

## Advocates Serve a Distinct and Different Role Than Paralegal Prosecution Staff



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**Vigorous and independent representation of the interests of each party is the best means for achieving justice.** This precept is fundamental to our adversarial justice system. In the criminal context, the Supreme Court has repeatedly affirmed the right of every defendant to legal representation. The interests of the State are represented by the prosecutor. In recent years, recognition that our justice system lacked specific representation of victims' interests has led to the development of independent victim advocacy.

**Advocates represent victims' interests, while paralegal prosecution staff represent the interests of the State. If these interests conflict, the victim is unrepresented if there is no advocate.** Aggressive prosecution of domestic assault benefits our society by sending a clear message to others that this behavior is unacceptable and will be punished. However, an individual victim may suffer more than she benefits from prosecution of a specific offense. Her abuser will likely blame her for the prosecution and is likely to retaliate when released from custody. The abuser may provide sole financial support for the victim and her children, and his incarceration could leave them penniless.

Prosecution staff, including victim/witness paralegals, are obligated to do everything possible to ensure successful prosecution, including encouraging a reluctant witness to testify. That's their job, and it serves society's interest. Advocates are obligated to represent the interest of the victim, providing her with information and support that allows her to make the choice she feels best serves her interest.

**Advocates can perform the critical functions of a victim/witness paralegal; a victim/witness paralegal cannot perform the critical functions of an advocate.** Advocates and prosecution paralegal staff can work together harmoniously when it is clear that advocates represent the victim and paralegals represent the State. If a choice must be made between advocates and paralegals, advocates must be preserved to provide representation of victims. Either advocates or paralegals can perform the neutral function of informing victims of the progress of their case throughout the criminal justice system and explaining the roles the victim may play. Only advocates can represent the interests of the victim when they conflict with those of the State.

**Advocates' independence of the criminal justice system is vital to their ability to serve victims/survivors effectively.** It is precisely because the interests of the victim may conflict with those of the State that the victim advocate must remain independent of the criminal justice system. For victims to trust that their interests are paramount with advocates, the advocates must be free both of actual bias toward the State and of the appearance of such bias. When a victim/witness paralegal is hired, fired, and paid by the prosecutor, the interests of the prosecution will appropriately take precedence over the interests of the victim. To represent otherwise to victims would be unethical.

**Independent advocates increase the likelihood that victims/survivors will participate actively in prosecution.** Having victim advocates who are independent of the prosecution team often results in increased willingness on the part of the victim/survivor to participate in prosecution. When a victim/survivor knows that an advocate is obligated to place her interest first, even if that hinders prosecution, that victim/survivor is often more willing to participate in the judicial process. When there is no one whom the victim/survivor can perceive as representing solely her interest, her mistrust of the criminal justice system often causes the victim/survivor to decline any participation in the judicial process.

**Advocates' independence of the criminal justice system allows them to play a coordinating role among elements of the system.** It is not only the interests of the victim which may conflict with those of the State. Conflicts often arise between City and County Attorneys, between police and prosecutors, between prosecutors and the bench, etc. Because DAP advocates are independent from all of these groups, they have been very successful in facilitating discussion and cooperation among the elements of the criminal justice system. Clearly, paralegals who work for the prosecutor can in no way be expected to fulfill a similar function.

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