If the survivor reports the incident to someone immediately or soon after the incident, then they are in a position to make a decision regarding preserving physical evidence to support a potential legal case against the perpetrator.

Survivors must be counselled on their legal options as prescribed under local law as soon as possible so that they may make informed decisions. A survivor’s nationality and identity characteristics may feed into the decision-making process.

The organisation should assist survivors who are deciding whether to initiate a legal process by ensuring that they:

* know that the decision is theirs and theirs alone;
* have considered all the options available to them;
* understand what evidence can be gathered considering the timeframes; and
* are fully aware of the legal ramifications of their decision.

The survivor’s physical and mental health should be the organisation’s primary concern, and evidence should be collected only with the survivor’s consent.

Even if the survivor is not sure whether to file a report with law enforcement (be it local or international), actions can be taken early on that may preserve the option to file a report at a later date. For instance, survivors may agree to undergo a sexual assault or rape examination without formally committing to taking legal action; evidence collected during such procedures can be used in a court of law should the survivor decide to press charges. It is important to ensure that evidence is collected, stored and analysed according to applicable law (such as local criminal law, home country criminal law and duty of care law).

In some cases, the best option for the survivor is to collect evidence and file a report. In other cases, however, it may be psychologically harmful to the survivor to do so.

Sometimes helpers to the survivor can unconsciously or inadvertently ‘urge’ the survivor to report or collect forensic evidence when they may not wish to. Survivor supporters should be mindful of their social influence and not let their personal opinions, however well-meaning they may be, to interfere with the survivor’s decision-making.

Supporters should lay out the options for the survivor without emotion and aim to validate the survivor’s sense of self-determination in this process.

Survivors should understand the procedures which they will need to go through if they choose to file a police report. These procedures should be outlined by the country office or headquarters in advance and be understood by those supporting the survivor. Relevant staff members should provide information and support the survivor before, during and after the reporting process. The organisation needs to be prepared to support the survivor regardless of their choice.

Preserving evidence

Survivors should not:

* drink or eat anything, including any non-essential medication they might be taking;
* shower or brush their teeth;
* comb or brush their hair;
* smoke;
* go to the toilet (if waiting is not an option, survivors should use a glass or jar and store it safely);
* discard any tampons or sanitary towels; or
* wash any clothing or bed sheets that were used at the time of the incident; it is important that these are kept dry and stored in paper bags (as opposed to plastic bags) to avoid contamination or loss, if possible.

Survivors should be advised to identify and preserve all other evidence that may be useful, which can support a legal case if the survivor does not report the incident immediately or did not preserve medical forensic evidence. This type of evidence may include:

* mobile phone evidence, such as call lists, texts and voicemails;
* photos;
* emails; and
* messages on social media, such as Facebook and Twitter.

The place where sexual violence took place is a crime scene. If possible, avoid disturbing, moving, washing or destroying anything that might be a useful source of evidence. This may include clothing, bedding, any glass or cup that the perpetrator drank from, discarded cigarette stubs, condoms or any other object the perpetrator touched.

Following traumatic incidents, survivors may feel compelled to act in ways that could destroy evidence, such as taking a shower or throwing away clothes. It is important for survivors to feel supported and, therefore, they should not feel that they are being judged for inadvertently disposing of or destroying evidence.

At no point should the survivor be forced to go through the evidence-gathering process or be made to feel guilty for not reporting sooner.