



AFTERMETOO

“I told my agent first, and she repeatedly told [my union] what was happening. I was in a very remote location. For a very long time nothing happened. There was no set visit. Nobody, to my knowledge, spoke with the harasser. So it continued until it culminated in a pretty crazy night in the middle of the woods. And finally after that, [the union] did shut down the set for a day. Their recommendation to me once the set reopened was a buddy system. I was told to even go to the bathroom with another actress so that he couldn’t be alone with me ever. After it happened, they had me speak at a....board meeting. It was kind of your classic re-victimization. I was being asked constantly, ‘Why didn’t you say no? Why didn’t you say no?’ To the point where the other actress who came with me as a witness had to scream at everyone, ‘She did say no. She said no a million times. Nobody listened.’”

**- Actor,
Aftermetoo Symposium.**

Unique Vulnerability to Sexual Violence in Film, Television and Theatre

Most people working in the television, film and theatre entertainment industry are highly vulnerable: self-employed, working short-term contracts, and enduring frequent unemployment. When they are working, it's never 9 to 5 and rarely in the same place and often in off-site and rural locations at all times of day or night. And they are subject to varying provincial and federal labour and occupational health and safety laws.

Producers, directors, and agents, who are still disproportionately white and male, wield power because of their ability to provide employment.

Pursuit of work regularly drives people to move among producer-employers, bargaining agents, and, in some cases, non-unionized freelance contracts, which means less stable working conditions with varying standards of conduct. It's all too easy for cases of sexual violence to fall through the regulatory gaps.

These conditions are often worse for vulnerable communities such as Indigenous and racialized women, trans and non-binary folks, migrant and undocumented workers, women with disabilities and youth. This is particularly true given the scarcity of diverse roles and employment opportunities within the industry.

Taken together, these industry realities create a culture where both survivors and bystanders are afraid to report sexual violence, and have little faith that employers or labour organizations will take complaints seriously. The harms that result from sexual violence are deep and pernicious, affecting the survivor's emotional, physical, psychological, and economic well-being. Yet given the inherently precarious nature of employment in the industry, and the prevailing fear that bringing forward an allegation of sexual violence will be career-ending, for most members of the industry reporting powerful predators has not been an option.

The result is that predators continue to act with impunity, and this is no longer acceptable.

On December 5th and 6th, 2017, the Globe and Mail hosted a symposium called #AfterMeToo.

The symposium's purpose was to examine workplace sexual violence within the entertainment industry and to create change rather than wait for it to happen. We included the "after" because we want to move beyond recognition and towards actual system, culture and policy changes that protect us from workplace sexual violence.



After a keynote address by Justice Minister Jody Wilson-Raybould,¹ the almost 50 attendees collaborated on these themes through ten roundtable discussions and a public forum. The participants included actors, directors, crew, agents, union representatives, human rights lawyers, employment lawyers, criminal lawyers, psychologists, advocates for survivors of sexual violence, technology innovators and experts on organizational change many of whom had themselves survived sexual violence.

Following the symposium, we consulted an Advisory Committee of experts and researched international best practices. This report is based on those policy discussions, and lived survivor testimonials.

Our recommendations ask that policy, protocol, and systems be rebuilt from the ground up. The time for talk is over. This is our roadmap.

A note on Terms: “Sexual violence” is used to describe both sexual assault and sexual harassment.

Action #1:

Increase funding to support services for survivors of sexual violence across Canada.

Demand for trauma-informed support services for survivors of sexual violence across the country has dwarfed supply for some time,² and this gap has grown exponentially in the wake of #MeToo.

Survivor care that recognizes the lingering harms of sexual violence is critical for the welfare of survivors and essential before a survivor reports the abuse. It should be priority #1, but it has been overlooked.

Core funding for mental health and counseling support services across the country remain inadequate, unpredictable, and often non-existent. Waitlists are long, and staff are unsure about what will be sustainable from year to year.

We urgently need significant and stable funding increases to provide survivors with the frontline mental health support services they need. No survivor should have to linger on a waitlist for months before getting help. Online, real-time availability of available and free counseling must be easily accessible in one online space or call centre. Governments at all levels can and must do better.

Action #2: Create an Independent, National Organization to address Sexual Violence in the Industry.

The entertainment industry has made it easy for predators to act with impunity. Efforts to address this require a unified, coordinated response by all stakeholders across the industry, including producer/ employer organizations, bargaining agents, and talent agents. They must come together to create a national body to address sexual violence, and it must have two key attributes: authority and independence. It should be funded by stakeholders, industry, and government. It should operate on a trauma-informed, survivor-focused intersectional model, and be responsible for:

- **Receiving Disclosures of Sexual Violence:** Survivors of sexual violence need a safe and confidential place to disclose, while retaining control over whether or not their disclosure will trigger a formal complaint and investigation.³ Where this model has been implemented, initial evidence has shown an increase in formal complaints, as survivors gain confidence and familiarity with the legal avenues available to them.⁴ Providing survivors with initial advice on how to prepare their complaint can also lead to an increased likelihood that their evidence will be viewed as credible and will lead to a finding of culpability.
- **Providing Referrals to Crisis Counselling and Legal Advice:** The national organization should connect survivors with skilled social workers and/or clinical psychologists to provide trauma-informed crisis counselling. Similarly, the national organization should provide survivors with access to legal advice about their options (whether filings complaint with the employer, bringing a human rights complaint, filing a civil suit, or pursuing criminal charges), and how to move forward as they choose. The provision of free legal advice for survivors of sexual violence is consistent with a number of provincial initiatives already being piloted.⁵ These existing initiatives provide a model for how this recommendation can be implemented.
- **Coordinating Independent Expert Investigations:** Where the police are not involved, but an investigation of sexual violence is appropriate, the investigator must be impartial and highly qualified. The national organization can curate a list of approved investigators across Canada who will be paid, as already required under provincial and federal law, by the employer or union. All stakeholders must use only national organization-approved investigators. Ensuring independent and qualified investigations is essential. Not only will the investigation be much more likely to lead to a valid finding and to follow best practices to ensure procedural fairness, but it is also more likely to inspire the confidence of both the complainant and respondent.

The success of this body will lie in the stakeholders' ability to create one unified organization for the entire industry.

Action #3:

Investigate Cases of Historical Sexual Violence in the Industry.

Investigating and prosecuting historical sexual violence is an important part of doing justice to survivors in the present, and of the industry-wide reckoning that must occur.

Unresolved cases should be opened and investigated according to new protocol. Survivors must be accorded the space to come forward on their own terms, they must believe that they will be taken seriously, and they need to know they will benefit from the new independent investigation standards, case-tracking and data collection protocols recommended in this report.

Apart from being inherently just, insights gained into the dynamics of sexual violence from the investigation of historic allegations will help refine and inform policies and protocols to avoid future violence and misconduct and help define the leadership.

Action #4:

Employers and Unions Must Impose Substantial Consequences for Perpetrators of Sexual Violence.

While respondents have the right to due process, to defend allegations brought against them, and to have their cases investigated by independent professionals, where misconduct is fairly made out, meaningful and proportionate consequences must follow.

Every case is different and there is no way to pre-determine appropriate sanctions, but the range of sanctions can include suspension or termination in employment situations, temporary or permanent suspension of union status, and inclusion on a list like the Unfair Engagers list currently maintained by ACTRA.

The range of penalties should be well-communicated across the industry, as the knowledge itself can be an important deterrent to would-be offenders and a source of strength for survivors.

Whenever a consequence is imposed, the national organization should be notified so it can maintain a centralized, comprehensive, and confidential database of offending behaviours and responses to them. Tracking allegations across production companies and bargaining agents can reveal patterns of predatory behaviour and also shed light on, and prompt conversation about, the issues associated with retaliation for speaking up.

In more serious cases, unions should publish the name of the perpetrator in a disciplinary database. Regulatory colleges for various professions publish the names of members disciplined for misconduct.⁶

Action #5:

Create a “Safety Fund” to support counseling and Legal Advice for survivors in the industry.

While a national organization may naturally take some time to set up, survivors need essential legal and counseling services now. We would recommend an immediate investment in:

1. Trauma-informed therapy/counseling by a mental health professional, with a counsellor chosen by the survivor. We consider four hours of access to such services as the minimum acceptable standard.
2. Confidential legal advice, with a lawyer chosen by the survivor. We consider six hours of access to such services as the minimum acceptable standard.

The Safety Fund should follow the pension fund model already in use in the industry, with automatic deductions from contract payments to employees, and employer contributions. The Safety Fund should be paid into and accessible industry-wide, regardless of union membership.

Action #6:

Prohibit Sexual Violence in contracts, collective agreements and workplace policies.

Formalizing the unacceptability of sexual violence can empower both victims and bystanders to cut off unwelcome behaviour in real-time by referencing the sexual violence prohibition clause. These clauses should apply 24-7, and should apply everywhere the employment relationship might reach, including wrap parties, auditions, press conferences, and pre-employment discussions.

Industry stakeholders should further agree to a binding code of conduct prohibiting sexual violence of any kind, as it may have more influence than a contractual term. Moreover, a permanent and industry-wide code of conduct cannot be negotiated away, and will apply before and after the terms of a contract have come into effect or expired. This will provide a more stable baseline for acceptable behaviour.

This code of conduct must be mandatory and binding. A voluntary code is unacceptable and insufficient. Given what has taken place in the past, it is reasonable to characterize a merely voluntary code of conduct in this industry as no code at all.

Action #7:

All Industry Members Must Take Part in Regular Sexual Violence-Prevention Training from Qualified Trainers.

Training alone cannot eradicate predatory behaviour. But it can raise the behavioural bar by fostering insight in willing learners and be a strong preventative measure. It can empower potential victims and bystanders to know what to call out and when, and how to do so safely and constructively. Bystander empowerment through training is particularly important.

Ongoing training must be mandatory and union membership should be conditional upon completing it. Training should address how gender, identity, race, sexual orientation, gender expression, and class, among other factors, interact to make some people more vulnerable to sexual violence. Producers, agents, and union officers must also train on the impact of stress and trauma following sexual violence, including the effects of “institutional betrayal” when institutions create environments conducive to abuse or respond poorly to reported incidents.

Part of this training must address the reality of “gaslighting” once a claim is filed and how to stand up for industry members who are at risk of losing their jobs because of this abuse of power.

Training must work with agencies, guilds, and unions to create standard, on how a claim of misconduct will be handled within that organization, and all members and clients must be implicitly aware of these policies.

And, of course, training should start early, in all of our schools. New members of the industry must be trained on their rights, how to file a claim and what to expect of their leadership once the claim is launched.

Sexual violence is a health and safety issue, so no one can be exempt from training to address it. And everyone must keep their training demonstrably up to date, including those in management positions.

To its training mandate, the national organization should collect a range of data on sexual violence to identify risk factors and help inform future prevention initiatives. Aggregate data should be made publicly available in annual reports.

Action #8: Create Technology to Support Survivors.

Reporting sexual violence is daunting. A survivor struggles with the trauma of the incident and apprehension surrounding what lies ahead if the event is reported. Online trauma-informed applications addressing a survivor's many needs can provide far more than just information. It can provide understanding of options. Technology can help close gaps in our system, if designed from a trauma-informed perspective.

- A) Reporting needs to be easier and much more accessible. Options to report online through an application must be created. An online report could be shared with the union or the national organization as the survivor chooses, and the report should be available at all times to the claimant.
- B) There is a patchwork of information about survivor supports available online, but asking a survivor to sift through it after a trauma is asking too much. A centralized application should point a survivor to free legal supports available in their area, and where to find other kinds of help. It should also provide real-time data on what support programs have availability.
- C) An application to case-track the potential for lost employment must be created, and it should also monitor how employment is affected should a claim be filed. This data should be available to the claimant, the unions and the National Centre. Without this critical application, launching a claim will remain unsafe, since reprisals are not clearly tracked.

Well-designed, trauma-informed applications can reduce the trauma of the reporting and investigative processes themselves. It also has benefits beyond those provided to the survivor directly. Anonymous aggregate data could also be used to monitor the level of service delivery for survivors across communities and the industry in general.

The insight gained about industry dynamics can then be disseminated through the application to benefit everyone.

Action #9: Demand Leadership Accountability.

Sexual violence is fundamentally an abuse of power. It is a result of a choice made by those who have power in a given situation to exercise it over others with less. Eradicating it requires everyone to critically examine their power to abuse, stop abuse, impose consequences, and effect change in the work environment, consider when and in what circumstances they possess that power, and commit to using their power for good.

Senior industry leadership is no exception. They hold tremendous power and resources, and must utilize them in a responsible and accountable manner.

We know much has gone wrong. We know too little has been done. We know too many have been victimized. Therefore, senior industry leadership has a crucial and difficult obligation to take an honest look in the mirror. Those who abuse their power must stop immediately. The argument that senior leaders did not realize sexual violence was taking place in the workplace is not an excuse if those leaders ought to have known. Change is overdue and qualified leadership must lead that change, creating policies and workplace climates that honour both the letter and spirit of the recommendations in this report. We demand much more from our leadership. The tone at the top must be resolute, transparent, and proactive.

Those with experience in senior leadership roles need to seek out the shortcomings of past practices that contributed to, or permitted, sexual violence to occur with impunity. Those systemic shortcomings should be publicly identified so that new best practices can emerge industry-wide.

Part of the challenge facing senior leadership will be eradicating the patch-work of inconsistent approaches to sexual violence that is all too common in a federation like Canada with multiple overlapping legal jurisdictions and local practices. The responsibility of senior management to implement all the recommendations in this report has to be monitored. This public accountability will be critical to re-establishing trust for survivors.

Furthermore, leadership must reflect Canada's diversity. This diversity is reflected across our screens in the stories and art that we create. Indigenous and racialized persons, people with disabilities, people of all genders and sexual orientation must be put into top leadership roles. Anything less is unacceptable.

Industry stakeholders should participate in a national roundtable one year from now, open to all industry members. This roundtable must provide answers about how policies and responsibilities of leaders have been changed in order to prevent and address sexual violence. The roundtable must specifically address actions taken since the publication of this report.

AfterMeToo and YOU

This report is an open invitation to all industry leaders to stand up and create this change. Our report lays out steps to move forward, but we need the commitment of all partners to make progress.

There has been a seismic shift in our understanding of the experiences of men and women in the workplace. But little will come of this opportunity if we do not make sustained efforts and hold ourselves accountable to usher in the change we know must occur. We ask for unity, accountability, and transparency.

The time for talk is over.

Now the change must start.



¹Recordings of the roundtable discussions and Minister Wilson-Raybould's speech are available at <www.aftermetoo.com>. A list of invited participants is attached at Appendix A.

²The Barbra Schlifer Commemorative Clinic, which provides counseling and legal services to women-identified survivors of gender-based violence in Toronto, reports an estimated 125% increase in new requests for support services, while the Association of Alberta Sexual Assault Services saw a more than 100% increase in new counseling clients this past year. The VAWAW Rape Crisis Centre in Vancouver reports an 18-month waiting list for individual counselling. At the Avalon Centre in Halifax, wait times for services can range from a week to a year, with those coming forward with stories of older incidents waiting longer for help. Agencies in Quebec report that because of long waiting periods, survivors sometimes decide not to use the services even when they become available.

³See, for example, The External Review Into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces (March 27, 2015), at pp. 32–36; also see the Ontario Sexual Violence Action Plan, which requires every college and university in Ontario to create a sexual violence policy establishing, among other things, that “a victim may choose not to request an investigation by the college or university, and has the right not to participate in any investigation that may occur,” O. Reg. 131/16, s. 2(2)4.

⁴The Canadian Armed Forces' Sexual Misconduct Response Centre (SMRC) has also reported that in an increasing number of cases, supervisors are calling the Centre to obtain advice about how to support their members and handle incidents of inappropriate sexual behaviour or harassment: Department of National Defence, Sexual Misconduct Response Centre (SMRC) Annual Report 2016-2017, at p. 9.

⁵The governments of Newfoundland, Ontario, Saskatchewan, and Nova Scotia and have already announced and/or implemented pilot programs to provide a number of free hours of legal advice to survivors of sexual violence.

⁶For example, the College of Physicians and Surgeons of most provinces, as well as Colleges of Occupational Therapists, Dentists and Nurses all maintain online databases of disciplinary proceedings, including sexual assault and harassment, for a period of time.

⁷#AfterMeToo's Trauma and Sexual Harassment Experts roundtable emphasized the importance of ending institutional betrayal and promoting institutional courage—which includes accountability; apologies; responding well to disclosures; self-study; and, education where people grapple with the issues, learn, and take ownership. For more information, see “Institutional Betrayal and Institutional Courage,” accessible at: <<http://dynamic.uoregon.edu/jjf/institutionalbetrayal/index.html>>.

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