



End Violence Against Women International (EVAWI)

# Suggested Guidelines on Language Use for Sexual Assault

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## Introduction

We all know that words matter, and this can be especially true when we are talking about sexual assault. In this training bulletin, we are sending out a document that was originally developed to provide guidance on language use for the authors and editors of *Sexual Assault Report*<sup>1</sup>, a publication that we co-edited for five years. (We are currently in the process of editing our last issue and passing the torch of leadership to others.)

Because this document is likely to be helpful to just about anyone working in this field, we have adapted it for this purpose. We believe these recommendations for language use can improve our verbal and written communications as professionals in the field, helping us to provide information in ways that maximize our accuracy and clarity – and to avoid common tendencies that can create confusion, perpetuate misinformation, and contribute to a climate of doubt and victim blame.

### Referring to the Crime, and Avoiding the Word “Alleged”

The word “alleged” will generally be avoided, given the historical context of skepticism for reports of sexual assault. In some instances, the offense will simply be described as a “rape” or a “sexual assault,” following standard conventions within the criminal justice system. It may also be described as the “crime,” “offense,” “reported sexual assault,” etc.

Many people say they use the word “alleged” to refer to sexual assault cases, because they have not reached a final resolution within the criminal justice system (e.g., conviction of the defendant). This is consistent with the presumption that all defendants are innocent until proven guilty. However, it is important to keep in mind that only a miniscule percentage of sexual assaults ever make their way through the entire criminal justice process. Moreover, exhausting the appeals process can take years and even decades. In other words, almost all sexual assaults remain “unresolved” by the legal system, and it would be inappropriate to refer to all such reports (or even disclosures) of sexual assault as “alleged.”

Equally important, this practice is not generally used for any type of crime other than sexual assault.

### Describing Sexual Acts

Every effort will be made to avoid using the language of consensual sex to describe acts of sexual abuse and assault. For example, terms such as the following will be avoided because they convey a degree of mutual consent and/or minimize the

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<sup>1</sup> The original version of this article appeared in *Sexual Assault Report*, 2011 (November/December) Volume 15, Number 2, pp. 17, 30–31. Published by Civic Research Institute.

seriousness of the acts: “sexual intercourse,” “had sex,” “oral sex,” “fondling,” “massaging,” “foreplay,” etc. Instead, objective language will be used to describe the specific body parts and sexual acts involved: “penile – vaginal penetration,” “he rubbed his penis on her vulva,” “the defendant penetrated the victim’s anus with her fingers.”

Other phrases will be avoided when they appear to place agency for the sexual act on the victim rather than the perpetrator. Problematic phrases include: “the victim performed oral sex on the defendant.” Rather, objective language will be used to describe the specific body parts and types of contact involved, including the element of force or coercion if it is present. For example: “The defendant forced his penis into the victim’s vagina,” or “After the defendant threatened to hurt him, the victim stopped resisting, enabling the defendant to penetrate the victim. “Alternatively, the legal term may be used: “the defendant raped the victim,” again with the understanding that this conclusion may not reflect the final resolution of the case within the legal system.

### **Referring to the Perpetrator, Suspect, Defendant**

When referring to a legal case, the defendant will generally be named, following standard conventions for the legal field, and also reflecting the reality that criminal legal cases are identified, filed, and retrieved using the defendant’s name. This will typically include the defendant’s full legal name (first, middle, and last name). One exception to this general rule is when the identification of the defendant would also lead to the identification of the victim (e.g., when the defendant is the victim’s spouse, parent, or sibling). In these situations, the defendant might be identified using only initials, or with a first name and an initial for the last name. Alternatively, the defendant may simply be identified on the basis a relationship to the victim or another household member (e.g., the victim’s mother’s boyfriend).

When referring to the criminal justice system, the word “perpetrator” will generally be used only when a sexual assault conviction represents the final resolution of a case. This would be the case, for example, when a defendant has been convicted. Otherwise, the defendant will typically be referred to by name or described using the specific legal standing at the appropriate point in the narrative (e.g., “suspect” prior to the filing of charges, or “defendant” during the pendency of a case).

Outside the criminal justice context, the word “perpetrator” will be used to refer in general terms to those who commit sexual offenses (e.g., “Sexual assault perpetrators typically use instrumental force, not gratuitous physical violence.”)

### **Civil Legal Cases**

When referring to a civil legal case, the language use will differ from the criminal justice context. For example, a tort or divorce case may name the victim or the victim’s parent(s) in its heading. Child protection cases are usually filed under the child’s name

(or initials or an acronym), but sometimes they are filed under the protective parent's name. As a policy, however, a victim's name should not be used in connection with any sexual assault case (civil or criminal), except in exceptional instances where this reflects the stated preference of the victim.

### **Referring to the Victim**

Also following standard legal conventions, the term "victim" will typically be used when referring to the context of the criminal justice system. Only in exceptional instances will the phrase "alleged victim" be used, and its use must be justified by unique circumstances. The terms "accuser" or "prosecutrix" are not appropriate, unless they are used in a direct quote from another source and cited appropriately.

Other terms may be preferred by authors in other professional disciplines or contexts. For example, those in the health care profession will generally use the term "patient," because it is oriented toward their mission. Victim advocates and other social service providers may use alternative terms, depending on their professional mission and philosophy; these could include "client," "survivor," etc.

Victims will generally not be named in our writing, except in circumstances where this reflects the stated preference of the victim. In some instances, the victim will simply be referred to as "the victim" or some other neutral identifier in relation to the defendant (e.g., girlfriend, wife, daughter, foster son, nephew, neighbor). In other situations, the victim's initials may be used (typically in cases involving child victims). In still others, a pseudonym will be used (e.g., "Jane Doe"). Typically, the referent used in a written article (such as a case review) will reflect the language from the original court decision.

### **Active Language**

In general, active language will be preferred over passive forms. An example of passive language would be: "The victim was thrown against the wall" or "The victim was pushed, causing him to strike his head against the table." Alternative versions using active language would include: "The defendant threw the victim against the wall," and "The defendant pushed the victim, so his head struck the table."

On occasion, a similar problem may occur when language implies agency that is not warranted given the common dynamics of sexual assault victimization. For example, it would be problematic to state that the victim "delayed reporting" if he/she did not contact law enforcement for several days after the sexual assault. While this may be described as a "delayed report" in the criminal justice context, alternative wording can be used to describe the victim's response to the sexual assault in ways that do not carry the connotation of active obstruction of the criminal justice process. To illustrate: "The victim disclosed to her mother the day after the assault and then contacted law enforcement two weeks later."

Finally, the word “experience” is not preferred for describing victimization. An example would be the following statement: “A woman who experiences sexual assault in addition to physical violence is more likely to be killed than a woman experiencing physical violence only.” Better wording more accurately captures the reality of victimization. To illustrate: “A woman subjected to sexual assault in addition to physical violence is more likely to be killed than a woman subjected to physical violence only.”

### **Statement, History, and Story**

Authors should avoid using the term “story” when referring to the victim’s statement or account of events, given the connotation of skepticism conveyed. Other terms are more appropriate, such as “account,” “statement,” or even “the victim’s description of the sexual assault,” etc. The term “history” is often used when describing the victim’s account of the event for health care providers. For example: “The Sexual Assault Nurse Examiner took the victim’s history before collecting evidence.”

### **Strangled vs. Choked**

The term “strangled” will be used, rather than “choked,” to accurately describe an act of force. The term “choked” actually refers to a blockage within the victim’s windpipe (e.g., food stuck in the throat), although it is commonly mistaken as referring to an act of strangulation.

### **Referring to Victims with Disabilities**

Approximately one in five people have a disability. It is a minority group that one can join at any time, and in fact most people will join if they live long enough. When referring to victims with disabilities it is therefore important to use respectful language, or what is referred to as “People First Language.” People First Language puts the person before the disability and acknowledges that victims with disabilities have a great deal in common with other victims. Having a disability can be one part of the human experience and therefore, such language conveys that a person *has* a disability, not that he or she *is* the disability. For example, a person *has* cerebral palsy rather than a person *is* cerebral palsied.

Other examples of People First Language include describing someone as:

- A person who uses a wheelchair, rather than “wheelchair bound”.
- A person with an intellectual disability, rather than “mentally retarded”.
- A person with a disability, rather than “the disabled”.
- A person with mental illness, rather than “insane”.

Other terms that should be avoided when possible include references to Mental Age. Some standardized tests for intelligence and adaptive functioning include a Mental Age comparison. Mental Age scores or age equivalent scores have sometimes been used to describe adults with intellectual disabilities as children or “functioning as a seven-year-old.” This reference does not accurately describe the person and their abilities or limitations and should be avoided. One possible exception is when referencing official documents that use such language. In that situation, the language can be used as long as it is clearly attributed to the original source. However, it is best to include a note or discussion to convey that the term is not the most accurate or appropriate.

In general, there is no disability label or diagnosis that describes a specific person. Just as each person with diabetes is unique, so is each person with autism. Also, each person’s experience is unique. It is therefore best to avoid words designed to elicit pity or a patronizing attitude, and rather to use language that communicates an attitude of respect for all victims.

### **Flexibility and Reasonableness**

While these preferences are stated for the wording of articles or case reviews, it is worth noting that some degree of flexibility is required. Sometimes problematic wording is included in the original text of a court decision and retained in the case review; this can be noted using quotation marks or other means. In other situations, it can be difficult to avoid problematic language for a variety of reasons. Therefore, a standard of reasonableness will be used to evaluate wording of case reviews and other articles in light of these general standards.

### **Conclusion**

We believe these recommendations for language use can improve our verbal and written communications as professionals in the field, helping us to provide information in ways that maximize our accuracy and clarity. Ultimately, the goal is to avoid common tendencies that can create confusion, perpetuate misinformation, and contribute to a climate of doubt and victim blame.