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The Role of Victim Advocates

Acknowledgments

This section was written by Dr. Kimberly A. Lonsway, Research Director, National Center for Women & Policing

Content of this module was developed partly on the basis of material from the following sources.

- "Police Response to Crimes of Sexual Assault: A Training Curriculum." Written by Sharon M. Hunter, Bonnie R. Bentley Crewe, and Jamie L. Mills. Produced by the Connecticut Sexual Assault Crisis Services, Inc. Funded by Police Officer Standards and Training Council and STOP Violence Against Women Grant #VAW9606.
- "Developing a Coordinated Community Response to Sexual Assault and Domestic Violence." Produced by the Ending Violence Against Women Project of Colorado. Funded by the Bureau of Justice Assistance of the U.S. Department of Justice (Grant #95-WF-NX-0008).
- "Looking Back, Moving Forward: A Guidebook for Communities Responding to Sexual Assault," produced by the National Victim Center (now the National Center for Victims of Crime). Supported by a grant from the Office for Victims of Crime and Bureau of Justice Assistance of the U.S. Department of Justice.

The National Center for Women & Policing would like to gratefully acknowledge the assistance of these organizations and individuals.

Introduction

The first U.S. rape crisis center opened in 1971. Just five years later, more than 400 programs for battered women and rape victims were in operation. Clearly, the growth in rape crisis services reflects the demand for victim service providers, who play an essential role in the coordinated response to sexual assault. The unique advantage of victim advocates (who typically operate out of rape crisis centers) is that these individuals can maintain an exclusive focus on the safety and well-being of victims. In contrast, criminal justice system professionals must balance the objectives of the criminal justice system with the wishes and needs of victims. Despite sincere concern for victims, police often see victims as sources of evidence and prosecutors see them as potential witnesses. Only the advocate has an exclusive focus on helping the victim.

- When discussing the topic of victim advocacy, it is important to note the distinction between private community-based victim advocates (such as those operating out of a rape crisis center) and specialists within a public victim-witness assistance program.
- Specific jurisdictions may have either or both of these services available.
Victim-witness specialists

Victim-witness specialists are employed by a public agency (typically a police department or prosecutor's office). Although their range of responsibilities will vary, the primary goal of these professionals is to support the victim in her role as a witness to a crime and to protect her rights as established by State and Federal law.

Victim-witness specialists generally have immediate access to information about relevant hearings, depositions, and court dates. They can also assist the victim in applying for compensation or accompany her to interviews and court proceedings.

Because of their unique position within a public agency, victim-witness specialists have to balance the victim's needs with those of the criminal justice system. For example, victims are only eligible for victim-witness assistance if their case proceeds through the court system, and victims are sometimes excluded from eligibility if they engaged in illegal behavior, etc.

Victim advocates (rape crisis advocates)

In contrast, victim advocates work for a private, community-based agency such as a rape crisis center and have an exclusive focus on the needs of the victim. Victim advocates can generally provide all of the services described above for victim-witness assistance programs as well as giving emotional support and linking victims with financial, legal, and emotional resources. Victim advocates also typically have no restrictions on who is eligible to receive services.

Comparison of two services

While both types of service are extremely important and beneficial for victims, it is important to keep in mind the distinction between and them and to recognize the different roles and limitations of each. Throughout the remainder of this training module, we will be discussing the many roles and responsibilities of victim advocates.

All of these topics will be relevant for private, community-based victim advocates such as those operating out of a rape crisis center. Victim-witness specialists will concentrate primarily on those activities relevant to the police investigation and court proceedings.

A note on confidentiality: A chief distinction between private, community-based advocacy (such as that provided by a rape crisis center) and public victim-witness assistance is the degree of confidentiality provided to the victim in her communications. Most private, community-based advocacy programs such as rape crisis centers have statutory protection offering them complete confidentiality in their communications with victims. These policies prohibit victim advocates from disclosing information about victims to a third party without consent and they will contest any attempts to gain access to victim records. In contrast, public victim-witness specialists may be compelled to provide the police or prosecutors with personal information about the victim that may be needed during the course of prosecution or when seeking higher bail or a protective order.

General Role of Victim Advocates

Victim advocates provide supportive services to victims of sexual assault, either at the hospital and/or later during the process of investigation and prosecution. Although advocacy services
are not available in every community, they are becoming increasingly common. As part of their role, victim advocates will provide a wide variety of services.

**Supporting the victim**

The primary role of an advocate is to assist victims by securing the necessary information, services, and follow-up care. This requires addressing both the victim's emotional needs and her concrete needs for assistance and information.

**Facilitating the victim's decision making**

Victims are required to make a number of difficult decisions immediately after the assault, and advocates can assist in this process by identifying the decisions that must be made, providing necessary information, and helping the victim consider her options. Once a decision is made, the advocate can also help the victim follow through with actions that are required as a result of the decision. It is important to note that advocates do not make decisions for victims - advocates only facilitate the victim's own decision making process.

**Informing the victim of her rights**

Advocates inform victims of their rights, including those dictated by state statutes such as confidentiality and compensation for medical services.

**Serving as a liaison between agencies**

Advocates can help coordinate the services that victims receive from the various health, legal, and social service agencies. By serving as a communication link and central point of contact between these agencies, advocates can ensure that victims receive the best information and treatment possible.

**Accompanying or staying with the victim**

A key role of the victim advocate is to offer comfort, companionship, and reassurance to victims. In that process, however, the advocate needs to take her cue from the victim and respect her wishes. For example, some victims want to talk while others wish to remain silent. Sometimes, the victim may want to be left alone, in which case the advocate should respect her wishes but remain nearby (e.g., outside the examination or interview room) to be available.

**Offering crisis intervention**

Either on a crisis hotline or in person, advocates can allow the victim to recount her experiences and vent her feelings. Advocates can also help the victim make a plan to get the support she needs within her own network of family and friends.

**Conducting safety planning**

Some sexual assault victims face immediate safety issues, if the perpetrator is still at their home, school, or office, or if the trauma of victimization puts them at risk for substance abuse or harm to self. Victims who require help planning for their safety may need assistance from advocates who can think creatively and are educated on these issues.

**Documenting the assault**

Advocates keep records on the characteristics of victims and cases that they handle. This helps the rape crisis agency track what services were offered and who received them. However, due
to concerns regarding confidentiality, this record keeping is often kept to a minimum, including only general information regarding demographic characteristics and services provided. As a result, many records have no identifying information such as the victim’s name.

In addition to these general roles, advocates have responsibilities that are specific to the different stages of sexual assault response. These are described below with respect to the medical-forensic examination, police interview, investigative process, and court proceedings.

**Medical-forensic examination**

During the initial response to sexual assault, the role of the advocate is to work with the victim's immediate emotional responses. Advocates provide information, assistance, and comfort to victims during the emergency procedures. They can also help the victim's family, friends, or others who are affected by the sexual assault. This is an important part of the teamwork response, because advocates can keep victims informed and emotionally capable of cooperating with police and medical personnel.

- When victim advocates respond to the hospital (or other facility providing medical-forensic examinations), they have usually been called either by the victim or by medical personnel. If no advocate has arrived by the time police arrive, the officer or medical personnel should contact one immediately through the local rape crisis agency.
- Sometimes victims contact the rape crisis agency first, in which case the advocate will encourage the victim to get medical attention. In some cases, the advocate can help arrange transportation for the victim, both to and from the hospital or other medical facility.

*Although advocates should be called immediately when a sexual assault victim reports to the hospital, it is the victim's decision whether or not to work with an advocate. Advocates should begin by introducing themselves and describing their role before asking whether the victim would like their assistance. If the victim prefers not to work with an advocate, she should be given materials on the rape crisis agency for future reference.*

Once at the hospital or other medical facility, advocates are involved in a variety of ways:

- In general, advocates work with other team members to ensure that the victim has access to all of the services and support personnel that are available to her.
- Advocates will make sure that victims receive information about relevant medical concerns. For example, depending on the type of sexual assault the victim experienced, information might be needed regarding pregnancy, sexually transmitted diseases, or HIV infection.
- Advocates will also make sure that victims receive information about follow-up medical treatment and any prescriptions given.
- During the medical-forensic exam, the victim can have an advocate present if requested.
- Advocates can sometimes provide clothing and toiletries for the victim after the medical examination, if they are needed.

Finally, advocates can help victims obtain compensation for medical expenses, either through personal insurance, state funds for crime victims, or federal assistance. For crime victim compensation from the state, advocates can provide claim forms and help victims complete
and submit them. (More information on crime victim compensation is provided with the supplementary materials.)

**Police investigation**

Because victims are asked to relate the details of their sexual assault during a police interview, they may experience emotional trauma as they relive the crime. Yet the interview sets the tone for all further communication between the police and victim, so it is very important that this contact is successful. For this reason, victim advocates can be especially helpful to law enforcement during the police interview.

- Before the police interview, advocates can explain the process to victims and answer any questions they might have.
- As with the medical procedures, advocates should begin by explaining their role before asking the victim whether she would like to have an advocate or other support person present during the interview. Advocates can be present during the police interview if requested by the victim.

> In California, the penal code gives victims of sexual assault the right to have any two individuals of their choice present during police questioning. A victim advocate may be one of these people, and police cannot exclude an advocate from the interview. Police can exclude other support people from the interview, but only if they are deemed to be disruptive.

- When they are present during the police interview, advocates can provide emotional assistance to victims, answer the victim’s questions, and assure that the victim’s rights are protected. In general the advocate’s role during the police interview will be non-verbal.

> In some states, a victim advocate who is present during the police interview can be summoned to court as a witness. Where this is a possibility, the victim must be informed of this as she decides what kind of support she would like during the interview.

- Advocates can also make sure that victims are not pressured to make any decisions that they are not prepared for.
- Advocates can help signal to interviewers when the victim appears to need a break from questioning. In most cases, the actual decision to take a break should be left to the victim.

The victim advocate’s role in the initial response often ends once the medical procedures and police interview are completed. Some advocates will continue to work with victims, but others refer victims for longer term assistance will be provided by a rape crisis counselor or mental health professional.

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1 Note that rape crisis counselors are sometimes different from rape crisis advocates. While advocates work with victims through the immediate response to sexual assault (e.g., hospital, police, and court procedures), counselors deal with longer-term emotional issues through regular counseling sessions. In some agencies, however, the same service provider fulfills both roles.
Investigative procedures

Just as advocates provide information and assistance throughout the medical procedures, they can also help the victim throughout the police investigation.

- Advocates can work with victims to address their concerns and needs during various stages of the police investigation. This increases the likelihood that victims will actively cooperate.
- Advocates can keep victims informed throughout the process, by explaining investigative and court procedures. They can explain these procedures repeatedly, if necessary.
- Advocates can help address the victim’s safety concerns, by discussing these fears and working with police to determine how to respond if they feel threatened by the assailant.
- Advocates can accompany victims to any events required by the investigation, including follow-up interviews, identification procedures, etc. This can greatly alleviate the trauma associated with these experiences.
- Advocates can work with police to assure that victims have all necessary and appropriate information, without compromising the integrity of the case. This could include notifying the victim of an arrest, providing information about the detention and location of the suspect, and keeping the victim apprised of any changes in detention status, including the suspect’s location or bail.

Of course, some case-sensitive information should not be provided to victims, because it is potentially harmful to victims and can jeopardize the case. An example of such information would be details of a pending arrest.

When an arrest is made in a sexual assault case, victims often feel a sense of elation or euphoria, because they believe they are safe from re-victimization. This feeling is temporary, however, and often replaced with anxiety over the next steps of criminal prosecution.

Court proceedings

The initial appearance in court or the arraignment hearing can also lead to anxiety for victims as they relive the assault and fear reprisals from the offender. Advocates can help address these concerns by:

- Keeping the victim notified of the time and place of any court proceedings, including any meetings with the prosecutor, the arraignment, hearings, court appearances, etc. Notification is often a problem for victims, as it involves forms that need to be filled out. Advocates can be very helpful as victims navigate this complex system.
- Explaining the nature and status of each of these court proceedings to the victim.
- Accompanying the victim to any of the court proceedings. In some cases, the advocate can help the victim to arrange transportation to attend any court proceedings.
- Discussing with victims any special conditions of the offender’s bail, parole, or probation.

For example, if an offender typically uses the same parking garage as the victim, a special condition of bail may be that he cannot use that garage. Special conditions can also provide that the perpetrator cannot use alcohol or come within 500 yards of the victim or her family
members. Special considerations are important because most sexual assault victims know their perpetrators, and the court must therefore invoke conditions that can isolate the two.

*When discussing special conditions with victims, it is helpful for them to understand the overall impact on the perpetrator after serving his time, or while out on bail. It is also helpful for the victim to understand the consequences of a perpetrator violating the conditions set by the court. Also, the prosecutor should ask the victim if she agrees with the special conditions. The court will likely ask the prosecutor if he/she has discussed them with the victim.*

- Requesting special victim protection, if necessary.

Given that most sexual assault cases involve some kind of relationship between the victim and perpetrator, there is often a need for special protection of the victim. For example, the victim may require temporary housing in a shelter or other safe house. Occasionally, pre-trial security and transportation may also be an issue in these cases (as in gang initiation cases).

In areas that have both private, community-based advocacy (such as a rape crisis center) and public victim-witness assistance programs, there can be questions regarding the role and responsibilities of each.

- One advantage that victim-witness specialists have during this state is their extensive knowledge of court procedures. Given their professional status within the criminal justice system, moreover, they may be particularly well situation to notify victims of court appearances and other important developments in the court process.

- A private, community based advocate, on the other hand, will often have the advantage of 24-hour availability, statutorily protected confidentiality in communications with the victim, and the ability to stay in more frequent contact with the victim.

Federal and state legislation affords legal protection to victims by addressing some of the issues identified above.

- In many states, victims must be notified of court schedule changes, pre-trial, or bail release dates, final disposition, and sentencing.

- Some states also require victim involvement at critical decision points such as plea negotiations.

- State statutes also dictate victims’ access to court and allocution, as well as specific courtroom procedures. Allocution refers to the original three intents behind the Crime Victim’s Bill of Rights, which stated that victims have a right to be informed, present, and heard at all court proceedings. The right to be heard is often translated into the opportunity for victims to provide a statement of impact prior to sentencing.

*Although the original intent of the Crime Victim’s Bill of Rights pertained to the rights of victims during court proceedings, it is critical to keep in mind that the vast majority of sexual assault victims never make it to this stage. It is equally important that law enforcement,
advocacy, and every member of the sexual assault response team work to ensure that the rights of all victims are protected.

As with any other stage of the response to sexual assault, advocates can help inform, prepare, and support victims during prosecution and court proceedings.

- Advocates can serve as a communication link for victims within the court system, to ensure that victims are included in the process and consulted about important decisions such as plea negotiations or sentencing.
- Advocates can also be of assistance because they follow developments in the law concerning sexual assault that may not be known to police and prosecutors.

For extensive information on the wide range of victim services that are available across the country, please consult: "Promising Practices: Improving the Criminal Justice System's Response to Violence Against Women," developed by the STOP Violence Against Women Grants, Technical Assistance Project. Copies are available from: National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20849-6000, 1-800-851-3420, Reference #NCJ-172217.

Benefits of Working with an Advocate

- Advocates can provide emotional support to victims so that police officers can focus their time and energy on the investigation.
- Advocates are available 24 hours a day, 7 days a week.
- Advocates are able to answer many questions that victims have, and they can answer questions that victims might be afraid to ask police officers.
- Advocates can explain medical or legal procedures over and over again if the victim wants.
- Advocates are familiar with the range of agencies involved in the coordinated sexual assault response, and they can keep victims, police, and others informed about these resources.
- Advocates can be with the victim throughout the entire process, including at the hospital, during the investigation and court proceedings, and even post-conviction.
- Advocates can keep the victim apprised of case progress and schedule changes.
- With the support of an advocate, victims can be better witnesses.
- Advocates can help victims get compensation for costs incurred from the assault.
- Advocates can support friends and family so the police officer can focus on interviewing the victim. Supportive family and friends can help the victim stay committed to the process.

Even if it takes years to go to trial, advocates may still be in contact with the victim when police and prosecutors are not.
Other Community-Based Services for Victims

Every state has a network of private, community-based agencies that provide services to sexual assault victims. These agencies, typically referred to as rape crisis centers, provide a range of services 24 hours a day, 7 days a week. All of their services are free and confidential, and they are provided to victims of any type of sexual violence, including sexual assault, child sexual abuse, incest, or sexual harassment.

These services typically include:

- A 24-hour hotline with immediate access to certified counselors/advocates.
- Crisis intervention and short-term counseling.
- Advocacy for victims throughout the medical and legal procedures.
- Information and referrals.
- Support groups.
- Services for female and male victims of any age.
- Services for family, friends and other support people.

Services are provided even if the assault happened a long time ago, and many have male counselors, bilingual staff, and sign language interpreters available if needed. Law enforcement officers need to be familiar with the range of services offered by their local rape crisis center, to provide referral information for victims and others. Police must also know how to access these services, because they are in a unique position to assist victims in getting the help they need to facilitate their recovery.

A Note on Networking Agreements

Police departments are encouraged to develop a standing policy of contacting the local rape crisis center every time they respond to a sexual assault case.

- In many cases, this call will already have been made by the time police respond - either by medical personnel, the victim, or other support people. Nonetheless, police officers should include as part of their response protocol confirmation that the rape crisis center has been called in every case, regardless of who actually makes that call.
- Police should also either give the victim the phone number for the local rape crisis center, or confirm that someone else has already done so.

In addition to the protocol for notification, police departments can work with community-based advocacy services in a number of ways to exchange information, coordinate efforts, and conduct interagency training.

For extensive information on how to establish networking agreements and other protocols for interagency coordination, please consult the National Victim Center's manual entitled "Looking Back, Moving Forward: A Guidebook for Communities Responding to Sexual Assault." Contact the National Victim Center at 2111 Wilson Boulevard, Suite 300, Arlington, VA 22201.
Crime Victim Compensation

According to federal law (the Violence Against Women Act), victims of sexual assault in all states should receive a forensic exam at no cost or be reimbursed for the full cost of the exam. Specific guidelines regarding the federal crime victim compensation program is provided in the supplementary materials.

- In many states, victims will be asked to pay for the examination up front and then complete an application to receive reimbursement.
- In others the victim does not pay for the examination up front but rather assists the health care facility in being compensated
- In still other states, the law enforcement agency with jurisdiction over the investigation will pay for the exam.

Regardless of the billing procedure, the examination should be considered evidentiary and not medical in nature (although it will also include medical treatment for pregnancy and STD's).

- In those communities where victims pay for the exam up front, they should be informed about how to obtain reimbursement at the time of the exam and be allowed at least one year to apply for reimbursement.
- Many states also impose requirements on victims seeking reimbursement for the cost of the exam. The most common requirements are that victims must report the assault to the police and receive the exam within a certain period of time after the assault (usually 72 hours)\(^2\).

Most states cover the costs associated with the basic components of a forensic exam, including:

- Examination of physical trauma
- Determination of penetration or force
- Patient interviews
- Collection and evaluation of evidence

In addition, most states will cover services such as:

- Diagnostic services, such as pregnancy testing or testing for STD's
- Forensic exam with a colposcope
- Medical treatment to prevent pregnancy or treat STD's
- Medical services to treat injuries
- Counseling services
- Ambulance or other transportation services

\(^2\) As described in the module on the forensic-medical exam, recent research suggests that the limitation of 72 hours may be inappropriate given the likelihood of finding evidence within a wider time frame. This nonetheless remains the restriction in many jurisdictions. Law enforcement officers must be aware of the local protocol governing when to obtain a forensic examination of sexual assault victims and the procedures for reimbursing expenses.
State funds for victim compensation will only cover costs which other sources don’t cover or only partly cover. Examples of these alternative sources of compensation include:

- Medicare/Medicaid
- Sick time from job
- Victim restitution from convicted person
- Legal settlements
- Employer heath insurance
- Worker’s compensation
- Life insurance of homicide victim

Please see the supplementary materials with more detailed information provided by the U.S. Crime Victim Compensation Program. Despite these guidelines, many jurisdictions continue to face obstacles for crime victims seeking compensation. For this reason, it is imperative that law enforcement and advocacy work together to ensure that appropriate procedures are followed and compensation provided to victims who need it.

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