and

Psychological Services (CAPS) or the UVa Women's Center. Off-Grounds, assistance is available through the 24-hour hotlines operated by the Sexual Assault Resource Agency and the Shelter for Help in Emergency, as well as from private clinicians.

We recognize how difficult it is to seek help and redress, whether through criminal, civil, or internal University procedures, and will provide support to survivors as they see fit.

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### FOR ACCUSED STUDENTS

It is also very difficult for students to seek help (even absent an accusation) if they believe they may have abused someone else. Knowledgeable University administrators provide assistance and support to students through the hearing process. Clinicians in CAPS are available to assist students who are facing an accusation of sexual assault

or partner abuse, or to those who realize that they behave abusively (whether physically, emotionally or sexually) toward a partner. The deans in the Office of the Dean of Students, and the staff in the Sexual Assault Education Office also are knowledgeable about appropriate off-Grounds counseling referrals for these individuals.

**The following is a basic outline of legal options in case a student is assaulted or abused, or accused of these crimes. More detailed information is available in the Office of the Dean of Students and Sexual Assault Education Office and on the web at [www.virginia.edu/~saeo](http://www.virginia.edu/~saeo). Contact phone numbers for individuals and offices mentioned in this brochure are listed on the last page of this brochure.**

## **DEFINING GENDER-BASED VIOLENCE**

While most crimes of intimate violence are perpetrated by men against women (or children), women or men can be either victims or perpetrators, so all definitions we use are gender-neutral.

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### **WHAT IS SEXUAL ASSAULT?**

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Sexual Assault is defined by the University of Virginia as rape, forcible sodomy or sexual penetration with an inanimate object, the touching of an unwilling person's intimate parts (genitalia, groin, breast, or buttocks, or clothing covering them), or forcing an unwilling person to touch another's

intimate parts. To constitute an assault, these acts must be committed either by force, threat, surprise or intimidation, or through use of the victim's mental or physical helplessness of which the accused was aware or should have been aware.

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### **WHAT IS DATING/DOMESTIC VIOLENCE?**

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Battering is a pattern of abusive behaviors used by one individual to control or exert power over another individual in the context of an intimate relationship. Battering includes emotional/psy-

chological, physical, economic, and/or sexual abuse, and affects all types of families, regardless of income, education, race, or religion.

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### **WHAT IS STALKING?**

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Stalking is behavior in which an individual willfully, maliciously, and repeatedly engages in a knowing course of conduct directed at a specific

person which reasonably and seriously alarms, torments, or terrorizes the person, and which serves no legitimate purpose.

### **If you or someone you know is sexually assaulted:**

- ◆ Ensure safety from further harm. Call a trusted friend, the Sexual Assault Resource Agency (SARA) hotline at 977-7273, and/or the Police.
- ◆ Survivors should try to avoid urinating, bathing, douching, or brushing their teeth; smoking, eating or drinking, as this destroys valuable evidence.
- ◆ To check for physical injuries, have baseline tests for sexually transmitted diseases and pregnancy, and to have evidence collected go to the UVa Emergency Department. The best time to collect physical evidence is within a 72-hour timeframe after the assault. SARA sends trained advocates to accompany survivors to the hospital or at the police department upon request. Follow up medical care (including retests) is done at Student Health.
- ◆ If the survivor has already changed clothes, place them in a paper bag and take them to the hospital. If not, keep original clothes on, and bring an extra set to wear home from the hospital. The police may need to keep the clothes worn during the assault for evidence. If the survivor doesn't want to report to the police or go to the hospital, or if she/he has questions, call SARA for confidential support or counseling.

Acquaintance sexual assault is the most common type of sexual violence on college campuses. However, even when a survivor doesn't know the assailant, she/he may have mixed feelings concerning both the incident and what to do about it. Sources of guidance and support on and off-Grounds are listed at the end of this brochure and in Handbook for Survivors, which is distributed free of charge to survivors.

In addition to taking advantage of medical and counseling services, UVa students have a number of legal

options after a sexual assault. They are:

- 1.** Criminal prosecution
- 2.** Third-party anonymous report
- 3.** Civil suit against the perpetrator
- 4.** Adjudication or mediation at the University of Virginia.

These avenues are not mutually exclusive. No one should feel coerced into any action. Criminal and civil suits take time and may result in no conviction or loss of a suit. Yet, many survivors who have chosen one or several options have found the process to be empowering, regardless of the out-

come. Criminal and civil procedures are very different, with distinct sets of rules. They are briefly described below, as are third party reports and internal procedures at the University of Virginia.

While it may be difficult to decide what to do, speaking with someone who understands these issues and is familiar with local resources may be the place to start. This may be the Sexual Assault Education Coordinator, a SARA counselor/advocate, a dean in the Office of the Dean of Students, a counselor at Counseling and

Psychological Services (CAPS) or the Women's Center, as well as family and friends. If the survivor is already in counseling, it may be useful to explore any options with her/his clinician.

Establish a support system in advance. These people are the same individuals the survivor would rely on throughout any legal proceedings. Students who have been accused of an assault also need emotional support. Again, the Office of the Dean of Students provides guidance, and support counseling is also available through CAPS.

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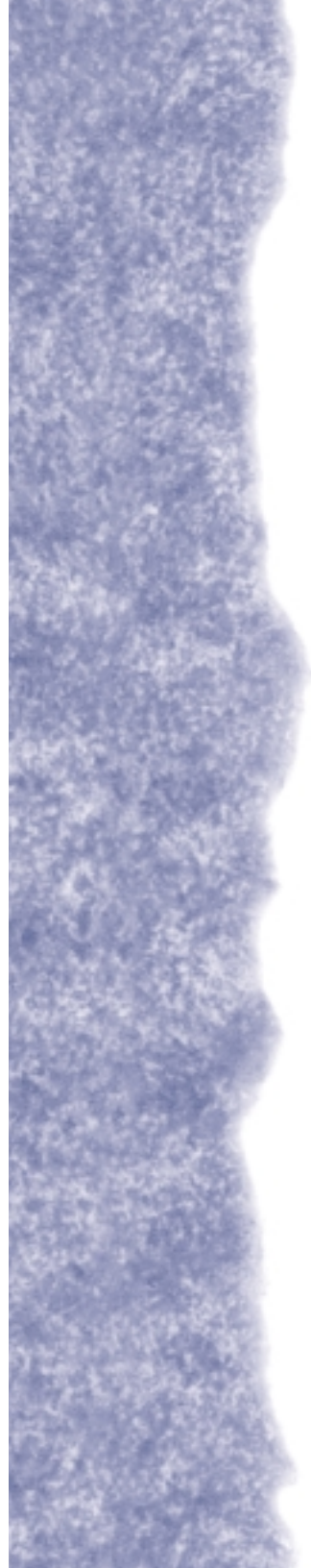
## ***CRIMINAL PROSECUTION***

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Criminal prosecution is initiated by reporting the assault to the police. Ideally, a report is made immediately after the assault occurs, although there is no statute of limitations on felonies in Virginia (there are limits to misdemeanor charges). Also, although physical evidence isn't necessary for prosecution, it can help in making a stronger case, so getting medical attention at the UVa Emergency Department is important as well. UVa police handle on-Grounds cases. Off-Grounds cases are investigated by either the Charlottesville or Albemarle County police, depending on where the assault occurred.

The decision to report a sexual assault to the police is the survivor's choice in all cases. When a police report is filed, the case is assigned to an investigator trained to handle sexual assault cases, and to a victim-witness coordinator whose job is to support

survivors through the legal system. SARA advocates also provide emotional support and advocacy at any or all stages of the legal process, it that's what is desired. Subsequently, if the Commonwealth's Attorney feels there is a reasonable case, criminal charges are brought against the assailant. It is also to the survivor's advantage to have evidence collected at the emergency room, for this evidence can strengthen a case. However, if a report is made more than 72 hours after the assault or physical evidence is not collected, it is still possible file a report with the police. If criminal charges aren't filed, and you don't agree with that decision, you may ask the magistrate to issue a warrant. Ultimately, however, the decision to prosecute is up to the Commonwealth's Attorney.



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## ***THIRD PARTY REPORTS***

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If you wish to remain anonymous, you may file a Third Party Report. This type of report informs the police of dangerous areas and situations. No one can be arrested on the basis of this type of

report; it is informational only, and assists with tracking assaults in the area. Third Party Reports may be filed in person, by phone, or on the Web at the address above.

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## ***CIVIL SUIT FOR DAMAGES***

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Legally, sexual assault is not only a crime against the state, but also a civil dispute between survivor and assailant. Another viable option is filing a suit for damages against the assailant for wrong done to the survivor. Private attorneys represent both the plaintiff (survivor) and the defendant (accused assailant). A plaintiff may win a civil suit in court or you may choose to negotiate a contract, or “settlement,” out of court, even if a criminal case doesn’t result in a conviction. This means that two parties or their lawyers reach a legally binding agreement without holding a trial.

The first step is to consult a lawyer. Some lawyers offer a one-time, initial free consultation and will take this kind of case on a “contingency fee” basis. This means that the lawyer’s fee comes only from money received from the assailant as part of the settlement.

The decision to begin a civil suit, or stop one in process, is entirely the survivor’s. Student Legal Services can provide referrals to local attorneys who are knowledgeable about sexual assault issues and may be able to represent the survivor or assailant if only one is a UVa student.

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## ***PROCEDURES AT THE UNIVERSITY OF VIRGINIA***

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The University of Virginia views sexual assault as a serious, violent crime that will not be tolerated in the University community. The University defines sexual assault as rape, forcible sodomy or sexual penetration with an inanimate object, the touching of an unwilling person’s intimate parts (defined as genitalia, groin, breast, or buttocks, or clothing covering them), or forcing an

unwilling person to touch another’s intimate parts. To constitute an assault, these acts must be committed either by force, threat, surprise or intimidation, or through use of the victim’s mental or physical helplessness of which the accused was aware or should have been aware.

In addition to criminal or civil litigation, which the administration strongly

encourages, students have two additional options for resolution of their sexual assault cases:

- ◆ a hearing by a specially-selected panel of faculty, staff and students; or
- ◆ a mediation process.

Both procedures are completely confidential. Anyone who violates that confidentiality is subject to disciplinary action under the University's Standards of Conduct. Behavior that threatens the health or safety of the survivor, or has the intent of intimidating a witness from testifying, is also subject to disciplinary action under the Standards of Conduct. Again, if you choose one of these options, you may still pursue criminal or civil redress as described above.

### **Hearing through the Sexual Assault Board**

The Sexual Assault Board is a committee comprised of administrators, faculty and students. You may request a hearing before the board by filing a complaint with the Office of the Dean of Students within one year after the assault. The Office of the Dean of Students compiles a preliminary investigative report with assistance from student investigators of the Judiciary Committee. Unless there is evidence that the wrong student was accused, the complaint is sent to the Chair of the SAB, who will confer with you and the accused student, and refer you both to faculty-level advisors.

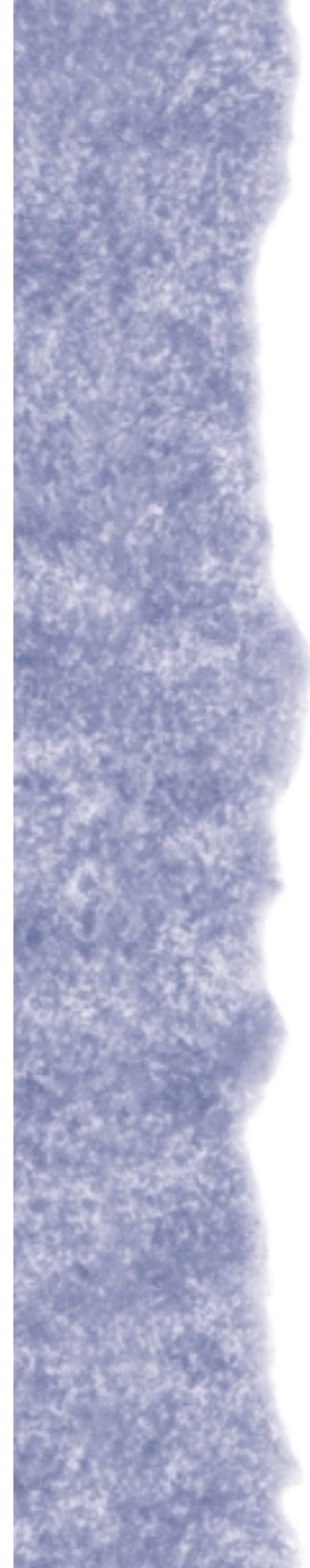
In order to fall within the jurisdiction of the SAB, the accused must be a University student, and the assault must

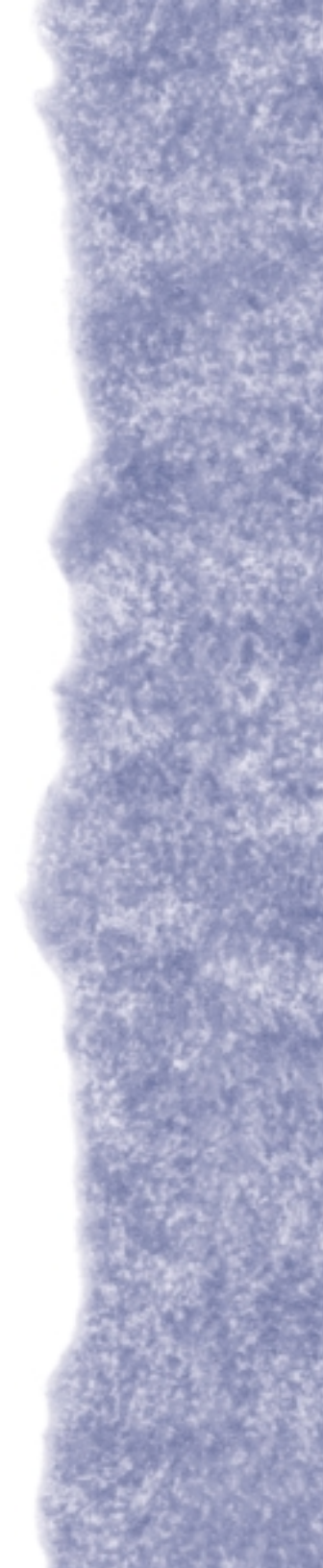
have been committed against a person on University-owned or leased property or at a University-sponsored or supervised function, or against any University student, faculty member or staff person at the local residence of any student, faculty member or employee within the City of Charlottesville or Albemarle County.

The complainant's advisor is the Sexual Assault Education Coordinator (SAEC), who helps with preparation for the hearing and accompanies her/him to the hearing, unless a different support person is preferred, such as a family member, SARA advocate, or friend.

The accused student's advisor may be an assistant dean, a counselor from CAPS, or a faculty member from another unit at the University. Like the complainant, the accused student may wish to select his/her own support person. After the parties have met with their advisors, a hearing date will be arranged. The hearing panel consists of five members of the SAB: three faculty/administrators, and two students. The panel members question the complainant, the accused, and any witnesses, until they feel that they have gathered as much information as is possible. They then meet privately and make a determination of guilt or innocence, based on whether the evidence was "clear and convincing," which is not as strict as in a criminal trial.

Punishments include the full range of Judiciary Committee sanctions, from reprimand to expulsion from the University. Either party may appeal the panel's decision to the Vice President





for Student Affairs and, in cases that result in expulsion, to the President of the University.

### **Mediation**

Mediation allows the complainant and the accused to discuss their respective understandings of the assault with the guidance of a trained professional. The goal is to facilitate a resolution of the incident to the satisfaction of both people, and to produce a written agreement to which both are bound. Thus, not all situations lend themselves to mediation; the dean who coordinates sexual assault services will make the determination if this method is appropriate, and above all, safe for the survivor.

The only people present at mediation session(s) are the complainant, the accused and the mediator. The mediator listens to each side, and works with both sides to develop a written agreement on the key issues that emerge. The agreement may include an activity or behavior that one party agrees to

perform, such as agreeing not to contact each other, seeking counseling, and so on. The agreement is kept in a personal and confidential file, and is destroyed at a time agreed upon by both parties. Penalty for violations of the agreement can be up to one semester's suspension from the University.

Unlike a hearing before the Sexual Assault Board, there is no statute of limitations on requesting mediation. If at any time during mediation, the process feels unsatisfactory, the complainant may ask for the process to stop. The case may then be heard by the Sexual Assault Board or simply end. To initiate a mediation procedure, file your mediation request with the dean who coordinates sexual assault services for the Office of the Dean of Students.

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#### FOOTNOTES

1. Koss, M. P., Gidycz, C.A., and Wisniewski, N. (1987). The scope of rape: Incidence and prevalence of sexual aggression and victimization in a national sample of higher education students. *Journal of Clinical and Consulting Psychology*, 55, 152-170.
2. NCADV Webpage: [www.ncadv.org](http://www.ncadv.org)
3. Scarce, Michael (1997). *Male on Male Rape: The Hidden Trauma of Stigma and Shame*. New York: Plenum.

## OPTIONS FOR STUDENTS IN CASES OF DATING/DOMESTIC VIOLENCE AND STALKING

Dating/Domestic Violence is a crime in the Commonwealth of Virginia, which defines it as any act involving violence, force, or threat, including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed against a person's family or household member. "Household member" includes: an abuser's spouse, former spouse, parents, children, siblings; in-laws who reside in the abuser's home; any individual who lives with or who, within the previous 12 months, lived with the abuser, and any children of either residing in the same house with the abuser; any person who has a child in common with the abuser, whether or not they have been married or lived together at any time.

Abused partners in a non-cohabiting, childless relationship may still seek protection under laws regarding assault and battery. Although the Virginia Attorney General does not consider same-sex couples to be protected by domestic violence legislation, the local Commonwealth's Attorneys are committed to prosecuting violent partners in gay and lesbian relationships, and are not interested in prosecuting battering victims under Virginia's anti-sodomy laws.

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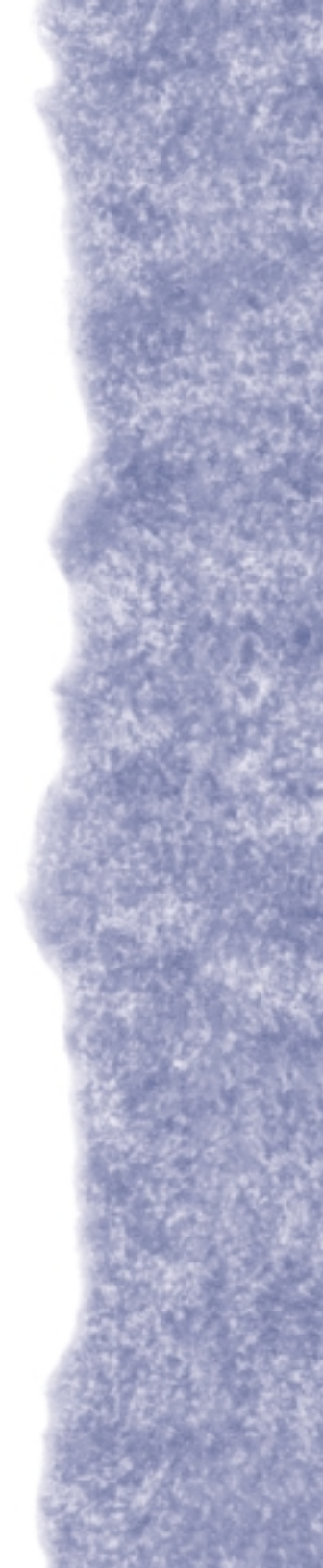
### **CRIMINAL REMEDIES**

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Domestic violence and stalking take a number of forms which are defined as criminal acts, ranging from assault, battery, cursing/abusing, marital sexual assault or rape, and stalking.

Current Virginia domestic violence laws state that if a police officer has probably cause to believe that an assault and battery occurred, the officer must arrest the abuser unless there are special circumstances that indicate a different response. It is important to contact the police in cases of abuse. It isn't necessary to be physically injured to be a victim of domestic violence and

to seek a warrant. To apply for an arrest warrant, go to the magistrate's office, which is open 24 hours a day, 7 days per week. In an emergency, the police will contact the magistrate directly. Tell the magistrate exactly what happened and why you need assistance. It helps to bring a friend or witnesses. The magistrate then may issue an arrest warrant for assault and battery and an Emergency Protective Order (which is effective for 72 hours after issuance or, if the court is not in session, at 5 p.m. on the next business day that the court is in session). The



abuser will be arrested and bond will be set or the abuser may be released on his/her own personal recognizance. If the survivor wants a protective order that lasts longer than an Emergency Protective Order, she/he must file a separate petition for a Preliminary Protective Order (which lasts 15 days). A court will issue a Permanent Protective Order if it finds that the survivor has proven her/his allegation of domestic violence. Virginia courts and police recognize and enforce Protective Orders issued from other states. If you have just moved to Virginia, it is important to file a copy of your out-of state protective order with the Juvenile and Domestic Relations Court in Charlottesville or Albemarle County (consult the clerk if you aren't sure which jurisdiction).

Although it is not necessary to retain an attorney, it might be helpful to have one. Again Student Legal Services may be able to assist you directly, or refer you to a private attorney or Piedmont Legal Services, if finances are a problem. The area's Domestic Violence Services Coordinator, an advocate from the Shelter for Help in Emergency (SHE) or the UVA Sexual Assault Education Coordinator will accompany survivors to the courts or magistrate upon request. Batterers' groups are

available in Charlottesville, and judges are often willing to require that convicted abusers attend these groups, so jail time is not the only alternative for abusive partners, although the threat of incarceration can be an effective deterrent for some.

Abusers often threaten to take away children, have the victim institutionalized, or returned to her/his home country if they are international students or scholars. Although these forms of retaliation are possible, these threats are generally used keep an abused spouse in line. Temporary custody and/or visitation of minor children may be granted to a victim of family abuse in the Permanent Protective Order. Attorneys can advise survivors about when and how divorce, custody, and support proceedings should be initiated. Federal legislation may protect non-resident battered women from deportation, even when they are here illegally. Resources are available for survivors who do not speak English or who use American Sign Language (ASL), although those services are more limited than those for who are fluent or native English speakers. Survivors sometimes must be adamant about their rights to an interpreter who is qualified to work in the courts.

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## ***AT THE UNIVERSITY OF VIRGINIA***

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Students wishing to charge an abusive partner (whether in heterosexual or same sex relationships) for violating the

University's Standards of Conduct must file charges through the University Judiciary Committee, except in cases

where sexual assault is involved, in which case all charges would be heard by the SAB. A case is initiated by filling

out a complaint form in the UJC's office, fourth floor of Newcomb Hall.

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## **OPTIONS IN CASES OF STALKING**

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Stalking is also against the law in Virginia. To fall under the legal definition of stalking the victim must feel under threat of danger. Initial criminal charges are generally misdemeanors but increase in severity with subsequent charges. Consequently, it's important to notify the police each time the victim even suspects that stalking has occurred. If the stalker is a former partner with a past record of abuse, criminal charges are immediately more severe. Stalking is punishable by up to five years in prison upon a third conviction. At UVA, the University Judiciary

Committee (UJC) hears stalking complaints except when sexual assault is also involved, in which case all charges are heard by the SAB. The Sexual Assault Education Office has a form for tracking stalking incidents that may be valuable when filing any sort of criminal, civil, or internal charge against an accused stalker. If the victim lives in on-Grounds housing and the stalker does also (or comes on-Grounds to stalk the victim), notify your Resident Staff member and/or the UVA Police immediately.

## **QUESTIONS**

Anyone with questions or concerns about individual cases of sexual assault, dating/domestic violence or stalking, should address them to the Sexual Assault Education Office or the Office of the Dean of Students.


## **IMPORTANT CONTACT NUMBERS**

- |  |                        |
|--|------------------------|
| ◆ Police Department:   | 911 (on Grounds 9-911) |
| ◆ SARA 24-hour hotline   | 977-7273               |
| ◆ SHE 24-hour hotline  | 293-8509               |
| ◆ UVA Sexual Assault Education Office  | 982-2774               |
| ◆ UVA Office of the Dean of Students   | 924-7133               |
| ◆ UVA Sexual Assault Board   | 924-7427               |
| ◆ Charlottesville/Albemarle County<br>Domestic Violence Services Coordinator | 970-3176               |
| ◆ University Judiciary Committee (UJC)                                       | 924-7625/924-7602      |

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