

VALOR'S SUPPORT FOR SURVIVORS

Training for Sexual Assault
Counselors/Advocates

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Advancing Equity. Ending Sexual Violence.

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In 1999 ValorUS (formerly the California Coalition Against Sexual Assault, hereinafter "VALOR") released the first Support for Survivors guide. Two decades have passed, and within that time our movement to end sexual violence has transformed. Perspectives of sexual violence have changed and the voice of our movement to end sexual violence has grown; we've recognized the need to center equity and reach communities at the margins in order to support all survivors, especially the most vulnerable.

The latest updates to VALOR's Support for Survivors: Training Sexual Assault Counselor/Advocates in the 21st Century reflect the advancements the movement has made and our fearless approach to honor the valor and strength of survivors.

Our intention from the beginning has not just been to provide pathways for survivors, but also to strengthen the capacity of our communities to prevent and intervene in sexual assault by addressing the root causes that create the conditions for violence and oppression.

VALOR envisions a world free from violence where the dignity of every person is valued and respected. This new version of Support for Survivors informs us how we move forward to address the inequities survivors face and bolster the resources we have to offer.

A handwritten signature in blue ink, appearing to read "Sandra Henriquez".

Sandra Henriquez
Chief Executive Officer

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INTRODUCTION

About Support for Survivors: Training for Sexual Assault Counselor/Advocates in the 21st Century

Welcome! If you are reading this manual, you have probably chosen to become a trained sexual assault counselor/advocate. This manual is intended to be used in conjunction with the required training for those who intend to provide sexual assault advocacy services within rape crisis centers in California. It was developed by a team of writers under the direction of the ValorUS (formerly CALCASA, hereinafter “VALOR”).

In 1999, the first version of Support for Survivors was introduced by VALOR, and it has proven to be an enduring resource that has helped advocates over the years. In producing a new version of this manual, we want to honor the groundbreaking work that was done two decades ago. The vision and the understanding of the original writers still inspires admiration. The update was prompted by changes in the law, best practices, and the cultural environment in which we provide advocacy. It is our intention to offer you up-to-date knowledge, resources, and inspiration as you enter this vital field.

Understanding Advocacy

Advocates are amazing people. Whether they serve as Rape Crisis Center staff members or volunteers from the community, they dedicate themselves to the challenging task of supporting survivors of sexual abuse and assault. Essentially, they are guides to navigating the web of services available to survivors, but they also provide other essential services. Through their training and experience, they seek to understand what survivors go through, and to be a constant, encouraging presence in the aftermath of one of the most difficult experiences in life. In addition, community-based advocates identify and work to reduce barriers to receiving

services, stigma about victimization, gaps in services, and obstacles created by oppression and discrimination.

The first chapter in this manual will provide an overview of how these services began and have developed over time. As an advocate-in-training, you can be proud of the unique role you will have in helping survivors recover and thrive. A few decades ago, there were virtually no services specifically focused on the needs of sexual assault survivors. Now, there are many more programs and professions that focus on this issue. Nonetheless, rape crisis centers and their counselor/advocates retain a distinct function in the constellation of services because of how we do our work. Research studies have shown that advocacy services can help increase social support and the ability to access resources, reduce re-victimization rates, and enhance quality of life (Wathan & MacMillan, 2003).

While many professionals offer valuable help to survivors, counselor/advocates represent the communities that survivors come from, and remain close to what survivors deal with on the ground. It's important to distinguish between community-based counselor/advocates who work out of Rape Crisis Centers, and system-based advocates (for example, those who work for district attorneys' offices or law enforcement) who represent the interests of those agencies. System-based advocates have a different role – generally, to help survivors with the purpose of making the investigation and prosecution of criminal cases proceed more smoothly. Because of their access to prosecutors and law enforcement, they can provide valuable information to survivors who are engaged in the criminal justice process, but it is important to note that they do not have the same confidentiality and privileged communication as community-based advocates.

As community-based counselor/advocates, you may help survivors in numerous ways. Typically, you will be providing crisis intervention, emotional

support, legal and medical information, and safety planning. Advocates show up at the hospital when sexual assault survivors go through the often-scary experience of a medical exam to provide treatment and gather evidence. They may accompany survivors to appointments in other medical settings. They are by the survivor's side during law enforcement investigative interviews and court proceedings. They provide information and referrals to survivors and those who care about them. Rape Crisis Centers may offer support groups and prevention services. According to the National Center for Victims of Crimes (2008), "Advocates offer victims information about the different options available to them and support victims' decision-making. Advocates do not tell victims what to do."

While advocates are trained in trauma responses and can make referrals to mental health professionals, they are not therapists. In California law, community-based advocates are referred to as "sexual assault counselors," but we have chosen to use the term "counselor/advocate" because of possible confusion with mental health counselors, who serve an entirely different function. It is important for survivors to have support and help without necessarily taking on the role of mental health client or patient. Certainly, mental health professionals can be helpful to some survivors, but not all survivors will need or want these services.

UNDERLYING PRINCIPLES

Advocacy services were originally grass-roots organizations, and they give survivors an important message: "Your response to being assaulted is normal. There is nothing wrong with you. We understand what you are going through, and we are here to help you make your own choices and decisions."

Key principles for community-based advocacy services are:

- Promoting equity and justice
- Elevating the voices of survivors
- Offering information and explaining options to enhance survivors' decision-making

- Coordinating existing services
- Reducing stigma and enhancing public and professional understanding of sexual assault
- Serving as agents of change

PROMOTING EQUITY AND JUSTICE

Historically, survivors of sexual abuse and assault have been treated poorly by service providers and even community members. Disclosures of victimization have often been greeted with disbelief and blame for the victim. Even today, the first response to hearing someone has been assaulted may be, "Why were they at that place? What were they wearing? How much were they drinking?"

When a survivor comes from a historically oppressed group, often the stigma increases and the access to services decreases. This topic will be addressed throughout our manual, but at this point, it is important for you to know that as an counselor/advocate, your mission is to help survivors experience greater equity and justice, and to ensure that no matter who they are or what their backgrounds may be, survivors in your community have access to the very best options available. Toward this end, we emphasize the rights of survivors throughout this manual, so that you can help uphold those rights.

ELEVATING THE VOICES OF SURVIVORS

Survivors often express the feeling that their wishes and desires are overlooked. Certainly, the experience of sexual abuse or assault itself is one of the ultimate experiences of loss of power and agency. Too many times, survivors are then engaged in a system that makes them feel even more lost, confused, and disregarded. As an advocate, you are there to ensure that survivors' needs are recognized and met. Whether you are asking a detective to take a break in questioning because the survivor needs time to regroup or helping a medical clinic to become more trauma-informed and able to serve survivors with appropriate sensitivity, you are elevating the voices of survivors.

Rape crisis centers do this on the individual level, by offering information and options to survivors and helping them to connect to services without being retraumatized; they also work with professionals, policy makers, and the general public to create systems and environments that help survivors feel valued and supported.

COORDINATING EXISTING SERVICES

No one is born knowing how to navigate the services available to survivors, and the process of getting what they need can be confusing, distressing, and sometimes almost impossible. A single survivor may interact with a hospital emergency room, law enforcement (sometimes from more than one jurisdiction), healthcare providers for follow-up treatment, language interpreters, adult or child protective services, crime victims' compensation programs, school or college administrators, military personnel, prosecutors, victim witness programs, mental health professionals, child care, employers, attorneys, housing providers, immigration enforcement, the court system, reproductive health providers, and more.

On both the individual and organizational level, advocates do an outstanding job of helping survivors get through the maze of services, while also making the maze less complicated and confusing. Sometimes, just knowing that a service exists, and who does what, is a great help and comfort to a survivor. Introducing service providers to one another and helping them prepare to meet the needs of people who are experiencing trauma is another task that sexual assault advocates do very well.

This may seem daunting to you if you are a brand-new counselor/advocate, but over time you will learn the resources in your community and you may even play an important role in helping them to become more responsive to the needs of survivors. You will undoubtedly provide valuable information to the survivors you work with, whether it is helping them to find new housing after an assault in their home, assisting with securing an interpreter, letting them know how their campus handles sexual assault cases, helping them apply for crime victims' compensation, or walking them through the steps involved in a criminal trial.

REDUCING STIGMA AND ENHANCING PUBLIC AND PROFESSIONAL UNDERSTANDING OF SEXUAL ASSAULT

As a sexual assault counselor/advocate, you will help survivors, professionals, and the community at large know that sexual assault can happen to anyone, and that it is never the victim's fault. This seems like such a simple message, but even after decades of activism, there are people and systems that just don't "get it."

You may work on prevention programs, or you may have the opportunity to participate with an interdisciplinary task force. You will certainly have the chance to work with the families and partners of survivors, some of whom may be blaming the survivor for the assault. Every time you accompany a survivor or work in the community, you become a voice for understanding what survivors need to move forward in their lives.

SERVING AS AGENTS OF CHANGE

Because the rape crisis movement began as a protest against the ways that survivors were being treated, and because community-based advocacy programs stand separate and apart from systems such as law enforcement or the courts, sexual assault advocates can be powerful agents for change. Working within your own agency's guidelines and policies, you will have the opportunity to move the field forward by joining your colleagues in identifying problems that reduce survivors' chances of doing well after an assault. While the trajectory of change is not constant, in general things are better for survivors than they were when the original Support for Survivors manual was written in the 1990s. You will be part of the change to come.

Words Matter

We have made some deliberate wording choices in this manual. While females are overwhelmingly the targets of sexual violence, we recognize that boys, men, and people who reject the gender binary and identify as something other than traditionally male or female are also sexually victimized. We have chosen to use the singular “they” and “their” pronouns, despite the grammar issues and the acknowledgment of gender disparities in victimization, because English still lacks a good alternative gender-inclusive pronoun. This use of the singular “they” is becoming more common and less likely to make English teachers and editors wince.

For the most part we have also chosen to use the term “counselor/advocate” rather than “sexual assault counselor,” despite the fact that California statutes refer to the latter. This is because the term “counselor” is often understood to refer to a mental health professional (and advocates are usually lay people), and because the role of an advocate encompasses more than just counseling. In line with the key principles stated above, advocacy has been defined in this way:

Advocacy is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need... Advocacy promotes social inclusion, equality and social justice (Citizens Advice Sheffield, 2018, para 1).

We have moved away from using terms such as “perpetrator” or “offender.” Instead, when possible we lead with person-first language that puts the person before their diagnosis, action or assumptions we may have of them. This practice seeks to emphasize the individual and minimize stereotypes and labels. It speaks to our value of asserting the dignity of all people, leaving space and possibility for individuals to change.

Becoming a Counselor/Advocate

Your initial training is just the beginning of your journey as a counselor/advocate. It can be exciting, but possibly quite challenging at the same time. There is a lot of information to master, and beyond that there is the knowledge that no amount of “book learning” can prepare you for every situation you will encounter in your work with survivors. Your supervisor, your peers in your agency, the ongoing training you will receive, and your own independent learning will advance your knowledge, but the greatest teacher will be the experience you gain and what you learn from listening to survivors.

An openness to learning and to shifting your mind-set will be among the most important attributes you can bring to your work as a counselor/advocate. It is not your job to change survivors’ minds about what they want or need, nor to figure out what is best for them. Even in the training process, you may come across ideas or situations that are new to you and cause some internal conflict. You may look at things in a new way. This is always a part of growth, but not necessarily an easy part.

One of the best things about being a counselor/advocate is becoming part of team. While organizations vary enormously, most advocates find that they develop close working relationships with their colleagues that make a big difference in their enjoyment of advocacy work. Your fellow advocates and your supervisor will be terrific sources of knowledge and support for you as you find your way toward becoming an effective counselor/advocate. Don’t hesitate to ask questions or to admit when you find something confusing, difficult, or challenging. That is how you will build your competence to help survivors.

Challenges

Many of you have had your own experiences of sexual or domestic violence in your life. This can enhance your ability to understand survivors' needs, as long as you are completely clear that each person's experience is unique and informed by their perceptions and life experiences, which may be very different from your own. Having this personal history can also create challenges since your work may trigger trauma memories or feelings for you. It is important that you have a plan for how to deal with these reactions if they occur.

On the other hand, counselor/advocates who have not had the experience of sexual abuse or assault may struggle to understand how this trauma affects survivors. Whether or not you are a survivor, learning about the range of experiences and reactions that survivors may have will help you to be an effective advocate.

You certainly understand the need to remain nonjudgmental in your advocacy work, but this may be more difficult than you anticipate. When you are working with a survivor who has a very different worldview than yours, or whose actions go contrary to your values and beliefs, it can be a challenge to remain neutral and supportive.

You will also face the challenge of what is called "vicarious trauma." Hearing the heartrending stories of what people who sexually assault do to survivors can create severe distress in those who seek to help. You will want to pay close attention to the suggestions for handling vicarious trauma that are presented in this manual and seek support from your agency when you need it.

What You Will Learn

As we have explained, this manual is designed to provide basic information about each of the topics required as part of your training to be a Rape Crisis Center counselor/advocate in the State of California. Here is a preview of what you will learn in each chapter:

OVERVIEW

It is important to understand the big picture on the topic of sexual assault. Rape crisis centers have been in existence for several decades. During that time, our cultural approach to and understanding of sexual assault has changed time and time again. As an counselor/advocate, it is important for you to understand the roots of the movement to address gender-based violence, the social forces that can greatly hinder survivors' recovery, and the direction in which our services are moving.

While we call our service agencies in California "Rape Crisis Centers," sexual assaults that meet the legal definition of rape are only a portion of the experiences that survivors have had to deal with. Also called "sexual violence," sexual assault encompasses a wide range of behaviors, including harassment, unwanted touching, sex trafficking, child and teen sexual abuse, intimate partner sexual violence, and any non-consensual sexual contact. To become an effective counselor/advocate, you must learn about the various forms of sexual assault and what effect they may have on survivors.

While every individual has their own unique response to victimization, learning what the trauma of sexual assault may do to a survivor can help you to understand the reactions of the people you support. This manual explains both the immediate and long-term effects of sexual assault. In recent years, we have learned a great deal about the neurobiology of trauma – in other words, how trauma affects our body and our brain, thereby causing changes in perception and behavior. This information is vital to counselor/advocates, both for your own understanding of what may be going on with a survivor, and so that you can reassure survivors. As Viktor Frankl, a Holocaust survivor, said, "An abnormal reaction to an abnormal situation is normal behavior" (Frankl, 1984).

We emphasize that how a person experiences sexual victimization is shaped not only by their personal experiences, but also by their social identity and experiences of oppression. The manner in which survivors perceive and access services and the criminal justice process is likely to be influenced by culture, identity, and background.

DISCRIMINATION AND OPPRESSION

Delving more deeply into the societal factors that counselor/advocates must understand to help all sexual assault survivors, the next chapter defines discrimination and oppression and explains how they intersect with sexual violence. It is impossible for counselor/advocates to serve the full range of survivors in their communities without an understanding of these overlapping issues. This portion of your training may be uncomfortable at times, as are most experiences in which we learn to grow and stretch. You will probably have some “aha!” moments in which you realize how different experiences can create completely separate world-views. We are asking you to step outside of your own experiences and be open to people with cultural backgrounds that may diverge from your own.

Throughout this advocacy manual, we encourage you to think about discrimination and oppression in your work with any survivor. While you will not want to make assumptions about any survivor before listening to their story, be prepared with some general information about how sexual abuse and assault may play out in different cultural contexts, so that you have a framework for understanding what survivors tell you.

CHILD SEXUAL ABUSE

For some counselor/advocates, child sexual abuse may be one of the most difficult topics to approach. This chapter will prepare you with information about the nature and prevalence of child sexual abuse, and the many ways in which it affects survivors. Some Rape Crisis Centers, particularly those in areas which have a Children’s Advocacy Center, may not work directly with young children who have been abused. Nevertheless, every counselor/advocate will encounter adult survivors of childhood sexual abuse, and most likely parents, caregivers, and other family members of children who have been sexually abused.

A key concept in working with child sexual abuse survivors is understanding what are called “Adverse Childhood Experiences,” or ACEs. The concept of ACEs emerged from large-scale studies of the long-term physical and mental health effects of negative childhood experiences (such as abuse or witnessing

violence). Research has now shown without a doubt that if we want to help people to have healthy lives, we must prevent and address abuse.

To understand childhood sexual abuse, you must also learn about normal sexual development, and how children’s perceptions of abuse vary depending on their stage of cognitive development. Again, advances in our knowledge of the neurobiology of trauma have provided valuable information about the types of support survivors need to overcome long-range effects of child abuse.

In addition to these important facts about childhood sexual abuse, this chapter will prepare you to deal with concerns about whether and when you must report child abuse. While sexual assault counselor/advocates in California are not generally considered mandated reporters, the issue is complicated, and there may be times when you are required by law to make such a report.

TEEN SEXUAL ABUSE

Adolescents are at high risk of sexual abuse and assault. In addition to single episodes of rape or other sexual victimization, intimate partners can create abusive patterns of behavior that include sexual assault (with or without accompanying physical violence). Sexual abuse that began in childhood may continue into adolescence, or teens may experience ongoing abuse from an adult such as a coach or teacher for the first time. Teens are trying out their independence, and forays into new places and roles can create additional risk, as can substance use and abuse. Older teens may be assaulted on college campuses, and teens may be trafficked into the sex trade.

The chapter on teen sexual abuse encompasses all these scenarios and more. You will learn how technology can both increase risk and serve as a safety net for young people. Confidentiality is one of the foremost concerns of teens (Thrall et al., 2000), and can be complicated, so we provide guidance on this issue. Developmental issues are key to understanding how sexual abuse and assault affect teens as well as children, so we delve into evolving information on the adolescent brain and other aspects of development.

CRISIS INTERVENTION

As a counselor/advocate, you will be providing crisis intervention on a regular basis. Perhaps you will respond to a hospital emergency room to offer support to a survivor who has just been raped. You may be answering crisis calls on a hot-line or working with “walk-ins” at your agency. A parent may reach out frantically after just learning their child was abused. In all of these scenarios, you will need to have a prepared response, so that you can maintain a calm, supportive demeanor and provide practical help to survivors and their families.

In the chapter on crisis intervention, you will learn the basics of how to handle a situation when someone talks about committing suicide, what to do when family and friends reach out, how to identify and respond to sex trafficking, and how to figure out what a survivor may need in a crisis and how you can offer options in the most effective way possible. We will help you understand what it means to offer “survivor-centered” and “trauma-informed” services.

REFERRAL RESOURCES AND METHODS

A large part of an advocate’s job is to connect survivors with resources and services in the community. Your own organization will educate you about what is available locally. The chapter on referrals will help you understand how to bridge the gap between the services you offer and the other services survivors may need. You’ll learn how to ease the way for survivors to feel comfortable in accessing other services, what information you will want to have at your fingertips, and how to communicate with survivors when making a referral.

MULTIDISCIPLINARY ENGAGEMENT

In addition to simply referring people to other services, advocates work closely with a variety of systems to improve services for survivors and to help survivors make their way through the complicated network of available resources. You will learn the importance of understanding and sticking to your role as a counselor/advocate and above all, maintaining survivor confidentiality. In order to do all this, you will receive basic information about the criminal justice system; the military; educational and correctional institutions; and other community partners and resources.

We must meet survivors where they are (literally or figuratively), and that may be on campus, on a military base, in prison, in a nursing home, or on the streets where they are living. Advocates can’t provide every need a survivor might have, but they can work in a careful and intentional manner with other providers to make things easier. You may be helping a survivor work with an interpreter during a forensic exam after an assault, letting someone know about how the military reporting system works, or supporting a survivor at a college administrative hearing, for example. You will likely be in hospitals, courtrooms, and law enforcement interview rooms. This is an important and sometimes delicate aspect of advocacy work, and this manual will give you the first steps for understanding the issues involved.

MEDICAL

One of the most important activities of a counselor/advocate is supporting survivors through the medical processes that they may undergo after a sexual assault. In the medical chapter of this manual, you’ll learn what a forensic medical examination after a sexual assault is all about. You will learn about the rights of survivors in the medical setting, whether a survivor can have a forensic exam without the need to work with law enforcement, who pays for medical services, what health issues survivors face, how the issue of consent to medical services may play out, and what your role will be in the process.

Receiving any type of medical treatment can be stressful, and certainly medical procedures related to sexual assault are often distressing to survivors. In conjunction with the in-person training you will receive from your organization, the information in this manual will help prepare you to offer this critical support.

LAW ENFORCEMENT

Despite the plethora of television shows about cops and rape cases, most of us start out knowing very little about what actually happens when a survivor reports a sexual assault to law enforcement. This manual will walk you through the rights of the survivor, relevant sexual assault laws in California, and law enforcement agency procedures. You’ll learn what a criminal investigation looks like, the

steps involved, the choices survivors may have, and your role as a counselor/advocate.

Sexual assault investigations are often long and complicated, and survivors may really appreciate your help as they try to stay informed and make decisions throughout the process. Because your services are confidential and you are completely independent from law enforcement, you can offer vital support.

LEGAL AND COURT

There are lots of parts and pieces in our legal and court system, and the information in this manual will help you to understand what they are and how they work together. As always, we focus on the rights of the survivor. You will also learn the difference between criminal and civil cases, the various types of courts in California, and what actually happens in sexual assault cases. You will be able to identify what each of the players in the system does, from the district attorney to the court clerk, so that you can help survivors understand what is happening.

As a counselor/advocate, you may assist survivors with protection orders, help them to obtain crime victim compensation funds, explain the role of Victim Witness programs, provide them with referrals to family law attorneys, accompany them in court (which can be very frightening and traumatic for survivors), and perform many other tasks that will ease survivors' way through the legal system. The chapter on legal and court issues offers vital information for you to learn about this complicated system.

AGENCY PROCEDURES, REQUIREMENTS, AND DOCUMENTATION

Of course, your own agency will provide you with an orientation and considerable information about how to do things. This chapter will give you additional orientation to statewide service standards; understanding your own agency's philosophy, policies, and procedures; knowing where the funds for services come from; and many other topics. You will learn about confidentiality for client records and what happens when a subpoena (legal request for information) comes to your agency. We'll review

state laws on privilege (which has to do with what information you can keep private in a court case), how to document your time and services, and what to do if problems arise either in your agency or with other systems.

This is a nuts-and-bolts chapter that will give you a framework for the essential things you need to know to become an informed advocate who will be valued by your organization.

Using this Manual

There is so much information in this manual that it is unlikely you will be using it as light reading! It is intended to serve two purposes: to be the "textbook" for your initial training as a counselor/advocate, and also to be a reference in your ongoing work.

Your agency may change the order in which you learn the topics, which is fine. Each chapter can stand on its own, although we do recommend that you become familiar with the Overview and the chapter on discrimination and oppression as a foundation on which to build your knowledge of advocacy work.

Everyone learns differently, but for most of us, information makes the most sense when it is coupled with experience. After you have gone along to the hospital with an experienced advocate a few times, you may want to review the Medical chapter, for example, because it may make more sense to you once you have been present for a forensic exam. Similarly, we recommend that you reread sections on various topics once you have had a bit of experience with that issue. It's often hard to know what questions you have or what information you are missing until you have been in a real-life situation.

Be open to the role-plays or scenarios you may go through in your training. Many people say, "I don't like role-plays," but taking in information (such as sitting in a training session or reading this manual) is a different process from putting that information to use. It is better to practice on your fellow advocates than on a survivor you are assisting.

We have scattered “Questions for Reflection” and “Questions for Discussion” throughout the manual. That is to honor people’s different learning styles. Some of us do our best learning through internal reflection and consideration, turning things over in our minds. Others learn best through conversation. Most of us can benefit from both of those styles of learning, even if one of them is our preferred method.

Once you have completed your initial training, you will have many opportunities to advance your knowledge. The references and resources highlighted in this manual are a good place to start. Depending on your agency’s practices, you may be able to attend in-person training programs and various conferences. You can also find online courses and articles that will allow you to enhance your knowledge on an ongoing basis. The best advocates are lifelong learners who are always open to new information.

Acknowledgments

ValorUS gives thanks to the many advocates, affiliates, and friends for their contributions to VALOR’s Support for Survivors: Training Sexual Assault Counselor/Advocates in the 21st Century. The collective knowledge included herein will ensure that Rape Crisis Center counselor/advocates are prepared to address the needs of diverse survivors throughout California.

VALOR’s Support for Survivors: Training Sexual Assault Counselor/Advocates in the 21st Century is largely indebted to the original Support for Survivors published in 1999, with periodic updates over the years. The original Support for Survivors was seminal as it was written by representatives from the field for the field. By 1999, the rape crisis movement had reached a level of maturity beyond its early days and developed a range of expertise germane to rape crisis center work. This work was new, powerful, and organic. And, it was developed on the job: there were no road maps to grassroots sexual assault work and all along the way the field developed and borrowed needed strategies to overcome struggles unique to working in sexual violence. The field’s expertise and body of knowledge were born from trial, error, failing, and trying

again. The 1999 version of Support for Survivors curated the best of our thinking, creativity, traditions, best practices, and teaching tools passed around and among us in our collective desire to build not only the best counselor/advocates but anti-oppression activists for generations to come.

VALOR’s Support for Survivors: Training Sexual Assault Counselor/Advocates in the 21st Century draws from this rich history and memory, incorporating much of 1999’s spirit and expanding on its content. While selected portions were modified from the original, the most recent version is informed by new research, data, stories, laws, and best practices. A team of writers was assembled to develop chapters that work in concert with the state Sexual Assault Training Standards which Rape Crisis Center programs must follow for their Sexual Assault Counselor Training courses to be state certified. This alignment will ensure better synergy between trainers and trainees, and reinforce learning for counselor/advocate trainees. Further, VALOR’s Support for Survivors: Training Sexual Assault Counselor/Advocates in the 21st Century seeks to center the experiences of those who have traditionally lived in the margins of society, and advance an anti-oppression ethos, recognizing the interconnectedness of sexual violence with other forms of violence and oppression.

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CHAPTER 1

OVERVIEW OF SEXUAL ASSAULT

Introduction

Sexual assault is a pervasive problem in U.S. society and globally. In the 21st century, the level of public attention directed at the issue of sexual violence has increased significantly, partly because of social media campaigns such as “It’s on Us,” “Know Your IX,” #MeToo, and #TimesUp. This heightened attention is evidenced by increased efforts to combat sexual violence at Rape Crisis Centers, in tribal communities, in U.S. territories, in the military, and on college campuses nationally. But these efforts are not enough, as our culture continues to blame victims and struggles to hold people who commit sexual violence accountable.

What is Sexual Violence?

Sexual violence or sexual assault is any act of a sexual nature perpetrated without consent. It includes a variety of non-consensual behaviors such as sexual harassment, sexual touching, and rape. An essential element to understanding sexual assault is recognizing it as an act of violence. It is not an act of sex, sexual desire, or a crime of passion – terms and phrases you may have heard on television and from people in your life. It is also not an accident or a behavior over which the people who use sexual violence has no control. But because it happens within a sexual context, many continue to confuse this act of violence, and abuse of power and control with “bad sex.”

When viewed at the societal level, sexual violence functions as a means to maintain unequal human relations primarily based on gender and other identities (race, sexual orientation, etc.), with women historically having experienced the greatest level of sexual violence. Invariably sexual violence is a choice where the person who sexually assaults asserts their interests over another’s right to safety and security of their own body, illegally exerts power and control over another person, and violates an individual’s sense of self with life-changing consequences.

You will sometimes hear the term “gendered violence,” which includes sexual violence, intimate partner violence, and stalking. This term acknowledges men are most often the person who sexually harms irrespective of the gender or sexual identity of the victim or survivor (Katz, 2006). Sexism (which is prejudice and discrimination based on sex) and misogyny (hatred of women) engender dominance and entitlement within a system of patriarchal masculinity, which considers men to be in charge. This is the background from which sexual violence emerges.

Sexual violence affects individuals of all genders, abilities, socioeconomic statuses, racial identities, and ethnicities. In 2014, the Centers for Disease Control and Prevention (CDC) published an updated set of findings from the National Intimate Partner and Sexual Violence Survey (Breiding et al., 2014). When we look at sexual violence victimization broken down by race and ethnicity, you can see women of all racial identities are affected. There is no one “type” of victim of sexual violence and this is an important reality for you to understand as an advocate. “In the United States, an estimated 32.3% of multiracial women, 27.5% of American Indian/Alaska Native women, 21.2% of non-Hispanic black women, 20.5% of non-Hispanic white women, and 13.6% of Hispanic women were raped during their lifetimes” (Breiding et al., 2014, p. 5).

This CDC survey (Black et al., 2010) reaffirmed the numbers of U.S. women experiencing sexual violence found in previous research over the last 25 years (Koss, Gidycz, & Wisniewski, 1987; Tjaden & Thoennes, 2000; Tjaden & Thoennes, 2006). There are differences in research reports based on the definition of sexual violence, the methods used, and the population studied. The number of U.S. women found to have experienced sexual violence has fluctuated between one in four and one in six in the cited research. The CDC found one in five U.S. women had experienced rape in their lives (Black et al., 2010).

Sexual orientation also affects rates of victimization, with generally higher rates within the LGBT community. The CDC National Intimate Partner and Sexual Violence survey results (Walters, Che, & Breiding, 2013) identified that 13% of lesbian women and 46% of bisexual women have experienced rape as compared to 17% of heterosexual women. Equally alarming is that one in two transgender persons will experience sexual violence in their lifetime (James et al., 2016), and people with disabilities experience much higher rates of sexual violence than able-bodied women (Basile, Breiding, & Smith, 2016). Gay men also experience high rates of sexual violence in their lives. The same CDC survey found that, while rates of rape were low for men, “Approximately 4 out of 10 gay men (40.2%), half of bisexual men (47.4%), and 1 in 5 heterosexual men (20.8%) in the United States have experienced sexual violence other than rape at some point in their lives” (Walters, Che, & Breiding, 2013, p. 11).

As you can see, sexual violence continues to occur at disturbing rates and is arguably occurring at epidemic proportions (Shapiro, 2010). While systemic and cultural sexism are integral to the occurrence of sexual violence, it is the interplay between sexism, racism, homophobia, and misogyny that serves to silence survivors and excuse people who perpetrate sexually violent behavior (Pietsch, 2009). As you deepen your understanding of sexual violence, its prevalence and root causes, always remind yourself that it affects a significant number of people across all identity groups. Based on the identities of a survivor, their responses to sexual violence may differ.

History of the U.S. Rape Crisis Movement

STRUGGLES AGAINST SEXISM AND RACISM BEGINNING IN THE 1800S

As with other societal issues in the U.S., prejudice and discrimination on the basis of both sex and race are woven together in the issue of sexual violence. Specifically, it should be noted that while white women may have brought wide visibility to the issues of sexual and domestic violence during second wave feminism (the 1960s to the 1980s), women of color were at the foreground of organizing against sexism and racism in the U.S. as early as the mid-1800s. For the Indigenous peoples of the Americas, and for Africans enslaved in the Americas, there have never been any anti-sexual violence fights that were not intrinsically bound up with fighting the oppression resulting from European imperialism and white settler colonialism.

The notion people of color were “less” human contributed significantly to the cruel paradox establishing the “rapeability” of women of color (due to conquest, ethnic cleansing, nation building, and/or entitlement), yet characterized them as “unrapeable” as evidenced by the absence of laws prohibiting rape against women of color until the mid-19th century. This was due in large part to the fact that Native Americans, Asians, and Africans in the U.S., as well as their descendants, were without citizenship status, and thus not entitled to legal protections.

Sojourner Truth declared “Ain’t I a Woman?” at the Women’s Rights Convention in 1851 as a means of demonstrating the hypocrisy and discrepancies between the way white and black women were treated and viewed by U.S. society. Truth’s recorded statement highlights how the identity of “woman” is socially constructed and culturally understood to mean white (Hill Collins, 2000), to the exclusion of women of color. It is then unsurprising to see how both public policy and public perceptions regarding “ideal” victims and stereotyped persons who sexually assault give a higher value to the experiences of white women, rendering

many other survivors of sexual violence – such as women of color, men, or trans people – invisible. It should then be underscored we all bear the legacy of these historical traumas today, but in different ways largely dictated by race, gender, orientation, class, and residential status.

Given this understanding, there can be no honest discussion about the history of the rape crisis movement without discussing the relationship between gender and race: in the U.S., women's political activism has always been tempered or informed in some way by race, whether it be the temperance, suffragette, or abolitionist movements. For example, northern abolitionists (anti-slavery activists) and suffragettes (those who believed women should have the right to vote) frequently found themselves sympathetic allies until the passage of the 15th Amendment granting black men the vote. Because women (including white women) still did not have the right to vote, suffrage "sheroes" including Elizabeth Cady Stanton and Susan B. Anthony looked the other way as racialized terror escalated during this period.

In this instance, white women's fight for the vote was to grant them equity with their white men; black women's fight for the vote was "empowering black communities besieged by the reign of racial terror that erupted after Emancipation" (Staples, 2018). Journalist and civil rights leader Ida B. Wells, herself a suffragette who admonished Anthony for turning her back on segregation, was deeply involved in anti-lynching campaigns. While women of color were characterized as unrapeable, black men were villainized as insatiable rapists in pursuit of white women, where merely looking at white women could mean black men's death by lynching. The work of Wells and countless others saw no separation between racial and gender justice, including the ways in which white women benefited by not pointing to racism as a social ill; doing so would mean challenging white men, and the power and privileges vested in whiteness.

SECOND WAVE FEMINISM AND WOMEN OF COLOR

These same tensions would continue and become intensified with the emergence of the mid-20th century civil rights movement which gave rise to second wave feminism, marked by Betty Friedan's 1963 work *The Feminine Mystique* and the establishment of the National Organization for Women (NOW) in 1966. But despite the presence of women of color in organizations such as NOW, the women's liberation movement of 1960s and 1970s was another instance where it was mostly middle class white heterosexual women who set the priorities for the organizing agenda (for example, equal pay and reproductive health rights). Women of color were taxed with interlocking issues of oppression (such as sexism, racism, and classism) as well as forms of wholesale discrimination (for example, housing, education, and labor) that significantly diminished quality of life.

Recognizing the power of their own organizing efforts, women of color activism was strong in this period with the emergence of groups such as the black feminist lesbian Combahee River Collective; the Chicana movement which included student efforts such as Hijas de Cuauhtemoc (named after a Mexican revolutionary women's group); Asian Sisters, a group focused on drug abuse issues for Asian American women; and Women of All Red Nations (WARN) and American Indian Movement (AIM). These groups took up sexism and racism (and in some instances class and heterosexism) as women of color and built solidarity into a multiracial feminism.

GRASSROOTS EFFORTS IN THE 1970S

The rape crisis movement was born during second wave feminism of the 1970s. Its goals were to end sexual violence and to create blame-free spaces for survivors of sexual violence to find support and validation (Collins, 1989). As grassroots organizations, rape crisis centers at this time functioned as a force for social justice with sexual assault and domestic violence viewed as manifestations of oppression, or a sustained effort of the dominant group to maintain power, usually at cultural, economic, societal, and political levels.

By the late 1970s, there were close to 1,000 rape crisis centers operating in the U.S. and many had shifted their focus from a radical re-envisioning of U.S. culture to working within current systems for legal and policy changes. Working within the system instead of exploding it also opened up funding streams for these often localized, grassroots organizations (Collins, 1989). But in mirroring the feminist movement at this time, many of the rape crisis centers emerging in this period were staffed and run by white women. In many ways, this is still true today (Tillman et al., 2010; Washington, 2001). The dominance of white women in rape crisis work is often a barrier to women of color seeking assistance. Survivors of color and others not represented by mainstream organizations found that dominant culture organizations lacked necessary cultural competencies or understanding as to the realities of racism and women of color's lived experience (Tillman et al., 2010; Ullman and Townsend, 2007; Washington, 2001). Activists of color would form their own healing spaces such as East Los Angeles Rape Crisis (1976) for Latinas and Spanish speaking communities, the Center for the Pacific-Asian Family (1978), and Jenesse Center (1980) serving black survivors of domestic violence.

THE 21ST CENTURY AND TODAY'S ANTI-SEXUAL VIOLENCE MOVEMENT

The latter half of the twentieth century saw an explosion of consciousness raising, awareness, education, and social change. Feminists and rape crisis movements evolve in response to the need for inclusion, access, and equity, as well as the needs of local communities. Frequently this has resulted in the need for RCCs to work collaboratively or within systems to ensure that survivors regardless of ability, orientation, identity, and/or residency status receive services without the experience of re-victimization. Over the past 50 years, the anti-rape and domestic violence movements have been successful in improving the way rape and battering survivors have been treated by the criminal justice and medical systems. Educational programs have increased public understanding of the crime, and rape law reforms have created fairness and justice.

A major breakthrough for the sexual violence response and prevention field came in 1994 with the passage of the Violence Against Women Act (VAWA). This federal law created several funding opportunities to address sexual violence in the U.S., as well as establishing the federal Office on Violence Against Women. It created rights and support systems for survivors, including increasing access to medical care and evidence collection, and decreasing the costs associated with accessing services. This law has had profound effects on the rape crisis center movement and the criminal justice system's capacity to respond to survivors of sexual violence and provide prevention education in our communities. The VAWA has been reauthorized several times, most recently in 2013, which has led to important systems and policy changes at the federal and state level. VAWA's sustainability has not been without strife. As it expanded to include funding and rights for more communities, such as the LGBT, Native, and immigrant communities in the most recent reauthorizations, it received significant push-back, with several lawmakers voting against the law in 2013. With VAWA funding, the rape crisis movement is able to stabilize its work within communities including working toward ending all forms of oppression.

Sexual violence survivors often feel they are to blame for their own victimization in addition to feeling shame and anger. Therefore, when seeking advocacy in the aftermath of their experience, if they encounter an advocate who does not honor or understand their intersecting experiences of oppression, they may choose to disengage from the advocacy process altogether. The struggle for inclusivity and multiracial organizing can still be seen today as evidenced by the recent Women's Marches (2017-2019), which continue to reconcile tensions between race, gender, class, orientation, citizenship status, and religion.

RAPE CULTURE

As part of our 1970s consciousness-raising, feminists grappled not only with how to respond to survivors (for example, with empathy, avoiding victim-blaming, and believing survivors) and the need to make people who use sexual violence accountable (through measure such as passing laws and tougher sentencing), but also with how to change the public's attitudes about rape and battering. Feminists in the 1970s came up with the term "rape culture" to "show the ways in which society blamed victims of sexual assault and normalized male sexual violence" (WAVAW Rape Crisis Centre, 2013). This effort demonstrated a change of focus beyond individual acts, and pointed to ways in which broader society created the conditions for sexual and physical abuse via its values, attitudes, behaviors, and consumption.

If you follow any news story about sexual assault and then read the comments about the story on social media, you will find statements blaming the victim, doubting the reality of survivors' stories, and trivializing sexual assault. Researchers Zaleski, Gunderson, Baes, Estupinian, and Vergara (2016) found that more than a quarter of the comments on sexual assault stories were victim-blaming, with additional comments expressing support for the people who sexually assault in the stories. According to the Women's Media Center (2015), "Popular music has been perpetuating rape culture for years... The presence of violence and hostility against women, not only physically, but also psychosocially, has established rape as such a deeply ingrained staple of American culture."

Rape culture harms males as well. For example, the sexual abuse of boys by older women is often trivialized, and jokes are made about rape of men in prison and about sexual violence toward gender-nonconforming people.

Rape culture may affect the survivors you work with in these and other ways:

- They may blame themselves for being sexually abused or assaulted.
- They may not identify what happened to them as sexual violence.
- They may believe they don't have the right to say "no" in an intimate relationship.
- They may encounter disrespect from service providers.
- Family and friends may react to their disclosure of victimization with skepticism or blame.
- They may not disclose because they are aware of how poorly survivors may be treated.

Q: What are some recent examples of rape culture than you have observed in regular or social media?

Q: How do you think these would make survivors feel?

Root Causes of Sexual Violence

As previously discussed, sexism, misogyny, and patriarchal dominance provide the backdrop and foundation for sexual violence. With this perspective, RCCs recognize the need to address the ways the larger society reinforces dominance and subordination, and our field situates sexual and physical abuse within this context as tactics used against women, children, and other men to maintain this dominance. Therefore, efforts to prevent further traumatization and future incidents of violence need to include an awareness of how the surrounding environment contributes to rape culture. Specifically, advocates will want to recognize the connections between individuals, their relationships, communities, and society at large when combating sexual violence.

THE PUBLIC HEALTH APPROACH IN THE 1980S-1990S

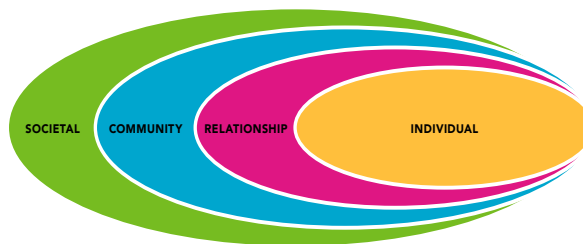
As advocates expanded their understanding of the root causes of sexual violence, the emerging sexual assault field (i.e., activists, academics, other professionals, etc.) turned its attention toward stopping the violence before it happened. The result was an understanding of how widespread sexual violence is, and a decision to look beyond individual characteristics of people who sexually harm others and victims to find out why it happens. The public health approach, which underlies most prevention programs, relies on a variety of scientific disciplines, from neurobiology to criminology, to identify the roots of sexual violence.

The Centers for Disease Control and Prevention (CDC) has developed a framework for prevention called the Social-Ecological Model (CDC, 2019). Integrating the feminist perspective within the Social-Ecological Model, this framework also helps us to understand some of the possible causes of sexual violence. There are four levels in this model:

1. **INDIVIDUAL** – These are factors that increase the risk a person might become either a perpetrator or a victim of sexual violence, such as alcohol and drug use, distorted beliefs about sexuality, or a person's history of trauma. Examples include perpetrators who were

themselves victims of violence, or individuals who adhere to strict or rigid traditional gender roles.

2. **RELATIONSHIP** – Interactions with family members, peers, and intimate partners can also affect the risk for sexual violence. For example, growing up witnessing domestic violence in the home, street violence or gang involvement, social isolation, or family conflict may be risk factors.
3. **COMMUNITY** – Schools, workplaces, and neighborhoods may vary in the risk for violence of all sorts, including sexual violence. People who live in areas of high poverty and limited economic opportunities, or where there is little neighborhood support, may be at higher risk, for example.
4. **SOCIETAL** – Factors within the larger society can raise the risk of sexual violence. Gender inequality and bias is a huge factor, along with repressive laws or belief systems and societal norms.



The Social-Ecological Model

(image adapted from the Centers for Disease Control and Prevention)

RESOURCE

Connecting the Dots – Connections Selector

Centers for Disease Control and Prevention

<https://vetoviolence.cdc.gov/apps/connecting-the-dots/node/5>

This interactive online tool shows you risk and protective factors for each level of the Social-Ecological Model.

THE IMPORTANCE OF UNDERSTANDING COMMUNITY AND SOCIETAL FACTORS

Advocates work one-on-one with survivors of sexual violence, but they also work to make their communities safer. You will be asked many questions about sexual abuse and assault, and it is important that you have a big-picture view of why these devastating acts occur. It is also often helpful for survivors to understand the context of their assault and the reactions they receive from others. Prevention efforts must focus on community and societal factors to address the root causes of sexual violence, and an anti-oppression lens is crucial to effective advocacy.

According to the World Health Organization (2012, p. 6),

From a public health perspective, community and societal factors may be the most important for identifying ways to prevent sexual violence before it happens, since society and culture may support and perpetuate beliefs that condone violence. Factors linked to higher rates of men's perpetration of sexual violence traditional gender and social norms related to male superiority (e.g. that sexual intercourse is a man's right in marriage, that women and girls are responsible for keeping men's sexual urges at bay or that rape is a sign of masculinity); and weak community and legal sanctions against violence.

RELATIONSHIP AND INDIVIDUAL FACTORS

Experiences with peers and in one's family contribute to attitudes and behaviors that may increase the risk for sexual assault perpetration or victimization. We know that the majority of sexual assaults are committed by someone known to the victim, and often by an intimate partner (Brieding et al., 2014).

Individual factors such as age and substance use are also associated with the risk of sexual assault and abuse, along with attitudes and beliefs that encourage sexual violence. When exploring individual factors, it is important not to give the impression survivors' characteristics are responsible for the assault, or that a person's individual pathology tells the whole story of why someone becomes a person who rapes.

Types and Definitions of Sexual Assault

RAPE

Rape is the act of vaginal, oral, or anal penetration perpetrated without the consent of the victim. Survivors of rape can identify across all gender identities as can persons who rape. California law specifically identifies "sexual intercourse" and not the broader term "penetration" as the non-consensual behavior classified as rape (Penal Code § 261). Many laws were written through a heterosexual, cisgender lens, assuming rape could only occur between a man and a woman. (The word "cisgender" describes a person "whose gender identity corresponds with the sex the person had or was identified as having at birth," according to the Merriam-Webster Dictionary.)

Sexual assault is an umbrella term used to include both rape and all acts that do not conform to the legal term rape. Sexual assault includes lewd and lascivious acts, battery, molestation, and sodomy; it includes acts perpetrated against males. For our purposes, we will use the terms sexual assault and rape interchangeably, but it is important to know that rape was originally constituted to denote forced sexual acts against females perpetrated by males. While the crime of rape in Section 261 of the California Penal Code is still limited to "sexual intercourse," there is now a recognition in law that other forms of sexual assault may be just as serious. Section 263.1 (signed into law in 2016) states that "...all forms of non-consensual sexual assault may be considered rape for purposes of the gravity of the offense and the support of survivors."

Under California state law (Cal. Penal Code §§ 261, 261.6, 263, 263.1, 269, 288.7), rape is committed when a person engages in non-consensual sexual intercourse with another person who is not their spouse. There is a separate crime called Rape of a Spouse when the survivor and person who sexually assaults them are married Cal. Penal Code §§ 261.6, 262, 263, 263.1, 254, 269, 288.7).

As a counselor/advocate, it is important you reflect on how you have come to understand what rape is and who can experience and perpetrate rape.

You will work with survivors across all sexual orientations and gender identities, and each survivor will have a set of experiences that will inform how they respond to being raped by another person or persons. Arguably, codifying the socio-cultural shift in women's status from men's property to autonomous and self-determining is at the core of the struggle to end sexual violence. In other words, what was understood in the past as the sexual rights and entitlements of men, has gradually over time come to be seen as destructive and oppressive tactics used to wield power and control over others.

INTIMATE PARTNER SEXUAL VIOLENCE

It is important to understand rape or other forms of sexual assault can occur in any committed relationship because these crimes hinge on a lack of consent. Committing to a partner through a civil union, marriage, or by virtue of being together for several years, does not remove the requirement to seek consent from one's partner prior to any kind of sexual activity. Many people in our society still hold the belief that marriage or a previous sexual relationship bestows blanket consent for sexual activity. Historically, heterosexual marriage as a cultural and social construct has been based upon ownership. A father "gives away" his daughter to another man, and she takes the man's name, in essence becoming his property. While many married people of all gender identities and sexual orientations do not view marriage this way, this framework for marriage can affect how survivors respond to being assaulted by a spouse or partner and beliefs by persons who harm that they are "entitled" to sex.

The general term "intimate partner violence" may include physical, emotional, or sexual violence perpetrated by a current or former partner or spouse. Intimate partner sexual violence specifically refers to sexual assault by such a person. In addition to a husband who demands sex by threatening violence when his wife is unwilling, other examples of intimate partner sexual violence would be a teenager who threatens to break up with and ruin the reputation of a partner unless they agree to sex; a person who forces a same-sex partner to participate in unwanted sex acts or coerces sex

with threats of disclosing their orientation if the partner is not "out;" or an individual who traffics their unwilling partner for drugs. Intimate partner sexual violence is a pattern of abuse that may or may not be connected with overt physical violence in the relationship. It is particularly harmful because it usually happens more than once, sometimes even for decades, and it represents a betrayal by the person who should be most trusted in the survivor's life. Sexual violence in the context of domestic violence indicates an increased risk of lethality (homicide) and should be taken very seriously by law enforcement and others who are assessing risk (Anderson, Craughon, & Campbell, 2014).

ACQUAINTANCE RAPE

In the late 1980s and early 1990s, the concept of acquaintance rape began to develop. Previously, rape was assumed to be perpetrated only by strangers, and even to this day the term rape can conjure a very specific image of a woman walking alone at night and the proverbial boogeyman jumping out of the bushes with a weapon. What we know about rape is most are perpetrated by individuals known to the survivor and individuals of all races, ethnic identities, abilities, class, sexual orientations and gender identities are affected. A research project supported by Ms. Magazine and published in 1988 chronicled the wide-scale experience of heterosexual acquaintance rape, particularly on college campuses (Warshaw, 1988). It was at this time acquaintance rape was first recognized in any comprehensive way as a major issue in U.S. culture. Acquaintance rape and intimate partner rape are sometimes referred to as non-stranger rape, as opposed to stranger rape by an unknown person.

You may have also heard of the term "date rape." While this term is sometimes used interchangeably with acquaintance rape, it may be considered outdated because young people often don't define their encounters as "dates." It is critical for you to understand that sexual assault most often occurs between people who know each other at least by sight, because this will likely be the predominant experience of survivors you are working with. There may be a heightened sense of blame or perhaps a minimization of their experience in

these cases because of the dynamics of being harmed by someone who was a previously trusted person. As an advocate, you can provide validation of their feelings, normalize their confusion and feelings of betrayal, and help them understand they are not alone. Also bear in mind that the term “rape” is a bit misleading, because sexual violence by acquaintances and dating partners may include a variety of behaviors that are not formally considered to be “rape.”

CONSENT

Many sexual assault criminal cases rest on what we understand to be the “consent defense.” What this means is the person who sexually assaults argues they had consent to engage in sexual activity with the survivor. Understanding consent is critical to providing supportive victim advocacy for sexual assault survivors and yet, the definition of consent is rarely taught in schools or in the home. Often, narratives of consent in our culture rely on a “no means no” position. However, giving, receiving, and withdrawing consent is far broader, and not every survivor will have the ability or capacity to say no. The absence of a verbal “no,” therefore, does not mean consent has been freely given.

Many survivors do not understand consent and may be grappling with their own perceived culpability at not speaking up or not saying something. It is your job as an advocate to alleviate some of the self-blame and guilt they may be feeling by helping them understand the depth and breadth of consent. Just because they did not explicitly verbalize a “no,” that does not mean they gave consent. Here are some key elements of consent to think about:

- Consent must be active and freely given.
- Consent can only be given when all parties are informed about what is happening.
- Silence is not consent.
- Consent can be withdrawn at any time.
- We can say yes to one thing, and no to another.

The National Judicial Education Program (2015) published an article titled “Judges Tell: What I Wish I had Known Before I Presided in an Adult Victim Sexual Assault Case.” These points, excerpted from the article (pp. 1-2), are some of the key concepts in understanding the realities of sexual assault.

- The widespread misconception that rape is about sexual desire – rather than power and control – colors every aspect of the justice system’s response to sexual assault.
- Sexual assault, including marital/intimate partner rape and male victim rape, is far more prevalent than the general public believes.
- Sexual assault co-perpetrated with domestic violence is a significant problem and a key factor for risk assessments of all kinds.
- Few rapes are ever reported to law enforcement.
- The absence of serious, observable physical injuries is not inconsistent with a sexual assault.
- Victims of stranger and nonstranger rape almost always sustain profound, long-lasting psychological injury.
- Marital and intimate partner rape victims suffer particularly severe psychological injury because of the betrayal of trust by the person they should most be able to trust, and the fact that the rapes are usually repeated.

Consent cannot be given when a person:

- is intoxicated with drugs and/or alcohol
- is too young to provide consent (California law says a minor may not provide consent)
- is coerced or manipulated into saying yes
- is mistaken into believing their sexual partner is someone else
- is forced, threatened, or physically restrained against their will
- is fearful for their life and well-being or the well-being of others
- has developmental disabilities or cognitive impairment severe enough to prevent them from understanding and agreeing to sexual activities

Consent is a challenging subject for many people and you may find the survivors you are working with have some confusion about the boundaries of consent. There is much misinformation in our culture about what is and is not consensual behavior, and you will be in a position to clarify these concepts.

ALCOHOL- AND/OR DRUG-FACILITATED SEXUAL ASSAULT

“Watch your drink so no one slips a drug into it!” That is the common education we receive on drug-facilitated sexual assault. Warning messages often include recommendations to never leave a drink unattended. However, what we do not often hear is that alcohol itself is the most common drug used to facilitate sexual assault.

Alcohol does not cause sexual assault. The person who sexually assaults makes a choice and uses alcohol as a tool to facilitate their actions.

Alcohol serves to make potential victims more vulnerable and people who sexually assault more emboldened as they see both vulnerability and opportunity to perpetrate sexual assault. For many people who sexually assault, engaging in “drunk

sex” is not understood as sexual assault. However, when a person is intoxicated, they are unable to give consent. It should be noted that there is a difference between consenting adults who have consensual sex after cocktails at dinner, and incidents where one individual takes advantage of or intentionally incapacitates another in order to perform sex acts without consent. Regardless of how much alcohol and/or drugs a person consumes, it is not an invitation for another person to engage in sexual activity with them without their consent. Regardless of the level of drugs and/or alcohol in a survivor’s system, sexual assault is never their fault.

Survivors who suspect they have been drugged by substances other than alcohol can work with a forensic nurse or forensic examiner to have their blood tested. However, it is important to remember that traces of drugs, commonly known as “date rape drugs,” leave the system within a matter of hours. By the time a survivor wakes up and realizes something is wrong, any residual physical indication of the drugs they were given may be gone. This reality can make it very difficult for survivors of a drug-facilitated assault to understand what happened, to recount any details of the experience, or to piece together the events surrounding the assault. Survivors who were intoxicated by alcohol at the time they were assaulted may also not be able to remember much about their experience and may blame themselves, believing if they had only drunk less, they would not have been assaulted. As the advocate you can listen attentively and reiterate it was not their fault.

In the case of both drugs and alcohol, the aftereffects of substances are compounded by the effects of trauma on the brain. In addition, the level of trauma can be heightened because the survivor feels confused and out of control. This can feel frustrating for survivors and lead them to doubt their experience. Provide support and validate that their feelings and concerns are normal.

Q: What do you think about the terms “non-consensual,” “unwanted” or “unwelcome”? Which terms put the responsibility on the person who sexually harms others to get consent instead of on the survivor to give consent? Does the language we use matter when we interact with survivors and others when talking about consent and responsibility?

STATUTORY RAPE

The crime of statutory rape occurs when an adult, someone over the age of 18, has sexual intercourse with a person who is under the legal age of consent (which in California is 18 years old), when the person is not their spouse (Cal. Penal Code §§ 261.5, 269, 288.7, 1170). The definition of this law will vary based on the state you are in and the age of consent. The distinction here is that the violation is not necessarily due to force, but because the minor is not legally able to consent for statutory reasons.

SEXUAL BATTERY (UNLAWFUL SEXUAL CONTACT)

Battery is a term derived from common law and means actual physical or harmful contact with another person. It can be a misdemeanor or felony charge depending on the circumstances. You often hear the terms “assault and battery” together. Assault is the threat of offensive and/or harmful contact, and battery is the act itself. Assault can sometimes be called “attempted battery.” This can be confusing when talking about sexual assault because of the meanings of these terms. Sexual battery (often called unlawful sexual contact in other states) means any touching of an intimate part of another without consent or causing a person to touch the intimate parts of the person who sexually assaults, themselves, or a third person without consent for the purposes of sexual gratification and arousal (Cal. Penal Code §§ 243.4, 269, 288.7, 1170). Sexual battery can occur regardless of whether the survivor is dressed or undressed.

SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination and is a violation of Title VII of the Civil Rights Act of 1964. While many behaviors, such as cat-calling, may feel as though they are sexually harassing, the bar for proving sexual harassment in court is quite high.

The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment (U.S. Equal Employment Opportunity Commission, n.d., para 2).

Sexual harassment falls into two main categories:

1. Patterns of behavior that are physical (touching, pinching, etc.), verbal (comments, advances, whistling, etc.), or visual (pictures, notes, texts, etc.), that create a hostile work environment;
2. Quid pro quo – which means a person gets something, like a promotion, in return for engaging in sexual activity, usually with someone higher up in the company’s organizational chart. The survivor has to endure the sexually harassing behavior to remain employed or to avoid negative consequences such as an undesirable work schedule or reassignment. In an academic setting, a professor or administrator may offer higher grades or an academic honor in exchange for sex or may threaten to fail or discipline a student who does not comply.

The standard for determining sexual harassment assumes that upon presentation of events, that an objective “reasonable person” would deem the behavior harassment. In the last few years, U.S. culture has had to grapple with the realization that widespread sexual harassment is occurring

in our workplaces. The #TimesUp movement in Hollywood is designed to bring attention to the pervasive experience of sexual harassment in the film and television industry. Sexual harassment within the service and migrant farm worker industries has also been exposed as a result of greater public awareness. Studies show as many as 90% of women farmworkers in California believe sexual harassment in the workplace is a major problem, yet there is very little recourse for them to hold people who sexually abuse accountable given their often-vulnerable position of being dependent on their harasser for pay, housing, or immigration status (Community Alliance for Global Justice, n.d.). In addition to farmworkers, women in the service industry such as janitors or domestic workers are also at high risk for sexual harassment and assault (Yeung, 2018).

RESOURCE

Sexual Violence Against Farmworkers:
A Guidebook for Legal Providers
Southern Poverty Law Center
https://www.splcenter.org/sites/default/files/ovw_legalproviders.pdf

Although designed for criminal justice professionals, this guide provides a wealth of information on this topic and will be useful for advocates supporting farmworkers experiencing sexual harassment and assault.

It is important to note that when viewed on a continuum, sexual harassment can frequently be seen as the “little assaults” leading to “bigger assaults;” or, these actions are deemed harassment because of a workplace or academic environment (grabbing, pinching, exposure, body-checking in close quarters, etc.) are actually assaults when viewed in the criminal arena (i.e., battery, lewd behavior, etc.). And the responses survivors may have to experiencing sexual harassment at work or in the educational setting may be very similar to the feelings and responses survivors of sexual assault.

While sexual harassment is prohibited in places of employment and education, it is still occurring at

alarming rates and many people who sexually assault are left unaccountable. Understandably, schools, the military, and myriad workplace environments are fearful of how to navigate interpersonal dynamics in these spaces, as old familiar behaviors such as colorful jokes, after work drinks, and collegial hugs all become potentially suspect. Fundamentally, culture change in these spaces simply demands that employees and students have access and opportunity without sexualized conditions. Like sexual assault, sexual harassment is an exertion of power by one person over another and when power structures are challenged (by calling out sexually harassing behavior), the inevitable response is push-back to the perceived loss of power.

Employees experiencing sexual harassment at work have a lot to think about when considering coming forward. Access to legal resources, economic vulnerability, and immigration status are all extremely relevant issues shaping the context within which someone makes a reporting decision. If a person identifies as gay, lesbian, bisexual, or transgender, coming forward may mean outing themselves, and may open the door for additional hostility and harassment. There may be forced arbitration agreements, meaning, a survivor will be required to participate in a negotiation with a mediator chosen by their employer that may result in a requirement they cannot speak about their experience. Similar issues arise in an academic setting. You can help a survivor work through their concerns, validate their fears, and offer them additional resources that can assist them in their decision-making process.

CHILD SEXUAL ABUSE

Sexual contact between an adult and a child is considered sexual abuse. Some sexual contact between children may also be abusive, if there is a significant age or developmental disparity between the children. There are a wide variety of behaviors that can be considered child sexual abuse. Most often, this abuse is perpetrated by someone the child knows, and it can go on for a long time. It often occurs along with other disruptions in a child’s life, such as family conflict, violence, or substance abuse.

Laws related to child sexual assault vary from state to state but generally, someone perpetrates sexual

assault on a child when they engage in sexual activity with a minor (minors are not able to give consent for sexual activity in California). Child sexual abuse is addressed in detail in Chapter 3, and the sexual abuse and assault of teens is described in Chapter 4.

OTHER FORMS OF CRIMINAL SEXUAL BEHAVIOR

Voyeurism or peeping can be very distressing to victims and may be done through cyber technology. Exhibitionists (“flashers”) show their genitals to unwilling individuals. Obscene phone calls, texts, or other unwanted contact through technology may be done by strangers or as part of a pattern of stalking, such as with a former partner. Child pornography is a crime with victims, while adult pornography may or may not involve coercion of its subjects. Selling children, teens, or adults (including immigrants) for sexual use is called “sex trafficking,” and is the subject of increased attention in the advocacy field, both to assist survivors and to increase public awareness of the problem.

Technology in the form of mobile and handheld devices, social media, and the internet, has facilitated additional ways in which victim/survivors experience sexual violations. Individuals (primarily women) may find that they have unknowingly been recorded and had those images circulated via the internet and social media. Unfortunately, tech-facilitated abuse tends to be minimized with the view that because something happens in cyberspace, it is not as serious as an in-person attack. The non-consensual capturing/sharing (NCS) of intimate images amounts to a violation of privacy as well as bodily integrity, causing tremendous psychological and reputational harm (Patella-Rey, 2018).

With the increasing prevalence of technology in our daily lives, one can expect more survivors speaking out with “one in 25 Americans...the victim of threats or posts of nearly nude or nude images without their permission (Lenhart, Ybarra, & Price-Feeney, 2016). Many survivors may be frustrated as civil and criminal remedies for addressing non-consensual capturing and sharing of intimate images vary from state to state, and prosecution is complicated by jurisdictional issues. Further, many criminal justice professionals are

not able to keep up with changing technology or are under resourced in their ability to combat this crime. With this in mind, advocates will need to take seriously the concerns of survivors related to tech-facilitated abuse. Many of these individuals express the same concerns described by other sexual assault survivors, including a tremendous sense of powerlessness.

RESOURCES

Human Trafficking.

Futures Without Violence.

<https://www.futureswithoutviolence.org/human-trafficking>

This web-based resource includes reports, a webinar on collaboration with organizations to address human trafficking, facts on the subject, and resources for policy and legislation as well as education and awareness.

Without My Consent

<http://www.withoutmyconsent.org>

Educational materials and practical resources for victims of non-consensual pornography, including guidelines for states with NCS statutes.

Sexual Assault Trauma and Long-Term Effects

Sexual assault can and does have far-reaching effects on survivors. The emerging field of the neurobiology of trauma and its application to advocacy and criminal justice work has had a transformative effect on the way criminal justice and mental health providers interact with survivors of sexual assault. When providing advocacy services to survivors of sexual assault, understanding how trauma affects the brain is vital to understanding the varied and multiple responses survivors can have. Your knowledge about this topic can also assist you in providing support to law enforcement officials and others who interact with survivors.

“Neurobiology” refers to the structure and function of the nervous system, including the brain. Researchers are studying how trauma affects the brain and body, and how it is processed by the brain.

“REAL VICTIMS” AND “REAL RAPE”

Sexual assault renders a survivor powerless. This feeling of disempowerment can stay with a survivor for a long time. When survivors interact with unfriendly systems and people in the aftermath of their assault their sense of powerlessness can deepen. Many survivors feel as though seeking criminal justice remedies for their sexual assault is like being victimized all over again (Lonsway & Archambault, 2012). Survivors would routinely drop out of processes that felt apathetic, unconcerned, or hostile to them because law enforcement, prosecutors, and family members would question the truthfulness of the survivor or not take their claims seriously. Survivors would be interrogated as though they were the suspects in their own victimization, and there was little to no understanding of how the brain and body responds to trauma. Popular wisdom stated that if the assault was real, then surely a survivor would be eager to participate in the criminal justice process and they would remember every detail.

The concept of a “real victim” or “real rape” is based on false beliefs about what sexual assault looks like and how survivors should behave during and in the aftermath of a sexual assault. These ideas dovetail with other myths about sexual assault including the assumption that in a real rape, a real victim would be injured, would have protested in some way including fighting back, would be sober, would outcry to the police immediately, and would have a consistent and clear memory of events. These myths and labels still permeate our cultural understanding and response to sexual assault, but they ignore the way trauma influences our responses to violent crime. A clear understanding of how trauma affects the brain is central to the shift in how the criminal justice system, advocates, and mental health professionals have come to understand the reality of sexual assault.

NEUROBIOLOGY OF TRAUMA

While you don’t have to become a scientific expert, knowledge of the neurobiology of trauma is vital to providing the best services and support possible to the survivors you will work with. Each person responds to trauma in their own way. Trauma has profound effects on the brain’s ability to order and recall a traumatic experience.

In the moment of trauma, the pre-frontal cortex – the part of the brain that processes timelines and rational, logical thought – shuts down. The pre-frontal cortex is also the part of the brain that puts memories in order. The parts of the brain dealing with instinct, impulse, and emotions takes over. Stress hormones and other brain chemicals also affect what is happening in the brain during trauma (Bremner, 2006).

In trauma, your brain’s ability to contextualize, encode, and consolidate memories is disrupted, which means recall after the fact will be greatly impaired. Because conscious choice is difficult or impossible, and responses are instinctual and based on the brain’s desire to keep a person safe, memories of the event are no longer stored in an orderly and rational way. When a person is intoxicated, the memory of the assault will be even further impaired.

Many of the indicators traditionally interpreted to mean a person is lying are actually signs of trauma. This is a critical point. When working with a sexual assault survivor, you should expect their story will be choppy and out of order, and that they will remember bits and pieces of the incident over the course of time. You should also expect their story to change. Perhaps they remember the person who sexually assaulted them took them to a blue bedroom, when in fact the bedroom was yellow. Or perhaps a survivor told you initially there were two suspects, and later remembers there was a third. It can be shocking when details like this change, but it is very normal as the brain resets itself and pulls disparate and scattered memories together.

During a sexual assault, people may also focus on what law enforcement may consider peripheral details like the color of the walls. However, in the moment of an assault these details are central to the survivor’s ability to live through the experience

and they are what gets encoded in memory. During trauma, the body is also flooded with lots of chemicals including opiates, cortisol, and oxytocin. These chemicals affect a person's response to trauma and can be why they don't feel pain or could be laughing after a traumatic incident. It is not your job as an advocate to question a survivor's responses or investigate the assault and probe for details, but you can validate the survivor's difficulty remembering details and share with them this is a normal response to trauma.

Behaviors commonly associated with undermining a survivor's credibility are actually critical indicators of trauma.

TONIC AND COLLAPSED IMMOBILITY

Some survivors may describe a feeling of freezing or being paralyzed. While we commonly hear about a response to stress being "fight or flight," the more accurate way to describe trauma responses is "fight-flight-freeze." Tonic immobility and collapsed immobility are variants of the "freeze" response.

RESOURCE

Transcript "The Neurobiology of Sexual Assault" – Rebecca Campbell, PhD
National Institute of Justice, NIJ Research for the Real World Seminar
<https://nij.gov/multimedia/presenter/presenter-campbell/pages/presenter-campbell-transcript.aspx>

This is a valuable transcript of a seminar clearly explaining how normal reactions to sexual assault may play out in the criminal justice process. There is also a link to watch the presentation instead of reading the transcript.

Tonic immobility (TI) is an automatic bodily response to threat or extreme fear and usually occurs after a failed struggle or when the individual believes that there is no possibility of escape or winning a fight (Kozłowska, Walker, McLean, & Carrive, 2015). For sexual assault survivors, it is estimated to occur at a rate two times the rate of occurrence in other types of trauma (Kalafa et al, 2017). The body engages the part of the brain that keeps you still when you are asleep. You may recall times when you have been alert in bed, perhaps half asleep, and you have tried to move but not been able to. A person experiencing TI cannot move or speak and this paralysis could last from seconds to hours. It can also happen after the assault when a person re-experiences the terror.

Collapsed immobility (CI) is like "playing possum" except it is not a voluntary action. It is the body's way of protecting a person when they are terrified. A person in CI may lose consciousness and their heart rate and blood pressure will drop rapidly. CI may come on very quickly, but survivors will take longer to come out of it. A survivor may feel like they dreamed the assault, and this could be an indication they experienced CI. As with tonic immobility, survivors may experience CI as they relive an assault. Any time a person loses consciousness, medical causes should be ruled out.

Tonic immobility, which affected as many as 70% of sexual assault survivors in one study (Moller, Songergaard, & Helstron, 2017), may have a significant effect on what happens in the aftermath of an assault. It is associated with increased rates of post-traumatic stress disorder and severe depression. When survivors gain an understanding of how tonic or collapsed immobility may have impaired their ability to fight back or escape during an attack, it may decrease self-blame. It is also critical that law enforcement and medical professionals understand these reactions. Dr. Rebecca Campbell, a prominent expert on this issue, says:

Unfortunately, there are still too many instances where our helping professionals blame victims for tonic immobility and add to victims' shame, guilt, and self-blame. However, as legal

and medical system personnel learn about Tonic Immobility, they are able to help victims understand what has happened to them and help them along their journey of healing (Joyful Heart Foundation, 2012, para 14).

DISSOCIATION

Dissociation is the experience of feeling disconnected from what is going on around you or within yourself. It occurs on a continuum, and we have all had the experience of being so absorbed in a book, a movie, or a video game that we are almost shocked when the experience ends and we “come back to reality.” At the more extreme end of the continuum, dissociation serves as a coping mechanism or even a survival response to protect the survivor from the horrific impact of sexual abuse or assault.

Many survivors may experience dissociation during an assault or afterwards when memories are triggered. They will likely describe “being on autopilot” and may have a loss of time. They tend to be aware of their body in space but are not focused internally because they do not want to be aware of what is happening. Survivors may describe it to you as being blanked or spaced out during the assault. They are usually able to move but tend not to.

TRAUMATIC REACTIONS TO SEXUAL ASSAULT (FORMERLY “RAPE TRAUMA SYNDROME”)

It is normal for individuals to have a variety of responses to sexual abuse or assault. Most survivors experience sexual abuse or assault as traumatic – that is, “physically or emotionally harmful or life-threatening, with lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well-being” (SAMHSA-HRSA Center for Integrated Health Solutions, n.d.). However, not every survivor will develop a diagnosable trauma-related disorder.

In 1974, Burgess and Holmstrom coined the term “Rape Trauma Syndrome” in their book *Rape: Victims of Crisis*, as they describe the specific nature of trauma experienced by survivors of sexual assault. While this term is not used in current

clinical work because it is not a formal diagnosis, it served the important historical role of identifying common reactions.

Acute stress disorder (ASD) and post-traumatic stress disorder (PTSD) are two diagnoses that may arise after a traumatic experience. It’s important to note that these conditions must be diagnosed by a mental health professional or health care provider – they are not “do it yourself” labels. Both of these disorders must be triggered by a traumatic event, and involve some of these experiences: dissociative symptoms of feeling numb, detached, or emotionally unresponsive; anxiety or increased arousal as shown by symptoms such as poor concentration, sleep problems, or being overly vigilant; intrusive symptoms, such as nightmares or flashbacks; avoidance of thoughts, feelings or external situations that remind the person of the trauma; negative thoughts and feelings. The difference between ASD and PTSD is duration. ASD must last for a minimum of 3 days and a maximum of 4 weeks, starting no more than 4 weeks after the traumatic event. To diagnose PTSD, symptoms must have lasted for at least a month (American Psychiatric Association, 2013).

While a survivor may not have all the required symptoms for a formal diagnosis of ASD or PTSD, most survivors will experience at least some of these symptoms, such as trouble concentrating or flashbacks. Many survivors also go on to develop depression, and the risk of suicide is quite high for those who have experienced sexual assault. In addition to the abuse or assault itself, survivors’ symptoms may be exacerbated by the responses of other people or systems, including the stigma attached to sexual assault victimization.

The following chart identifies some of the more common reactions to sexual assault.

IMMEDIATE ACUTE REACTIONS	Shock and disbelief, tearfulness, sobbing, confusion, fears about personal safety, anxiety, hyperventilating, and fears about reactions of family and significant others.	Numb, detached, appears to be in a "daze"; unable to recall or only partially able to recall events and/or unable to recall events sequentially.	Outward calm and collectedness; suppressing feelings in order to remain in control in reaction to an out-of-control situation, or due to immediate profound anger.
SUBSEQUENT ACUTE REACTIONS	Fears, "jumpiness", irritability, flashbacks, nightmares, panic/anxiety attacks, preoccupation with the assault and persistent re-experiencing of the trauma, distress upon exposure to reminders of the trauma, and self-blame.	Isolation and avoidance of situations that arouse recollections of the trauma (e.g., reluctance to participate in interviews with law enforcement and medical personnel); unexpected reactions to people resembling the person who sexually assaulted them, similar cars, etc.	Insomnia, problems with concentration, exaggerated startle response, decreased appetite, loss of weight, headaches, stomachaches, anger, suicidal thoughts, substance abuse, depression, shame, guilt, irritability and low tolerance for issues surfacing in relationships.
LONG-TERM REACTIONS	<p>Depression, anxiety, mood swings, feelings of shame, humiliation and guilt, anger, suicidal thoughts, decreased self-esteem, feelings of worthlessness, and inability to trust.</p> <p>Persistent avoidance of people or situations associated with the trauma, and hyper-vigilance.</p>	<p>Loss of weight, headaches, stomachaches, and continuing medical problems.</p> <p>Social isolation and lack of interest in participating in activities; feeling detached or estranged from others; a sense of a foreshortened future; loss of self-confidence.</p>	<p>Persistent re-experiencing of the trauma (recurrent, intrusive thoughts and distressing dreams, acting or feeling as if the sexual assault is happening again, and extreme distress when exposed to something that resembles or is symbolic of the traumatic event).</p> <p>Loss of interest in sexual activity; or, in some instances engaging in high-risk sexual behavior.</p>

As you can see, there are many different responses possible for a sexual assault survivor and each survivor you work with will likely cope differently. The level of support they have from their friends, family, community, and service providers will also affect their healing. Trauma affects the brain significantly, and in complicated ways. Remain educated with the evolving literature on the neurobiology of trauma and use your knowledge to comfort and educate survivors. Always be clear, if you are not a clinician, that you are not able to provide psychological counseling; make referrals where possible and appropriate.

Our increased understanding about the effects of trauma has changed how law enforcement officers think about sexual assault survivor interviewing. New training helps investigators throw out old ways of interviewing and investigating sexual assault, recognizing survivors will not be able to provide detectives with a linear "who, what, where, and when" account of their assault. They learn to use techniques that rely

on exploring the senses and asking open-ended questions such as: Tell me what you remember most about the experience? How were you feeling when the person who sexually assaulted you told you X? What do you remember smelling in the room where they assaulted you? By exploring the five senses, survivors can often unlock memories and details they would otherwise not be able to recall. These can be a transformational techniques for law enforcement as they use the science of the brain to develop stronger, more detailed investigations while also acknowledging the survivor's experience of a traumatic event.

RESOURCE

Trauma Informed Interviewing – Turning Understanding Into Outcomes
End Violence Against Women International
<https://evawintl.org/courses/trauma-informed-interviewing-turning-understanding-into-outcomes-webinar/>

This free archived webinar explains how trauma affects memory and how that information can be used to create more effective criminal justice interviews.

Q: Is there anything about the neurobiology of trauma information that was new or surprising to you? How did it change your thinking?

Marginalized Communities and Oppressed Groups

Central to your work as an advocate is understanding how bias, implicit and explicit, plays out in the advocacy you provide and each individual survivor's experience of violence. Explicit bias is an attitude that the person is conscious of having. Implicit bias consists of attitudes (usually acquired when we are growing up) not evident even to the person who holds them. Bias against certain groups is further evident when a person chooses to seek help or recourse through the criminal legal

system. Who is believed, who is helped, and who is provided care often illuminates the groups who hold power in U.S. culture. Everyone's experience of violence is affected by how they experience the world and how other people and systems respond to them.

Kimberlé Crenshaw (1991) identified a concept known as intersectionality. What this means is that each of us exists at an intersection of social identities, such as race, gender, and sexual orientation. For example, a person may identify as Black lesbian woman or a Latino heterosexual man. It is through those intersections that systems, laws, and sometimes individuals respond to us. Crenshaw first articulated this concept in relation to African American women's experience of domestic violence. She asserted because of their identities as women and as people of color, the criminal legal system responded to them differently than it did to white women.

RESOURCE

Why Intersectionality Can't Wait
Kimberlé Crenshaw
<https://www.washingtonpost.com/news/in-theory/wp/2015/09/24/why-intersectionality-cant-wait/>

This article from the Washington Post (September 24, 2015) explains Crenshaw's concept and why it is so central to social justice.

It is crucial not to get sucked into what can sometimes be called the "Oppression Olympics," where people argue they experience more oppression than someone else. Oppression is an interconnected system of behaviors and responses informed by historical context and the maintenance of power by one particular group in a particular context. We all intentionally and unintentionally hold up these various webs of privilege and oppression. As an advocate, you have to work hard to intentionally let go of systems that harm some people and benefit others.

You must be careful not to make assumptions on what you believe to be the “normal” experience or base your advocacy on what might be right for you. It is your job to guide a survivor through their healing process, not to judge their decisions or fears. There are many barriers that exist for survivors to come forward and those barriers are smaller or larger depending on the person’s intersecting identities.

You must acknowledge and validate the various and differing barriers existing for the survivors you work with, even if they are barriers you have never experienced. There is no universal survivor. A major challenge for you as an advocate will be to throw out your beliefs about what is “normal” in terms of who survivors are, how they respond, and the choices they make for their own healing.

Chapter 2 will offer an opportunity to explore topics of discrimination and oppression in greater depth.

Summary

As you help individual survivors and your community in your work as a counselor/advocate, you can be more effective if you understand the context of sexual assault as well as the nature of rape crisis work. In this Overview, we have explored what sexual assault and sexual abuse consist of and how these experiences affect survivors. We’ve looked at the history of the rape crisis movement and paid particular attention to the interplay of discrimination and oppression with historical approaches to the field. We’ve introduced the neurobiology of trauma and the advancing knowledge of how trauma shapes survivors’ behaviors and the reaction of service providers to those behaviors. We’ve defined some of the common terms you will need to know and provided a foundation of knowledge for the additional information you will learn.

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CHAPTER 2

DISCRIMINATION AND OPPRESSION

Introduction

The relationship between advocate and survivor is critical. Even though you have likely chosen to train to become a counselor/advocate to help people, it is important to remember that a perceived power dynamic exists between survivors and advocates, between someone in need, and someone in a position to fulfill that need. Because of who we are and what we have gone through in our lives, it can sometimes be difficult to connect with and relate to people whose identities and experiences are very different than our own.

As a counselor/advocate, you play a vital role in upholding survivors' rights, but sometimes you may unintentionally reinforce a system of power, or reveal a mindset that underscores a historical trauma that then feels like it is being reenacted, this time with new players. Our perceptions are shaped by our own identities, cultures, and impressions of these systems. And to be fair, there is no way that any of us can anticipate the myriad ways we can unintentionally make someone feel unwanted, unwelcomed, or ashamed based on identity and difference. What you can do, however, is strive to make connections with survivors, and acknowledge that your experience is not theirs and therefore you have to let them guide their process. In doing this work, we must examine how our own experiences, cultures, and histories shape our view of the world along with creating biases and assumptions.

Intersection of Discrimination, Oppression, and Sexual Violence

As you read these descriptions, take the time to create a mental image of what is happening in each case.

While walking home from church one Sunday evening, a 24-year-old is abducted at shotgun-point and raped by six assailants. When interrogated by the sheriff, the assailants claim that the survivor consented to having sex with all of them for pay.

Two Milwaukee residents spot a drugged, naked, and bleeding individual running down a city street from a nearby apartment and call the police. The apartment's tenant catches up to the group on the street and convinces police officers that this was just a lovers' quarrel. Over the objections of the neighborhood residents, police accompanied the tenant and injured individual to the apartment. Later that evening, the tenant sexually tortured and strangled the individual to death.

A young couple moves to a small town where they connect with family and a supportive community. But sexual and domestic violence escalate in the relationship, resulting in a protection order against the batterer and a physical separation. Later, a fateful traffic stop would put the survivor in close proximity to the batterer who would within the week, strangle and incinerate the victim a few days shy of their 23rd birthday.

A woman, unable to care for herself or for any children, becomes pregnant as the result of a sexual assault. She is compelled to give birth, leaving her family to care for the child.

A young wanderer is welcomed into a group in a rural town. After the wanderer falls in love with one of the locals, others in the group become jealous and increasingly aggressive until they sexually assault and then murder the wanderer who was once welcomed into their group.

When we hear about cases of sexual and physical abuse, our tendency is to focus on the initial trauma and its aftermath. But in many situations, confronting sexual violence also means understanding and then navigating how the various aspects of power, privilege, identity, and social relations between identities complicate everything from feeling safe to finding justice to possible death. We will delve further into these concepts later in this chapter, but for now, these are our working definitions of these complex terms:

- Power simply means “ability” or “authority”
- Privilege in this instance means “unearned benefits” accompanying power
- Identity refers to markers that allow us to categorize populations of people
- Social Relations points to the dynamics of power and privilege between identity groups

We often don’t realize the importance of identity as it relates to survivors, and how our own assumptions about identity affect our ability to effectively advocate for survivors. As was discussed in Chapter 1, the identity category of “woman” was (and in many ways continues to be) largely understood to mean heterosexual white cisgendered American women of a certain class, which led to services privileging that narrow group of people. Without challenge, as was the task of Sojourner Truth, this characterization becomes the norm, standard, or default way in which we conceptualize and understand the identity category “woman.” Traditionally, service providers and the general public have seen these women as somehow more “legitimate” or “ideal” when they come forward as victims of sexual assault.

When reading the cases above, which ethnicities, genders, ages, abilities, and statuses came to your mind for the victims? And for those who sexually assault? Without questioning our own programming of identity categories, it’s easy to make assumptions, including the assumption that all members of a group have had the same experience, have access to the same resources, and will have the same experience during healing and recovery after an assault.

In reality, those who fall outside of the category of women with certain privileges – such as women of color, non-English speakers, children, high-risk populations (such as sex workers, the homeless, or substance abusers), low-income people, persons with disabilities, transpersons, men, those who are incarcerated or detained – could face barriers or dismissal in accessing services and advocacy.

In far too many instances, the initial assault leads to re-victimization for victims of rape and battering when people working in systems and institutions charged with serving the public fail. Sometimes this is the result of biases (“those people don’t matter anyway”) or regulations that exclude certain categories of people (for example, limited services for the incarcerated). Some victim/survivors confront attitudes that convey “well, if you weren’t in this country” or “if you didn’t live that lifestyle,” indicating that they are somehow essentially responsible for their own victimization.

Let’s revisit the above cases at the start of this chapter, now with identity markers included and examine how our assumptions impact our understanding of each situation. Additionally, be sure to note how power, privilege, and social relations impact diverse identities.

Recy Taylor, a 24-year old African-American woman, was walking home from church one Sunday evening in 1944, in Abbeville, Alabama when she was abducted at shotgun-point and raped by six white men. An all-white, all-male grand jury refused to indict the suspects. Once Recy’s claim of rape became publicly known, white vigilantes torched her home (Brown, 2018).

In 1991, two young black women spotted 14-year old Laotian teen Konerak Sinthasomphone running down a Milwaukee street and called the police. The boy had escaped from the apartment of Jeffrey Dahmer, a white male who was able to convince two white male police officers that the boy was an adult, drunk, and upset from a lover’s quarrel. Over the protests of the neighbors, Milwaukee police returned Konerak to Dahmer’s apartment where Dahmer sexually tortured and strangled Konerak to death that evening. Before his arrest a couple months later, Dahmer would sexually

torture, murder, and dismember four more victims (Associated Press, 1991).

Laura S., an undocumented Latina, came to the United States from Mexico as a young adult with her husband in the mid-2000s. Once connected with family among a community of Latino/a immigrants in a small Texas town, Laura would acclimate to her new life in America. But her husband's sexual and domestic abuse would escalate as she became more empowered through work and education. An arrest and protection order would see her husband deported to Mexico. But a fateful traffic stop in 2009 resulted in Laura's deportation to Reynosa, Mexico. One week later, Laura had been strangled and incinerated in her vehicle by her ex-husband, a couple days shy of her 23rd birthday (Stillman, 2018).

In 2019, a physically and mentally incapacitated 29-year old Native American woman gave birth to a baby while housed at an Arizona healthcare facility. A male nurse was charged with sexual assault and vulnerable adult abuse after his DNA matched that of the infant's. No healthcare staff, including doctors and nurses responsible for her daily medications and hygiene, knew the woman was pregnant until she went into labor. The subsequent investigation revealed that the woman may have been assaulted numerous times over the years and that this may not have been her first pregnancy. She has been at this healthcare facility since age three (Karimi & Boyette, 2019).

Finally, in 1993, Brandon Teena, a 21-year old white transmale, with a police record for largely petty crimes, would connect with a group of disaffected white young adults in Lincoln, Nebraska. Two guys in the group, who had been previously incarcerated, would discover Brandon's assigned sex as female. They forced Brandon to strip as a means of humiliating him in front of his girlfriend, later gang raped him, and once they discovered Brandon had reported his assault (for which the assailants were not arrested), they shot and killed Brandon and everyone else in the house where he had been hiding. Afterwards, one of the assailants repeatedly stabbed Brandon in the chest to ensure that he was dead (Minkowitz, 2018).

In thinking about these cases, some questions emerge. How is sexual violence used to establish and/or maintain power and control over another? How does law enforcement deny victims justice? Are we aware of how we value the lives of some populations over others to the point where when something does happen to the devalued, the social response is "well, they don't really matter anyway"? How do bias and prejudice factor into whether a victim gets help? What role does sexual and physical abuse play within the larger landscape of oppression?

Imagine how many well-meaning individuals recognized multiple instances of injustice against Recy, Konerak, and Brandon, but did nothing to prevent what would become trauma after trauma. Dahmer went on to kill four more men after Konerak's death. What kinds of attitudes create the "see-but-don't-see" culture that allowed healthcare workers to not notice gross violations to the most patently vulnerable people in our communities?

In exploring these questions, three things become very clear: 1) our biases, prejudices, and ignorance increase risk for targeted victimization of the vulnerable due to social isolation, physical disability, stigma, and/or discrimination; 2) long-standing discriminations (as a function of oppression) create distrust within communities toward systems and institutions; and 3) our multiple identities are inseparable – this notion becomes underscored in the presence of discrimination or violence. While we may be born equal, our respective social identities are imbued with varying degrees of value, power and privilege. The various systems and institutions established to sustain a civil society, have our biases and prejudices embedded within their frameworks.

How do we manage all of the various identities we carry and wear daily when some are more in/visible, targeted, and/or accepted than others? Are we aware of how much power and privilege is embedded in what we consider to be "normal," or "standard?" Are we aware of how much we participate (actively or passively) in systems of oppression that make groups of people targets for exclusion, marginalization, and/or disenfranchisement (being denied rights or privileges)?

Because sexual assault is so connected to issues of power and privilege, rape crisis work may be a force for social justice, or a way to help correct the denial of rights/recourse at the societal level. Therefore, our work begins with addressing our own understanding and assumptions not just about various categories of identities (such as gender, race, class, sexuality, ability, religion, or residency status), but also our relationship to those categories of identity and the larger culture that shapes them. Because we belong to more than one identity category, we are all both agents of and targets for oppression.

When reading the first version of the stories, what images came to mind for the survivor-victims? For the people who sexually assault? Why do you think those images came to mind? Expanding this line of thought:

Q: In what ways do you think our work as sexual assault counselor/advocates is related to the larger world of oppression and discrimination?

Q: What are the connections between everyday systems of oppression such as sexism, patriarchy, and misogyny and sexual violence?

Q: What is ‘Rape Culture’ and where do we see it exhibited?’ How do everyday acts of rape culture contribute to sexual violence?

Q: What are some other systems of oppression (racism, heterosexism, ableism, ageism, xenophobia, Islamophobia, anti-Semitism, classism, etc.) that create barriers to healing for rape survivors?

RESOURCE

The MSW@USC Diversity Toolkit: A Guide to Discussing Identity, Power and Privilege

by Jeremy Goldbach

<https://msw.usc.edu/mswusc-blog/diversity-workshop-guide-to-discussing-identity-power-and-privilege/>

This toolkit provides clear explanations of topics related to social justice, along with group activities to enhance understanding.

Because of their assumptions, biases, and prejudices, people with privilege often do not see or do not care about others who are marginalized. This lack of awareness or caring can facilitate or exacerbate abuse and violence via inaction and silence. One could argue that silence, apathy, or indifference form the foundation for rape culture, or a normalizing of sexual abuse and violence, as well as the social conditions that make survivors’ lives harder.

For those of us who do not belong to groups who experience individual discrimination backed by societal oppression, our privilege blinds us to the experiences of others, and we can deny that the oppression exists. For example, after Sinthasomphone’s death, African Americans and LGBTQI+ communities protested against Milwaukee police because the police officers believed Dahmer, a white cisgender male, over the loud vocal protests of the black women who called in the incident, and because of stereotypes of the effeminate Asian male that affected the view of the victim. Even though the two officers on the scene denied any prejudice on their part, the individual experiences and collective histories of these two (often intersecting) marginalized communities reinforces for them that these two white male police officers were simply conducting business as usual.

While seemingly extreme, egregious acts of violence such as those at the start of this chapter begin as small assaults that become normalized and pervasive. When nurtured with the daily silence

of others, microaggressions (subtle, sometimes unintentional expressions of prejudice) create exhausting environments for subordinate/marginalized populations, especially when coupled with the struggles of daily life. Here are some examples of seemingly harmless incidents that can be debilitating:

- Making slurs based on identity
- Assuming that someone has questionable residency status
- Expressing surprise at a person's command of English
- Assuming that everyone is heterosexual
- Remaining silent at offensive comments
- Creating work spaces intolerant of diverse experiences
- Claiming to not see color
- Assuming that a person of color is "the help"
- Making comments such as "Why can't you just be normal like us," or "Why do you have to keep bringing race up"

These small daily debilitating acts expose biases and assumptions we all hold as members of dominant cultures socialized to think and believe in the normalcy of everyday practices. Normalizing majority rules is one of the ways we accept the marginalization of others. In the US, at various times, we are all members of a dominant culture: from something as seemingly benign as right-handedness, to interconnected modes of dominance such as white, heterosexual, able-bodied masculinity. We can unintentionally be oppressive by assuming everyone uses right-handed scissors; intentionally discriminatory in the policies we vote for, such as eliminating non-gender-specific public restrooms for transgendered populations, or the erasure of women's reproductive health rights; or, callous in ignoring institutionally-sanctioned violence, such as the use of excessive force by police against those marginalized by American society (such as people of color, the homeless, or children separated from their immigrant families).

As gender-based violence, sexual and domestic violence sit within the system of oppression (to unfairly hold one down or back) known as sexism (the belief in the superiority of one sex over others) that helps establish and maintain male-dominated or patriarchal societies. *California's Sexual Assault Training Standards: A Trainer's Guide* provides a generalized snapshot of how gender violence functions as a form of social control:

Globally, patterns of systemic and institutionalized sexism, misogyny, and patriarchy may include: female infanticide, honor killings, sex trafficking, acid assaults, breast ironing, "curing" HIV by having sex with virgins, clitorrectomy and vaginal suturing, or simply, denied access to education, reproductive health rights work, or money.

With a historical perspective of women viewed as chattel property came the treatment of females as one of the spoils of war. As a method of European colonialism and expansion, U.S. manifest destiny, and U.S. sanctioned slavery, rape was used to display and enforce white supremacy, or the belief and practice that whiteness is superior to all other races, among indigenous and First Nation populations across the Americas and among Africans and the descendants of the Atlantic slave trade.

In the 20th century, rape was utilized as part of a larger war strategy: an estimated 20,000 women and girls were raped and/or murdered in the second Sino-Japanese war, which became known as the Rape of Nanking; rapes of German and Russian women and children during WWII by the Allied Forces, as well as Nazi and Red Army occupying forces; and as part of ethnic cleansing in Rwanda, Bosnia-Herzegovina (sometimes publicly known as "community intimidation"), Kosovo, and Darfur. As much as women and children were targets for these atrocities, "conquered" men were secondary victims, as they were made to feel powerless to protect their families/communities.

It should be noted that women are not immune to cultural elements that support and perpetuate sexism and other forms of oppression simply because they are representative of members of a historically oppressed group. Women can and frequently do reinforce patriarchy, misogyny, and sexism.

While this discussion is an oversimplification of how power, privilege, and social relations impact diverse populations, it helps counselor/advocates consider how identity-based difference impacts a survivor's experience after an assault or abuse. The unique challenges faced by diverse "have-nots" are key factors in your work: those are the lenses through which survivors view our advocacy. In general, communities of color in the United States experience multiple facets of racism; and racism within a given system will impact different communities in unique ways. When seeking medical treatment, for example, black Americans may be the victim of race science attitudes that teach medical professionals to minimize black complaints of pain, where Latinos may not receive prompt medical treatment because healthcare providers assume an illegal residency status. In either case, both populations can become distrustful of medical professionals and may delay necessary treatments. Therefore, you will want to 1) remember that it is the survivor's experience that guides the recovery process, not your own, 2) remain sensitive to how various identities shape experience, and 3) know that gender-based violence is inextricable from other forms of oppression.

Cultural Considerations in Providing Services to Different Marginalized Groups

Identity issues will factor into survivors' experiences in countless ways. They may point to their own identity as a causal factor for the violence ("this happened because I am ____"). This may then lead survivors into a spiral of blaming themselves or their culture for the violence.

Counselor/advocates can demonstrate sensitivity to social justice by developing knowledge and skills in two areas: 1) operating within an anti-oppression framework, and 2) building their cultural competency skills.

ANTI-OPPRESSION FRAMEWORK

An anti-oppression framework seeks to comprehensively eliminate barriers that reinforce marginalization, exclusion, and disenfranchisement. Some of the terms used to describe how different forms of oppression work together are:

- Intersectional
- Interlocking
- Overlapping
- Mutually-influenced

Simultaneously, we actively challenge imbalances and abuses of power, while working to rebuild systems with equity at their centers so that everyone has access and opportunity. The first step in doing so is to see where we fit into the picture: "Anti-oppressive practice now requires all practitioners to understand themselves as implicated in sustaining relations of domination, as benefiting from the status quo..." (Curry-Stevens, 2016, para 1). In other words, rape crisis and domestic violence organizations are not immune to the influence and power of oppression, as we do not operate outside of society and culture. In one sense, **our social justice goals begin with our own liberation from the ways in which we, as anti-sexual/domestic violence movements, participate in and benefit from interlocking systems of oppression.**

The following are principles that guide the integrated anti-oppression model from the Berkeley Student Collective (<https://cloyne.org/policies/guiding-documents/anti-oppression-policy/>):

- Society operates within a socially-constructed hierarchy of difference where some people are valued and privileged, and others are marginalized and exploited.
- People do not belong to just one category or social location. Identities are complex and multiple; fluid rather than fixed. As a result, we can be both the victims of and persons who oppress. We often re-create the relations of social power and control that also oppress us.

- The ideas, thoughts and beliefs of people who “belong” to groups that are highest on the social hierarchy create “dominant culture”. Dominant culture becomes the standard or norm by which everyone is compared.
- People who are members of privileged groups have the power to control access to resources and information. This perpetuates the cycle of power and oppression for people who are not members of these groups. People who are marginalized and exploited experience limited access to the power to shape their own past, present and future.
- Not everyone from the same social group has the same experiences because people have many different lived experiences. When people have multiple marginalized identities, they do not merely face extra barriers; their lived experience is entirely different.
- Integrated anti-oppression work requires that individuals accept responsibility for their role in perpetrating oppression both interpersonally and systemically. To bring about change, individuals and systems must be changed.

By focusing on the anti-oppression framework, we reduce incidences of retraumatizing survivors, while contributing to larger anti-sexual violence efforts. As individuals within this framework, we learn how to work in solidarity with those whose experiences may be vastly different from our own, and how to use our own power and privilege as an ally across our differences in the struggle for equity, inclusivity and justice: our collective liberation is at stake. To be clear, sexual violence not only causes personal injury to individual victims, but is also symptomatic of wider rape culture. Freedom from sexual violence is connected to various forms of oppression and is thus a human rights issue.

CULTURAL COMPETENCY

Equity, diversity, and inclusivity happen with intentional and thoughtful action. A commitment to cultural competency embraces the idea of pluralism, which includes respect for the identity of diverse groups within our culture. Cultural competency promotes social justice, as it functions on some level as a corrective to historically marginalized populations. For our purposes, cultural competency can be understood as “the ability to understand, appreciate, and interact with persons from cultures and/or belief systems other than one’s own.”

To be clear, cultural competency is about building a set of skills that allow counselor/advocates to effectively engage interculturally. There is no one way to accomplish this, and there is no end to it: culture is broad, overlapping, intersecting, incalculable, and ever-changing; becoming culturally competent is a life-learning process of work performed primarily on oneself, then upon one’s surrounding community; and the skills development can be viewed on a continuum from cultural destructiveness to cultural proficiency. The National Center for Cultural Competence at Georgetown University (NCCC) identifies three primary strategies for working towards cultural competency:

- Increasing [self] awareness – self-assessments that reveal exposure to, differences/similarities, or implicit bias are helpful in this phase;
- Increasing understanding and knowledge – education on social protocols, values, traditions, and histories that impact day-to-day quality of life; and,
- Developing skill sets – building the capacity to operate in ways that demonstrate the importance of culture as a protective factor from interpersonal violence.

Developing a critical consciousness is the “process of continuously reflecting upon and examining how our own biases, assumptions and cultural world-views affect the ways we perceive difference and power dynamics” (Pinter & Sakamoto, 2005). As we strive to ensure that our services are available to all, we work to end bias and discrimination as a barrier

to healing. This means that we have to reduce the likelihood of imposing our own values upon survivors, and challenge prejudicial or stereotypical beliefs. As a result, this work begins with a closer look at ourselves. “I know that I know nothing,” attributed to Socrates, is an acknowledgement of one’s own ignorance, which leads to the first step to knowledge via inquiry and wonderment.

INCREASING SELF-AWARENESS

As a counselor/advocate, it will be important for you to be able to maintain healthy boundaries between you and survivors. One way to do this will be to have a good understanding of how you have been impacted by trauma, bias, and cultural programming. This is to ensure that you minimize any possibility of being triggered by the survivor’s circumstances. But there are other triggers to watch out for related to your own identity and to that of others, including that of the survivor and the person(s) that used sexual violence. For this reason, it is important to explore our own understanding of identity, power, and privilege.

UNDERSTANDING IDENTITY

Fundamental to our ability to help others is an understanding of how identity shapes our sense of self and view of the world. We are shaped by multiple identities, which can sometimes conflict or be contradictory. Identity can be thought of as the beliefs, qualities, characteristics, and personality elements that distinguish individuals from one another, yet allow those with commonalities to assemble into like identity categories and classifications. Equally as important, identity gives us a sense of belonging, as well as insight into how we see ourselves. Think about the multiple identities you carry with you on a daily basis. If you were to write down all of the “masks” or faces you wear on a daily basis, you may find the list innumerable, especially when thinking about your affiliations as well as physicality (for example, “mother,” “immigrant,” “Christian,” and “lesbian”).

Q: Has there ever been a time when something happened to you — good or bad — and you believed it might be because of your identity?

Q: How did it feel to be unsure? Once you realized that your identity was involved, what was your reaction? Which identity was targeted?

Q: Can you think of a similar situation where you made a decision based on the identity that someone else represented?

As counselor/advocates, it will be important to allow survivors to self-identify. Further, when survivors represent multiple identities that have been historically disenfranchised or marginalized, they are vulnerable to interlocking systems of oppression. For example, an undocumented immigrant Asian woman, who is a survivor, must negotiate immigration issues, racism, and sexism as she embarks on her road to recovery. Similarly, a Muslim gay man who has recently recovered memories of child sexual abuse may be searching his entire past to figure out whether his faith, orientation, or gender marked him as a target for child sexual predators.

NOTE: It is not okay to tell survivors that they are oppressed. Nor is it okay to suggest or confirm for a survivor that they were victimized because of their identity. People who sexually assault are always responsible for their acts of sexual violence and physical abuse. But because society treats certain populations marginally, people who sexually assault believe that those lives are less than, and perhaps no one will believe the survivor. Identity is not the cause of a survivor’s victimization; people who use sexual violence devalue certain identities and target them for maltreatment.

Identity, Power, and Privilege

Power simply means having ability or authority. Privilege characterizes the unearned rights, access, and opportunities granted to dominant cultures (such as majority populations or groups with power). Dominant cultures tend to organize structures, organization, and institutions around their own interests and values because this feels “natural” to them and they may feel entitled to do so. As a result, they are rarely motivated to change the status quo to become more inclusive.

But when viewed within the context of oppression, power and privilege unchecked can perpetuate inequality which, when passed on culturally and generationally, becomes embedded in our belief systems and values, and is eventually normalized. Threats or acts of violence (including domestic and sexual violence) are deployed by the dominant culture as a means of maintaining power and control.

We are all exposed to cultural programming embedded with beliefs that include stereotypes and negative assumptions. When we act against certain populations, or exert power and privilege to do so, it becomes discrimination. In order to ensure that sexual assault survivors do not experience discrimination as a barrier to healing, we must be aware of our own cultural programming, power, and privilege.

Consider reading one or both of these resources to enhance your knowledge about how racial power and privilege both illustrate dominant culture privilege, and make invisible the experiences of the nonprivileged. After reading, think about how this concept can be applied to privilege associated with other dominant cultures.

RESOURCES

What I said when my white friend asked for my black opinion on white privilege.
Hutcherson, L. (2016, July 14). [editorial]
<https://goodblacknews.org/2016/07/14/editorial-what-i-said-when-my-white-friend-asked-for-my-black-opinion-on-white-privilege/>

Understanding White Privilege. [article]
Kendall, F. (2002).
http://www.goldenbridgesschool.org/uploads/1/9/5/4/19541249/understanding-white-privilege_-_kendall_edited.pdf

Q: Do I have a good understanding of the concept of “privilege” as it relates to oppression and discrimination?

Q: How does privilege make those with it, blinded to the mechanisms of discrimination? The impacts of discrimination?

Q: Which of these identities situates you as representative of a dominant culture (for example, gender, sexuality, religion, physical ability, class status, or educational status)?

Q: What are the prevailing narratives taught about the dominant cultures you belong to, such as thinking these things are equivalent: American = freedom; heterosexual = normal)?

Q: What are the main narratives taught about subordinate cultures you identify with (such as Muslim = terrorist; embodied disability = helpless)?

Q: Who benefits from perpetuating these dominant narratives? Why?

Q: What biases, prejudices, and stereotypes come from the dominant narratives?

To be clear, privilege is about unearned rights or entitlements based on group identity. Privilege is not something that can be surrendered, like cancelling a credit card. The only way to minimize the effects of dominant culture privilege is to work toward equity via anti-oppression strategies such as equity and justice, access, and opportunity. No one escapes cultural programming, which, at a minimum, leads to assumptions, prejudices, or stereotypes we form about various identities; or, when extreme, leads to bias, discrimination, and support for oppressive treatment at the societal level. Neither the dominant narrative nor the modifiers is “naturally occurring,” or “organic;” these modifiers reveal cultural programming, or our attitudes and values that circulate across society and are passed down generationally.

As a counselor/advocates, you will want to first comprehend your own social positioning, cultural programming, and prejudices in order to ensure they do not negatively impact your interaction with survivors. Survivors also identify with both dominant and subordinate cultures; as a result, they may express many of the same prejudices held by larger society such as: all men of a certain race/ethnicity rape; immigrants don’t deserve access to social services; or women are naturally inferior to men. Experiencing a sexual assault from someone who fits an existing bias may reinforce those attitudes and beliefs for the survivor, their families, or other advocates. You will want to dispel these myths in ways that do not reinforce these beliefs and that redirect the survivor to productive healing strategies.

This type of work is transformative and has the ability to heal wounds, whether from an assault or from historical injustice. As previously stated, there is no way to know all of the different ways in which ignorance, bias, prejudice, or discrimination will show up in this work. Understand that even your missteps will provide an opportunity to improve and grow – doing so will demonstrate your level of commitment to anti-oppression work.

INCREASING UNDERSTANDING AND KNOWLEDGE

In the past, anti-oppression and discrimination education and training for sexual assault and domestic violence programs came in the form of “Cross-Cultural Day.” This day focused on building advocates’ empathy via a mix of activities including presentations, videos, small group and experiential exercises, and large group discussion, intended to increase counselor/advocate awareness and sensitivity to cultural differences in working with survivors. One of the most popular ways of tackling the “isms” was a “diversity panel” where a mixture of women of different ethnicity, orientation, religion, and ability would discuss the impact of gender-based violence on their representative communities.

“Cross-Cultural Day” provides a constructive space to discuss emotionally charged topics, with minorities’ voices speaking to the legacy of pain seeded by historical forms of oppression. But, without an anti-oppression framework, these sessions risked creating environments where trainees turned inward, racked with “privilege guilt,” and vying for whose situation was worse. Despite the nonscientific, generalized approach, “Cross-Cultural Day” institutionalized the movement’s commitment to intentional anti-oppression work. Further, it created a sustained anti-oppression dialogue within the movement that compelled deeper discussions, exposed gaps in our knowledge, expanded our focus, and revealed opportunities to build solidarity across differences.

In reality, anti-oppression and discrimination work is not something that can be “learned” in one day. To be clear, it is a practice that requires moment-to-moment awareness of the relationship between a people and its society. Since much has changed from the early 1970s, our understanding of the issues and our approaches to the work have become more complex and layered. We continue to center the experiences of marginalized populations with a vision for liberation from oppression for all.

This work challenges us to go beyond mere empathy; we have to be intentional in our actions toward social change. In other words, it is not enough to witness the pain of others and feel bad for them.

Your action as a counselor/advocate strengthens our ability to resist and prevent violence for all, whether perpetrated by individuals, the state, or individuals supported by the state, systems, or institutions. This means increasing our knowledge on the issues – risk factors, prevalence, co-related negative impacts (such as substance abuse, homelessness, and incarceration)—and linking them to larger social issues. By doing so, we are able to better support survivors, create more inclusive services, and fight for equitable treatment.

Heterosexist attitudes can be subtle, such as assuming a person is heterosexual upon meeting them for the first time at a party or at work. Heterosexist discrimination toward lesbian, gay, transgender, bisexual, queer, intersex, asexual, gender nonconforming, nonbinary, genderqueer (LGBTQI+) begins with marking those identities as outside of “normalness.” This discrimination means exclusion, criminality, denial of full participation in society, internalized self-hate, and perhaps most damaging, denial of one’s true complete self. Heterosexist discrimination can lead to life-changing if not life-threatening experiences for LGBTQI+ folks: rejection from family, peers, and larger society escalates LGBTQI+ risk for homelessness, substance abuse, chronic unemployment, prostitution, poverty, suicide, and homicide.

The threat of violence, as with all forms of oppression, serves as a constant reminder (both implicit and explicit) for marginalized groups to “stay in your place” “you’re not welcome here,” and “you don’t matter.” In addition to high profile cases like Brandon Teena and 21-year old Matthew Shepard whose 1998 murder led to the 2009 federal hate crime prevention legislation, discrimination and violence targeting the LGBTQI+ community is on the rise, with transgender women being particularly vulnerable. The Human Rights Campaign Foundation (2019) reports that of the 22 transgender women murdered in 2018, 82% were women of color and 64% were under 35-years of age. What stands out about this report and others that track hate crime against LGBTQI+ individuals, is the particularly way in which they were killed: stabbings and set on fire are included among the most common method, along with gunshots to the head. Many had been left in open areas such as roadsides, dumpsters, and open fields.

Q: Could heterosexism have contributed to poor police response in Konerak’s case? Would they have come taken the same actions if Konerak had been a 14-year old drugged, naked, and bleeding girl?

Q: In what ways did heterosexism contribute to any of the other scenarios at the start of this chapter?

Q: How does the “normalness” of heterosexism impact women’s sexual and reproductive health?

Q: Identify at least three times in your own life when you’ve caught yourself incorrectly assuming someone’s sexual orientation — did it change the way you got to know people personally?

The more we educate ourselves, the more we are able to combat the myriad ways discrimination takes on the form of normal. Also, we come to understand that “normal” is often defined by those with the power to shape faith, laws, government, education, media, institutions, beliefs, and practices to conform to those norms. In truth, sexual and gender diversity exist on continuums that allow for a range of identities, intimate relationships, and social interaction. The concepts that capture those individuals who feel the presence of the male and female sex – “two-spirit,” “third gender,” “four genders,” “female-husbands,” and “male-wives” – existed within indigenous cultures and societies thousands of years ago, and these people were often spiritual leaders or priests.

As societies change, each generation redefines itself and its priorities. One of the most empowering acts of liberation is the right to self-identify and to self-determination, which ultimately leads to self-knowledge. Influenced by civil rights, the LGBTQI+ movement gained momentum after the 1969 Stonewall riots, which erupted after years of police harassment intended to quash the rights of LGBTQI+ folk to live life openly. From the late

20th century forward, LGBTQI+ folks have defined and redefined identity not in relationship to heterosexuality, but in accordance to what is self-affirming and distinct from other non-heterosexual and gender nonconforming individuals. As communities gain agency and awareness, we develop language and concepts to better define our experiences. Below is a (non-exhaustive) list of terms to inform our knowledge and understanding of sexual and gender diversity.

First, briefly define each of the terms in the middle column. Then share with other counselor/advocates or friends/family members to see if everyone has the same understanding. Then spend some time looking up these terms. Record a more correct answer if necessary, and record anything new you learned in the far right column.

Term	What I thought it meant...	What I've since learned...
Sex		
Sexuality		
Sexual Orientation		
Gender		
Gender expression		
Gender expansive		
Genderqueer		
Gender fluid		
Cisgender		
Bigender		
Intersex		
Orientation		
Queer		
Trans*		
Gender nonbinary		
Gender nonconforming		
Misgendered		
Lesbian		
Gay		
Bisexual		
Asexual		
Agender		
Other terms...		

Because the world can be a hostile place to social minorities, many folks from historically oppressed or marginalized groups learn survival skills including the masking aspects of identity. As an example, many LGBTQI+ individuals, adopt non-gender-specific language to navigate or subvert the heterosexist world. LGBTQI+ survivors will want and need to know that you, as a counselor/advocate, are sensitive to sexual and gender diversity issues; some fear assistance especially if they are not living an openly LGBTQI+ lifestyle and risk family and friends finding out. The language you use will be revealing of your own heterosexist programming to which we are all exposed or it will signal to survivors that communicating with you will be safe. Familiarize yourself with these terms, the community, and its diversity.

DEVELOPING SKILL SETS

As a counselor/advocate, you will demonstrate your ability to be trauma-informed and survivor-centered, to be empathetic, to use active listening skills, to promote empowerment-based options, to use critical thinking and problem-solving skills, and to advocate for survivors. Further, it is imperative to recognize how culture functions as both a protective and risk factor for sexual and domestic violence.

In addition to common beliefs, practices, traditions, values, artistic expressions, similarities in ethnicity, history, experience, culture can also mean everyday life. As previously stated, it is not realistic or possible to know the depth, breadth, richness, and nuances of every culture you will encounter with survivors. Just know that all of the cultures associated with each survivor influences their experience, their thinking, and their decision-making.

For some cultures, you will work not only with the survivor, but also with parents, partners, or extended family, as may be customary or part of their tradition. This may be a good thing or a bad thing. As you become more skilled, you will need to navigate these dynamics in such a way that you are always operating in the best interest of the survivor. For example, while an adult survivor may have extended family members in a hospital

waiting area, they may feel uncomfortable going into details of their assault, or they may not want to disclose information in front of family members for fear of reprisals toward the harm-doer. In those moments, you will realize that it is customary to have family around in times of crisis, but the individual survivor is not able to advocate for privacy on their own behalf – so you will wait until the time is right and take your cues from the survivor.

You may also have to advocate for survivors as they navigate several systems such as during an interview with law enforcement, or during a forensic exam at a hospital. Cultural considerations here may include:

- Recognizing the barriers to accessing support and resource include: individual, traditional, and societal attitudes; attitudes towards seeking service; language barriers, including discussing sexual assault; or physical barriers for those with mobility issues, such as ascending/descending stairs; and sensitivity level in the community.
- Understanding the cultural contexts of sexual assault is crucial in providing the best support for the survivor – what is the meaning of the assault to the survivor, and what is the meaning of the assault for the survivor in the context of their family and community?
- Supporting the need for service provision in the preferred language of the survivor or with a qualified interpreter – the counselor/advocate should NOT be used as an interpreter as this creates a confusion of roles, eliminates client confidentiality, and places you in the position of investigator.

For us to be really good at cultural understanding, we have to decenter ourselves and center the survivor. Here is a guideline for understanding how dominant cultures works, and tips on how to reframe the situation with the survivor in the center.

As an example of decentering ourselves, consider how things may be experienced completely differently for an older person who was born and raised outside of the United States. Consider something

as simple as greetings used the first time you meet someone. Handshakes, bows, salutes, cheek-kissing ("la bise"), hugs, and more are all ways of making an acquaintance. But also think about the first time you extended your hand to greet someone, and they did not immediately return the gesture, as it was unfamiliar to them. In that moment we realize that our way is not the only way.

Conclusion

We cannot assume that our way of knowing matches that of the survivors with whom we work. Each survivor brings with them a unique set of characteristics that shape their own social and cultural programming. As counselor/advocates, we have a responsibility to convey to survivors that they belong, that they matter, and that they are not responsible for the abusive actions of others. Doing so is an act of solidarity and liberation.

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***Nearly 8,000 Boy Scout Leaders
Have Been Accused of Sexual Abuse
Since 1944, Researcher Found***

- The New York Times, April 23, 2019

***Years of priest abuse allegations have
caught up with Los Angeles Archdiocese***

- Los Angeles Times, May 3, 2019

***Abuse Scandal Inquiry Damns
Paterno and Penn State***

- The New York Times, July 13, 2013

CHAPTER 3

CHILD SEXUAL ABUSE

Introduction

As a counselor/advocate for a Rape Crisis Center, you will encounter children who have been sexually abused, nonoffending parents and other family members, and adults who experienced sexual abuse as children. It is important to recognize the signs of child sexual abuse, understand the impact, and know how to respond appropriately.

Because Chapter 4 covers the sexual abuse of teens, this chapter will focus on victimization of younger children. We will describe child sexual abuse, including how often it happens and what the term includes; the short-term and long-term effects of child sexual abuse; developmental considerations; mandated reporting issues for advocates; how to help nonoffending parents; and other topics that will help you in your advocacy work.

Most Rape Crisis Centers (RCCs) in California work primarily with teens and adults. Children who have been sexually abused are often assisted by a Children's Advocacy Center. A Children's Advocacy Center, or CAC, is a child-focused center that coordinates the investigation, prosecution, and treatment of child abuse while helping abused children heal. By coordinating the response of agencies like law enforcement, child protective services, prosecutors' offices, advocates, mental health and medical professionals CACs help ensure that when a child discloses abuse, they are not revictimized by the very systems designed to protect them (Children's Advocacy Centers of California, 2012).

Your RCC may work closely with the local Children's Advocacy Center, and in some cases, these two types of agencies are located together. You will want to learn your agency's policies and practices on providing services to children.

Even if your agency generally refers young children for services elsewhere, it is important for you to learn as much as you can about child sexual abuse for the following reasons:

- Many of the adult and teen survivors you will serve have been sexually abused as children, even if this is not the primary reason they are currently seeking services.
- Often adult survivors have concerns about whether their children have been or are being sexually abused.
- Crisis line callers may ask you questions about child sexual abuse.
- Child sexual abuse prevention is an important topic to cover in community prevention and education efforts.

What is Child Sexual Abuse (CSA)?

Child sexual abuse is a global issue that occurs in all segments of society. Different cultures and communities may perceive certain behaviors to be abusive or may normalize sexual behaviors that cross legal boundaries. In addition, we are just beginning to recognize the extent and damage caused by activities such as the involvement of children in the production of pornography or other sexual trafficking. Because the understanding of what constitutes sexual abuse may be different across diverse populations, it is important that we have standardized language that helps us to identify and prevent these violations, bring them into the light, and intervene in ways that minimize the harm to children and their families.

Children cannot legally consent to any form of sexual activity with another person (although of course this does not apply to the normal sexual behaviors of children as they grow and explore). Any sexual behavior or activity with a minor (under the age of 18) is considered child sexual abuse and is a crime in California, although legal consequences differ depending on the age difference between the child and the other person. Specific considerations for working with teens are covered in Chapter 4.

Child sexual abuse includes sexual assault or sexual exploitation. These are some examples of child sexual abuse (from the California Child Abuse and Neglect Reporting Act, CA Penal Code 11165.1):

- A person intentionally touches the “intimate parts” or genitals of a child’s body or makes the child touch their body with sexual intent, or has oral contact with the child (either upon the child, or causing the child to have oral contact), or commits penetration or the vagina or anal opening of the child
- An adult arranges to meet a minor for sexual purposes (for example, through internet contact)
- A person exposes their genitals to a minor with sexual intent, or masturbates in the presence of a minor
- A person sexually exploits a child for money, which may include sex trafficking or giving a child food, shelter, or payment in exchange for a sexual act
- A person produces or uses any form of child pornography

Frequently Asked Questions About Child Sexual Abuse

HOW COMMON IS CHILD SEXUAL ABUSE?

- While this is a complicated subject to study and research reports vary, researchers from the University of Barcelona looked at 65 research studies from 22 countries and concluded that nearly 8 percent of men and nearly 20 percent of women experienced sexual abuse before age 18 (Pereda, Guilera, Forns, Gómez-Benito, 2009). There are wide differences in reported percentages of the population who have experienced child sexual abuse, depending on the definition, who was studied, and how the questions were asked. The one factor that seems to hold steady is that far more girls than boys are sexually abused, even though there is no sex difference in other forms of child abuse (Jud, Fegert, & Finkelhor, 2016).

HOW EARLY DOES SEXUAL VIOLENCE BEGIN?

- According to the National Intimate Partner and Sexual Violence Survey (Black, Basile, Breiding, Smith, Walters, Merrick, Chen, & Stevens, 2011), among all female victims of completed rape, about 12 percent of them experienced their first rape at or before age 10, while nearly 30 percent were first raped between ages 11 and 17 years old. Among male victims of completed rape, more than one-quarter were first raped at age 10 or before. The other age groups had numbers too small to give an accurate estimate for males. Bear in mind that most acts of child abuse do not involve completed rape.
- According to a review of 62 research studies, children who were abused by someone in their family were more likely to be abused at a younger age, and also for the abuse to happen over a longer period of time (Ventus, Antfolk, & Salo, 2017).

WHY DON’T CHILDREN TELL ABOUT ABUSE?

- According to McElvaney, Greene, and Hogan (2014, p. 928), children are often conflicted about whether or not to disclose they have been abused, partially because of the following factors (which can facilitate or hinder disclosure):

Fear of not being believed; being asked questions about their well-being [having someone ask if there was something wrong]; feeling ashamed of what happened and blaming themselves for the abuse, for not telling, and for the consequences of disclosure; concern for how both disclosure and nondisclosure would impact on themselves and others; and being supported by and yet pressurized by peers to tell an adult, all illustrate the complex intrapersonal and interpersonal dynamics reflecting the conflict inherent in the disclosure process.

- Specifically, children are often afraid they will be punished by parents or harmed by the person who sexually assaulted them; they may want to protect an abuser they care about; they may not trust adults; they may not realize that what happened is abuse; and there may be “cultural, religious, and familial barriers” (March & Gilreath-Osoff, 2018).

- Some of these same factors may lead children to recant (saying abuse didn't happen after saying it did).
- Boys are significantly less likely to disclose at the time they were abused, and they typically wait longer than girls to talk about their experience. In one study, 45% of men took more than 20 years to disclose their abuse, compared with 25% of women (Cashmore & Shackel, 2014).

ARE CHILDREN WHO HAVE BEEN SEXUALLY ABUSED MORE LIKELY TO BE REVICTIMIZED?

- Yes, there is extensive research showing this to be true (Papalia, Leubbers, Ogloff, Cutajar, Mullen, & Mann, 2017), with studies showing that “sexual victimization in childhood or adolescence increases the likelihood of sexual victimization in adulthood between 2 and 13.7 times” (National Sexual Violence Resource Center, 2012, p. 1).

RESOURCE

Sexual Victimization – Research Brief,
National Sexual Violence Resource Center
<https://www.nsvrc.org/publications/nsvrc-publications-research-briefs/sexual-revictimization>

This short document reviews research and offers some reasons why re-victimization may occur. It also describes the increased vulnerability of oppressed groups.

ARE THESE CHILDREN MORE LIKELY TO SEXUALLY ASSAULT OTHERS?

- A recent study of males only (Papalia, Leubbers, Ogloff, Cutajar, & Mullen, 2017) suggests that any type of victimization in childhood, and most specifically having experiences of multiple types of victimization (known as “polyvictimization”) does increase the risk of sexual offending, but the risk is very low for boys who were victims of sexual abuse only. The authors state it is important to note that persons that have sexually assaulted “have not necessarily been sexually abused, and that sexual abuse is not a sufficient explanation for their offending” (p. 152).

What are the Indicators of Child Sexual Abuse?

Lists of physical or behavior indicators of possible abuse may be helpful in understanding signs and symptoms, but they can also be misleading. For example, such lists commonly include physical signs of genital injury, but research shows that “Most sexually abused children will not have signs of genital or anal injury, especially when examined nonacutely” (Adams, Farst, & Kellogg, 2018). In a study of more than 1,000 girls with documented sexual abuse, only 2.2 percent had physical findings when examined after a time lapse from the assault. Among those who were examined immediately, fewer than one-quarter showed physical injuries (Gallion, Milam, & Littrel, 2016).

Even “common sense” emotional symptoms that are often listed as indicators of sexual abuse, such as being upset in the presence of the person who sexually assaulted them, may or may not be present. In one study of young children who had been abused in Amsterdam, “about half of the confirmed severe victims of CSA did not display any psychosocial problems” (Vrolijk-Bosschaart et al., 2017, p. 8).

What this means for you as an advocate is that it can be very complicated to determine whether a child has been sexually abused, and it is never your role to try to guess whether this is so. For example, if a parent calls and tells you that their child has been saying, “My wee-wee hurts,” and the parent is convinced this means the child has been sexually abused, your job would be to identify local experts who can assist the parent and child, not to offer an opinion about the likelihood that child has been victimized. As part of your training, you will learn where to refer a parent with a concern like this.

There are professionals who are trained to help determine whether a child has been sexually abused. For medical exams, there are Sexual Assault Nurse Examiners (SANEs) and Sexual Assault Forensic Examiners (SAFEs). You can learn more about these professionals in Chapter 8. Children’s Advocacy Centers have trained forensic interview specialists or criminal investigators who have had advanced training on the forensic interviewing of children.

BEHAVIOR YOU MAY SEE IN A CHILD OR ADOLESCENT

- Has nightmares or other sleep problems without an explanation
- Seems distracted or distant at odd times
- Has a sudden change in eating habits
 - » Refuses to eat
 - » Loses or drastically increases appetite
 - » Has trouble swallowing.
- Sudden mood swings: rage, fear, insecurity or withdrawal
- Leaves “clues” that seem likely to provoke a discussion about sexual issues
- Writes, draws, plays or dreams of sexual or frightening images
- Develops new or unusual fear of certain people or places
- Refuses to talk about a secret shared with an adult or older child
- Talks about a new older friend
- Suddenly has money, toys or other gifts without reason
- Thinks of self or body as repulsive, dirty or bad
- Exhibits adult-like sexual behaviors, language and knowledge

SIGNS MORE TYPICAL OF YOUNGER CHILDREN

- An older child behaving like a younger child (such as bed-wetting or thumb sucking)
- Has new words for private body parts
- Resists removing clothes when appropriate times (bath, bed, toileting, diapering)
- Asks other children to behave sexually or play sexual games
- Mimics adult-like sexual behaviors with toys or stuffed animal
- Wetting and soiling accidents unrelated to toilet training

SIGNS MORE TYPICAL IN ADOLESCENTS

- Self-injury (cutting, burning)
- Inadequate personal hygiene
- Drug and alcohol abuse
- Sexual promiscuity
- Running away from home
- Depression, anxiety
- Suicide attempts
- Fear of intimacy or closeness
- Compulsive eating or dieting

PHYSICAL WARNING SIGNS

Physical signs of sexual abuse are rare. If you see these signs, bring your child to a doctor. Your doctor can help you understand what may be happening and test for sexually transmitted diseases.

- Pain, discoloration, bleeding or discharges in genitals, anus or mouth
- Persistent or recurring pain during urination and bowel movements
- Wetting and soiling accidents unrelated to toilet training (Stop It Now!, n.d.)

They follow a structured set of guidelines and generally meet with the child several times to build trust and gain all the facts.

Understanding that lists of signs and symptoms should be approached cautiously, you may still find it helpful to know about some common concerns involving possible sexual abuse. Remember that many of these signs may indicate something completely different, such as a reaction to a parent's illness, or nothing at all – just a developmental phase. It is important for a professional to evaluate the child while keeping in mind normal developmental concerns. This list of possible signs is from the organization Stop It Now! (www.stopitnow.com) and its use is authorized through [Creative Commons](#).

Why Would Anyone Sexually Abuse a Child?

This is not a question with a simple answer. People who sexually abuse children vary from a 12-year-old child abusing a preschool sibling to an adult serial predator who abducts and rapes children. According to the Association for the Treatment of Sexual Abusers (ATSA), among adults that sexually abuse children, 95% are male. Most of these people who sexually assault know the child they are abusing. Adolescents who commit sexual abuse (mostly male) commit a large proportion of all sexual crimes (more than one-quarter) and more than a third of sexual abuse against minors. However, ATSA states that “the majority of these youth do not continue to sexually offend nor are they on a life path for repeat offending” (ATSA, 2014, p. 2). While children under the age of 12 may engage in sexual behaviors that hurt or upset younger children, they must be considered in a different category from older people who use sexual violence and offered specialized treatment. The correct term for these children is “children with sexual behavior problems.”

ATSA emphasizes that people who sexually abuse children are a diverse group with a variety of different motivations: “Whereas some adults who have been convicted for sexual crimes may be primarily motivated by sexual preference, such as a primary sexual preference for prepubescent

children (pedophile) or sexual arousal to violence, others may be motivated by factors such as intimacy deficits, loneliness, anger, general antisocial or criminal attitudes, hypersexuality, a desire for power/control, or in most cases probably a combination of these factors” (ATSA, 2014, p. 4).

RESOURCE

Eight Things Everyone Should Know About Sexual Abuse & Sexual Offending
Association for the Treatment of Sexual Abusers, 2014
<https://vawnet.org/material/eight-things-everyone-should-know-about-sexual-abuse-sexual-offending>

What are the Dynamics of Child Sexual Abuse?

As with sexual assault, CSA is often perpetrated by someone known and close to the victim. In the context of CSA, grooming is a process in which a person who sexually abuses children establishes a connection with the child victim, gains their trust, and escalates from appropriate to inappropriate touching while normalizing the physical contact. People who sexually abuse children may also shower the child with attention, gifts, and affection; isolate them from friends and family; and use secrecy, guilt, and/or threats to deter the child from seeking help (The National Center for Victims of Crime, 2012).

Because survivors of CSA have experienced not only sexual trauma, but a violation of trust and authority, it is important for you to provide a safe space for the child with clear boundaries and respect for personal space. While some children may withdraw as a result of their experience, others may form unhealthy attachments to adults. It may be easier for them to cross boundaries as their own boundaries have been violated by what was thought to be a safe and trusted adult. It is important that you model a healthy and appropriate relationship and set of boundaries with the child. You should practice asking permission (consent) with the child and having them practice asking permission as well. Asking for “high fives,” to come sit with you, or even if they would like to participate in an activity begins to demonstrate and set the foundation for developing healthy boundaries. In this way, the child learns to maintain boundaries, express comfort and discomfort in various situations, and use their personal power to say “no” to unwanted touch—even if that touch is typically considered “safe.” This encourages and respects the child’s bodily autonomy.

Cultural Considerations

Fontes and Plummer (2010) identify some of the factors that vary across cultures and may affect disclosures of CSA and adults’ responses. The factors Fontes and Plummer highlight include:

- **Shame** – Shame is a central ideal in many cultures and may make it harder for children to disclose because sexual topics are avoided or people who sexually abuse enhance the child’s feelings of shame to silence them.
- **Taboos and modesty** – This is related to the idea of shame, because in some cultures all sexual issues are considered taboo. Children may not have the language or the baseline sexual knowledge to discuss abuse.
- **Sexual scripts** – Communities may adhere more or less strongly to traditional ideas such as considering girls to be “gatekeepers” of sexual activity or perceiving boys as unlikely victims because they must always be willing to participate in any sexual behavior.
- **Virginity** – Cultures that place a premium on female virginity can contribute to the sense of shame for children and parents, and can make recovery from abuse more difficult if the child is perceived to have been “damaged.”
- **Status of females** – When women and girls are not highly valued, their accounts of abuse may be disregarded. Girls from oppressed cultures may believe they are being traitors to their communities if they disclose abuse by someone from their group.
- **Obligatory violence** – If cultural values demand vengeance by male relatives, a survivor may be worried that their father or brothers will be punished for seeking retribution.
- **Honor, respect, and patriarchy** – Respect for elders, particularly for older men, may create barriers for children to perceive abuse or disclose it. This may be true in some religious communities as well, if the abuser is in a high status position such as clergy.

Fontes and Plummer (2010, p. 504) also recognize that the “costs” of reporting child sexual abuse vary by ethnic group:

African American and Native American children are significantly overrepresented in the child protection system in the United States...Once Native American, Latino, and African American children are removed from their home, interventions are more likely to be adversarial rather than supportive (e.g., a larger number of petitions to terminate parental rights and fewer referrals for mental health services...Black, Native American, and Latino children in foster care are apt to stay in care longer and are less likely than non-Latino White children to ever know another permanent home...The disproportionate impact of the child welfare system in ethnic minority communities is one reason members of these communities may be hesitant to disclose abuse to authorities and prefer to handle the abuse themselves.”

Fontes and Plummer are very clear that cultural strengths such as close family relationships may serve as strong protective factors, helping to prevent CSA and mitigate its negative effects. However, there is a dearth of research on this topic.

Developmental Considerations

It is important to consider development when you are working with child survivors of sexual abuse to determine how to respond and support the individual in an age-appropriate and developmentally appropriate way. Learning about normal sexual curiosity and development provides a backdrop for understanding how sexual abuse affects children. The resources below are a good starting point.

RESOURCES

What is Age-Appropriate? (fact sheet)
Stop It Now!

<https://www.stopitnow.org/ohc-content/tip-sheet-23>

Sexual Behaviors in Young Children:
What’s Normal, What’s Not?

HealthyChildren.org

<https://www.healthychildren.org/English/ages-stages/preschool/Pages/Sexual-Behaviors-Young-Children.aspx>

Fast Facts About Children Who Display
Problematic Sexual Behaviors

Association for the Treatment of Sexual
Abusers

<http://www.atsa.com/fast-facts-about-children-who-display-problematic-sexual-behaviors>

Sex and Sexuality (a guide for parents on
how to talk to kids about sex and sexuality,
based on their age)

Planned Parenthood

<https://www.plannedparenthood.org/learn/parents/tips-talking>

Children who have been abused or are worried about sexual concerns may not be able to articulate their experiences or feelings. It may be helpful to provide play and art activities to provide children an outlet to express themselves. Teaching children how to identify feelings may be useful. If children can put words to their experience, it may help them to cope. It is crucial to let the child know that whatever happened was not their fault.

Adult survivors of CSA have often been carrying the burden of shame and confusion for decades. Advocates can help by offering information and education, normalizing feelings, and providing a safe space to talk through a survivor’s emotional reactions. You may also be able to help a survivor heal by providing practical support for delayed reactions that are triggered by current life events. For example, a CSA survivor may be worried about

normal sexual development for their own child, especially if the child is about the same age as the survivor was when their abuse occurred. A survivor who is pregnant may fear going to the obstetrician or midwife because of concerns about being touched or exposed. A breastfeeding survivor may be confused and guilty because of the sensations created by a nursing baby. A young adult survivor may be fearful about entering into their first consensual sexual relationship. An elder survivor with dementia may become distraught because of the need for caregiving that includes incontinence issues.

In addition to supporting nonoffending parents of child survivors, advocates are sometimes asked to provide information and support to partners, parents of adult survivors, and caregivers of elder survivors. Understanding the developmental issues involved in the initial abuse and the survivor's current stage of life can help you to know what to do.

Effects of Child Sexual Abuse

UNDERSTANDING CHILDHOOD TRAUMA

We often hear the term “trauma,” but what does it really mean for children who have been sexually abused? According to the National Child Traumatic Stress Network (NCTSN):

A traumatic event is a frightening, dangerous, or violent event that poses a threat to a child's life or bodily integrity...Traumatic experiences can initiate strong emotions and physical reactions that can persist long after the event. Children may feel terror, helplessness, or fear, as well as physiological reactions such as heart pounding, vomiting, or loss of bowel or bladder control. Children who experience an inability to protect themselves or who lacked protection from others to avoid the consequences of the traumatic experience may also feel overwhelmed by the intensity of physical and emotional responses. (NCTSN, n.d., para 1-2)

The impact of CSA is significant, as there is often both chronic and complex trauma. CSA may accompany other forms of abuse and neglect, is often part of a pattern of progression through the grooming process, and is most often perpetrated by someone known to the child. This creates a complex and confusing traumatic experience for the child, which may also create a link between love and abuse that could have a lasting impact. As mentioned above, with shame, secrecy, and a violation of trust and boundaries, many survivors of child sexual abuse do not disclose the abuse until later in life, if at all.

CSA can impact cognitive, social, and emotional development. Evidence shows that the younger the child, the greater impact trauma has on development. Traumatic experiences and crises cause the brain to operate in a state of fear. The brain develops from the bottom up, beginning with survival and advancing to higher levels of cognition. A brain that is developing with trauma will spend more time in survival mode, which can impair the development of regulation, social-emotional skills, and cognition. For example, difficulty with interpersonal relationships, mental illness, and/or learning disabilities may result.

While child sexual abuse can cause significant trauma, harm, and disruption of development, this does not mean that a child who has experienced abuse is doomed. Many children are remarkably resilient and become strong and competent adults. As every advocate knows, survivors are a diverse group that includes truly amazing individuals.

Family Issues and Child Sexual Abuse

SIBLING SEXUAL ABUSE

Although the research on this topic is limited, the existing data suggests that sibling sexual abuse is the most common type of CSA (Morrill, 2014). The most typical scenario is a girl younger than 13, with a brother more than five years older, although in 25% of cases, the abuse is committed by an older brother against a younger brother (McDonald & Martinez, 2017). In a research study of sibling

survivors by McDonald and Martinez, the average age at which the abuse began was 7.4 years old, and the abuse lasted more than four years, on average. Because of the complicated nature of family relationships and because this type of abuse may take place in families with a variety of other problems (such as violence or parental neglect), survivors have particular difficulty disclosing sibling abuse and the reaction of adults may not be helpful. As an advocate, you may be supporting an adult who was abused by a sibling and whose abuse still affects family dynamics, or a nonoffending parent who feels torn by the needs of the child who was abused and the abusing sibling, or who struggles with guilt about abuse happening within the family.

NONOFFENDING PARENTS OR CAREGIVERS

You are very likely to encounter nonoffending parents or caregivers of children who have been sexually abused in your work as an advocate. They may call your crisis line with questions or concerns, participate in groups, come in for assistance in how to support their child, or disclose their child's abuse while working on their own sexual abuse or assault issues.

Learning that a child has been sexually abused is traumatic for most parents. Research has shown that "a fair proportion of parents reported psychological and physical problems after disclosure" (Cyr et al., 2016). Family and cultural factors may affect parents' reactions to learning about their child's abuse. For example, a single parent who is surrounded by extended family members who believe the child and support the parent may have fewer challenges than one whose family does not believe the child (possibly because the person who sexually assaults is a family member) or whose members are not willing or able to assist the parent. The tight-knit nature of extended families in a variety of cultural groups may be helpful to a nonoffending parent or may create more pressure.

You might find it challenging to work with a parent or caregiver who responds to the disclosure of abuse in a way that does not seem helpful to the child.

A parent's response to his or her child following a disclosure of sexual abuse is one of the most significant factors influencing the impact of the abuse on the child. Thus, your work with parents also has direct effects on child survivors. This is especially important to bear in mind if you are working with parents who are ambivalent about what happened and how to react. Parents' reactions change over time and range from anger and denial to wholehearted support of the child. Your time with them is a snapshot of their healing process at one point along this continuum of responses, rather than a defining representation of who they are as parents and people. Be respectful and patient with parents at all stages of this journey, and remember that they are likely dealing with a myriad of emotions and concerns (Micheel & Levy-Peck, 2012, p. 5).

Parents and caregivers may benefit from either individual advocacy or psychoeducational support groups (or both), which provide information about how to help children as well as a safe place for parents to reveal their feelings and concerns about the overwhelming issues they face. A child who has been sexually abused may exhibit a variety of troubling emotions or behaviors (such as anxiety about going to bed, inappropriate sexual behavior with younger siblings, or defiance of parental rules). It can be very challenging for a parent who is already stressed to respond in a way that helps the child. For example, in a situation where the abuser is the parent's significant other, the parent must deal with their own betrayal and damage to or loss of this relationship along with a child who is hurting.

As an advocate, you can assist nonoffending parents and caregivers by helping them to navigate the various systems and resources with which they must interact (law enforcement, the courts, child protective services, mental health, schools, child care, medical services, and housing). The more you learn about the services provided, the culture and approach of each agency or system, the range of resources, and the rights of children and families within these programs, the more help you can give parents who are juggling multiple demands in an effort to help their child.

Effects of Child Sexual Abuse

EMOTIONAL	Sexually abused children may experience fear, anxiety, depression, guilt, shame after the abuse is disclosed, post-traumatic stress disorder, low self-esteem, inability to trust, blurred boundaries and sexual behavior confusion.
FAMILY CRISES	Several periods of crisis may follow initial disclosure, especially if the abuser is a family member (for example, family reactions, removal from home, medical examination, discovery that a sibling is also a victim, parental rejection, court appearances, visitation with the person who used sexual violence if criminal prosecution does not occur, beginning or change in the level of visitation with the person who sexually assaulted, and change from supervised to unsupervised visits with the person who sexually abused).
GENDERED REACTIONS	Typically it has been thought that boys had more behavior problems while girls turned their troubles inward. Current research shows it is not this simple, especially since there are considerable differences in experiences and disclosure between boys and girls (Australian Institute of Family Studies, 2013). Adult after-effects are similar for both men and women (Dube et al, 2005).
REACTIVE BEHAVIOR	Subsequent reactive behavior may include running away, truancy, prostitution, substance abuse, suicidal thoughts, school problems, and involvement in the juvenile justice and criminal justice system.
COPING	Children who have been abused can develop coping mechanisms that help at the time, but may cause problems later, such as detaching from their emotions, telling lies, clinging to adults, self-harm, or obsessive behaviors.
TRUST	Trust becomes very important for CSA survivors. Therefore, child survivors will most frequently disclose to a friend or peer, and sometimes that is the only person they will tell. About a third of children who have been abused disclose to a parent, usually the mother. Teachers make the majority of professional reports of child abuse (Townsend, 2016).
DISCLOSURE	Delay in disclosure by children is common. Partial and unfolding disclosures are also common. Rarely will a child sit down and relate the whole story. "Children who are abused by a family member are less likely to disclose and more likely to delay disclosure than those abused by someone outside of the family" (Townsend, 2016).

Adverse Childhood Experiences (ACEs)

Adverse Childhood Experiences (ACEs) are defined by abuse, neglect, and family/household dysfunction. The Centers for Disease Control and Kaiser gathered a massive amount of data regarding patients who disclosed adverse childhood experiences and their health outcomes. The findings of this study showed that individuals who had adverse childhood experiences were more likely to engage in risky behaviors

and have negative health outcomes, including disease and even early death (CDC, 2016). CSA falls under this category and is usually experienced along with other adverse experiences rather than in isolation. The study also found that the more adverse childhood experiences a person had, the greater the risk for negative health outcomes (CDC, 2016).

Adverse childhood experiences may be considered risk factors for further abuse in childhood and in adulthood. Examples include emotional and physical abuse or neglect, sexual abuse, domestic violence, household substance abuse, parental separation, or having a parent with mental illness or criminal history (CDC, 2016). Other traumatic experiences and risk factors include school violence, bullying, system-induced trauma and retraumatization, exposure to community violence, traumatic grief or separation, forced displacement, historical trauma, serious accidents, illness, natural or manmade disasters, and war, terrorism, or political violence (SAMHSA, 2018).

While adverse childhood experiences and traumatic events may increase a child's risk factors, there are protective factors that can help minimize the impact of those experience and build resilience. The brain is impressionable and can be impacted by trauma, but it also has the capacity to heal. Children's resistance to trauma and the development of resilience is linked to the presence of a healthy relationship with a parent or other adult in their life. Children who experience trauma, including sexual abuse need to know:

- Abuse is never okay.
- The abuse was not their fault.
- They are in control of their bodies.
- They can maintain healthy boundaries.
- They can learn how to identify and express their feelings in healthy and appropriate ways.
- They have the right to be and feel safe.
- There are safe and supportive adults.
- They are not alone.

Mandated Reporting Procedures and Agency Policy

While sexual assault counselors are not considered mandated reporters by law, many rape crisis centers enact their own agency policies regarding mandated reporting of child abuse and neglect (see Chapter 11 for a discussion of policies and description of situations in which reporting is mandated). Some agencies may also provide services that put staff in a position to become a mandated reporter. For example, if an advocate is in charge of a group of children (for example, leading school child abuse prevention programs or providing child care within a shelter setting), they must report any suspected child abuse. You should be very familiar with your own agency's policies and procedures regarding mandated reporting (for both child abuse and vulnerable adult abuse) and ask your supervisor if you have any questions.

Therapy for Child Sexual Abuse

Children may benefit from professional therapy to help process their experiences and feelings. Some types of therapy for trauma have been shown to be more effective than others, and your agency should have a resource and referral list of therapists who provide evidence-based treatment for children and their families.

RESOURCES

Healing the Harm Done: A Parent's Guide to Helping Your Child Overcome the Effects of Sexual Abuse by Jennifer Y. Levy-Peck (book in English and Spanish)

What Advocates Need to Know About Therapy: With Considerations for Children, Teens, and Families
Washington Coalition of Sexual Assault Programs
<https://www.wcsap.org/resources/publications/special-editions/what-advocates-need-know-about-therapy>

There are also important issues to consider for adults who have experienced CSA and are seeking support from a Rape Crisis Center. Healing from CSA can be a lifelong process and many adult survivors of CSA seek support and/or therapy off and on throughout their lives. In order to be truly survivor-centered and trauma-informed, the agency needs to be transparent about services offered, the healing process for CSA survivors and what the agency can and cannot provide in terms of long-term support. For example, if an RCC only has funding to provide six free sessions of counseling, the advocate needs to communicate the limitations of short-term counseling with the survivor. Disclosing CSA and reopening emotional wounds can add to the already complicated and complex trauma, especially if long-term therapeutic support is not available. Decreasing and minimizing retraumatization for the survivor could mean making appropriate referrals to a low- or no-cost long-term counselor who specializes in CSA and can provide ongoing support, so the survivor does not have to retell their story repeatedly. It may be more beneficial for an RCC to provide crisis intervention, emotional support, and assistance with identifying healthy and unhealthy coping skills.

Offering a psychoeducational support group or a therapy group is also an option for RCCs if there is adequate funding for qualified facilitators and the length of group sessions is adequate to meet the needs of survivors living with complex trauma from CSA. It is important for RCCs to understand their capacity and what is best for the survivor, and to provide the most effective referrals possible (see Chapter 6).

Summary

Child sexual abuse can be one of the more challenging issues for most advocates, but it is also where you can make a big difference in the lives of survivors. As an advocate, you may not be working directly with young children, but in your encounters with nonoffending parents and other concerned loved ones, as well as with adult survivors of child sexual abuse throughout the lifespan, you can offer critical support, resources, and hope.

RESOURCES

The Advocate's Guide: Working with Parents of Children Who Have Been Sexually Assaulted. National Sexual Violence Resource Center.
In English and Spanish.
<https://www.nsvrc.org/publications/ns-vrc-publications-guides/advocates-working-parents-children-who-have-been-sexually-assaulted>

Children with Sexual Behavior Problems
Association for the
Treatment of Sexual Abusers.
<https://www.atsa.com/pdfs/Report-TFCSBP.pdf>

Families and Caregivers.
National Center for Traumatic Stress.
<https://www.nctsn.org/audiences/families-and-caregivers>

This website offers a variety of information to help children recover from traumatic events. You can also go to the main web address, www.nctsn.org, and search for resources by topic.

Sexual Behavior and Children: When Is It a Problem and What To Do About It.
The Harborview Center for Sexual Assault and Traumatic Stress.
http://depts.washington.edu/hcsats/PDF/infobrochures/sexual_behavior.pdf

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CHAPTER 4

TEEN SEXUAL ABUSE

Introduction

The teen years are a time of enormous growth and development for adolescents. Not yet adulthood, but clearly no longer childhood, this “in-between” stage is best understood as a time of transition: through a series of biological, physiological, intellectual, and emotional changes, teens transform from childhood dependence toward adult independence. For many teens, this is a time of firsts: first job, first car, first true love, etc. Ideally, this should be an exciting time of discovery and fascination with the world beyond home and family of origin. Unique vulnerabilities to sexual violence and abuse can be identified with every population, and teens may be vulnerable to factors that commonly increase risk for victimization (or perpetration). But because of their wealth of inexperience, teens are also vulnerable to risks associated with those firsts, especially those associated with interpersonal relationships and sexuality.

Developmental Considerations of Teen Sexual Abuse

Adolescence—that time between childhood and adulthood—became a distinct period of human development in the early 20th century as a result of industrialization and sweeping societal changes. Studying teens as a “population” or distinct demographic, crystalized in the Western world during the 1950s. From this work we are able to better comprehend this sometimes-turbulent stage of growth marked by mood swings, high-risk behavior, and familial conflict as young people separate from parents. Generally, there are three stages to adolescent development: early (approximately 12-14 years), middle (approximately 15-17 years), and late (approximately 18-24 years).

During this span, teens and young adults physically experience growth spurts and hormonal changes affecting the development of reproductive organs and bodily characteristics related to sexual maturity. Intellectually, this population experiences changes in brain function, and moves from the more concrete thinking of childhood, to more abstract and conceptual thinking, including ideas about truths, consequences, and future possibilities. Socially, teens and young adults are grappling with issues of identity and belonging, as they paradoxically fight for independence: they “try on” various cliques and groups (for example, those defined by culture or special interests) that shape their self-perception. Teens and young adults begin to engage in romantic and platonic relationships that more closely resemble adult relationships. Finally, teens and young adults must navigate and learn to manage their emotional development, as they adjust to the affect of chemical and hormonal changes in their bodies. Shifts in moods and attitudes may be sweeping or easily triggered by activities, expectations, stress, or relationships. In short, adolescents are trying to figure it all out. When violence is introduced into that process, it can leave a significant impact.

Under normal circumstances, the teen years include an exploration of sex, sexual identity, and intimate relationships. Unfortunately, many teens experience forms of sexual or physical abuse and violence during this period. In addition, before they reach adolescence many young people have already experienced some form of child sexual and/or physical abuse. Therefore as counselor/advocates we want to remain aware that histories of sexual and/or physical abuse complicate adolescent sexual curiosity and health and in some instances, normalize unhealthy relationship patterns.

According to VALOR’s 2018 report [The Cost and Consequences of Sexual Violence in California](#), which examined the cost of rape and other forms of sexual abuse in California in 2012, “[t]he highest

rate of rape and other sexual assault in this analysis was [...] females ages 13-17" (Miller, Fulton, & Lee, 2018, p. 15). Further, this research revealed that "children who are victims of sexual violence [are] significantly more likely to be re-victimized in the future" (p. 5)."

The Centers for Disease Control and Prevention (CDC) 2019 report on sexual assault reveals that:

1 in 3 female rape victims experienced [sexual violence] for the first time between 11-17 years old and 1 in 8 reported that it occurred before age 10. Nearly 1 in 4 male rape victims experienced it for the first time between 11-17 years old and about 1 in 4 reported that it occurred before age 10 (CDC, 2019a, p. 1).

Some teens find themselves in abusive dating relationships that look a lot like adult domestic violence including verbal, physical, sexual, emotional, and economic abuse. For teens, peer/social groups and digital/online technology, two very important elements of teen culture, become tactics used to isolate and control victims. Teens are especially vulnerable to adolescent relationship violence due to their lack of dating experience and because of their need to bond with others outside of their home as part of their developmental progression toward adulthood. Documenting "teen dating violence" since the mid-1990s, the CDC reports in 2019 that:

- Nearly 1 in 11 female, and approximately 1 in 15 male high school students report having experienced physical dating violence in the last year.
- About 1 in 9 female and 1 in 36 male high school students report having experienced sexual dating violence in the last year.
- 26% of women and 15% of men who were victims of contact sexual violence, physical violence, and/or stalking by an intimate partner in their lifetime first experienced these or other forms of violence by that partner before age 18.
- The burden of TDV is not shared equally across all groups—sexual minority groups are disproportionately affected by all forms of violence, and some racial/ethnic minority groups are disproportionately affected by many types of violence (CDC, 2019b, p. 1).

Considering the long-term effects of trauma, the Adverse Childhood Experience (ACE) Study is one of the largest scientific research studies of its kind sponsored by Kaiser Permanente and the CDC (Felitti et al., 1998). The study revealed that Adverse Childhood Experiences are strongly related to development of risk factors for mental and physical disorders throughout the life course. The 10 areas of trauma included in ACEs are:

- psychological abuse
- physical abuse
- sexual abuse
- emotional neglect
- physical neglect
- loss of a parent (for any reason)
- mother treated violently
- substance abuse
- mental illness
- criminal behavior

As the number of exposures to ACEs increase, so does the risk for early initiation of sexual activity, multiple sexual partners, intimate partner violence, and sexual violence. As discussed in Chapter 1, traumatic experiences can impact brain function, causing disruption of what are considered "normal" processes. Traumatic experiences disrupt our ability to assess threats and regulate emotions. This poses potentially devastating consequences for younger individuals, since brain development continues into late adolescence. In understanding how survivors can have multiple occurrences of sexual and relationship abuse and violence over the course of their lifetime, we want to note the potential cumulative impact trauma can have on the developing brain:

Approximately two-thirds of youth are exposed to trauma during childhood, and many develop PTSD as a result. By age 18, roughly 8% of traumatized youth have met criteria for a diagnosis of PTSD, with numbers rising up to 40% in cases of sexual abuse and assault. In addition to the psychological suffering imposed, PTSD is associated with lower academic achievement, and increasing incidence of depression, suicide attempts, and substance abuse into adulthood (Herringa, 2017, para 5).

Given the key aspects of early, middle, and late adolescent development, and the impact of trauma on growing teens, this population presents unique challenges for counselor/advocates working with teen survivors. Some developmental challenges to watch out for include:

ADOLESCENT EGOCENTRISM	Adolescent belief that their uniqueness leads others to constantly focus on them, as though they are under constant watch. They may also believe that they are the only ones to have ever had certain feelings and reactions, making their reactions unique and unintelligible to others. Survivors can obsessively believe that there was something about them in particular that brought about the violence or abuse, or that their situation is unique, and therefore somehow unresolvable.
LOWERED SELF-ESTEEM	Belief that they are unworthy of love, positive interaction, and/or reward. This negative self-perception can permeate their academic, social, familial, and personal life. Survivors may internalize the violence and abuse as something that they deserve because of their unworthiness.
BELIEF IN INVINCIBILITY	Teens are likely to engage in risk-taking behavior and not consider consequences to their actions, partly because of continued frontal lobe development (the system that connects electrical impulses to the brain is still under construction). As a result, teens are less likely to recognize some dangers, believe anything negative could happen to them, or expect dangers to be cumulative (e.g., nicotine-related illnesses). Counselor/advocates will want to help make these connections with teens.
TRANSITION TO AUTONOMY	Adolescent behavior during this period may cause conflict within the family as the teenager becomes uncommunicative, is emotionally distant, does not observe curfew, and spends more time with friends than family. Counselor/advocates will want to encourage teen survivors to look to trusted family members and other adults as a protective factor and resource against sexually and/or physically abusive situations.
INABILITY TO PERCEIVE MANIPULATION	Ability to perceive manipulation is flawed due to overriding need to fit into the group and avoid being ostracized. As a result, teenagers believe they are making independent choices that are consistent with their peers. When their peers normalize certain behaviors or attitudes, teens may choose to "go along with the crowd" even if this conflicts with their own values. Counselor/advocates will want to focus teens on a process for decision-making that centers their own health and wellbeing and that of those around them, while building their own capacity to stand alone if necessary.
COERCION	Because there is no physical force, many teens will deny that they were compelled to act in inappropriate or unhealthy ways. They know that something is wrong, but assume that the pressures, threats, duress, and stress experienced with intimate partners, first dates, or family members are just simple negotiation tactics. Trust is eroded over time with coercion. Once emotionally compelled to do things they didn't want to do, teens can become full of self-loathing, blaming themselves for their own trauma and negative health outcomes. Counselor/advocates will want to point out to teen survivors how subtle coercion can be and make connections to how it creates disempowering situations.

Teens experience all the same negative effects of trauma as adults. Although they may seem mature and may have adult-like responsibilities, teens are still growing and learning about decision-making, risk-taking, and goal-setting, all while caught in this very trying yet exciting in-between stage of life.

Q: What education did you receive from responsible adults about healthy sexuality and sexual assault as a teenager?

Q: Do you think awareness surrounding teenage sexual assault has heightened or changed since you were a teenager? Why do you think these changes have taken place?

Q: How do gender identity and sexual orientation impact a teen's risk for sexual assault?

Q: How do you help teens distinguish between sexual behavior that is considered "alternative" or not mainstream, but is still consensual, as opposed to sexual coercion or violence?

Q: How might you explain the difference between coercion and consent to an adolescent?

Teen Culture and Risk Factors

TEEN CULTURE

The development and cultural background of teenagers can affect the long-term consequences of sexual violence during this time of life. You can become an important ally in what may be the toughest experience of their lives. Being an advocate to the survivor will help them move forward through the trauma, mistrust, blame, guilt, embarrassment, shame, and loss of autonomy they may feel as a victim of sexual assault or abuse.

As a counselor/advocate, try to remember your life as a teenager. In essence, you have to put yourself in their shoes and return to "back in the day." There may have been an emphasis on clothes, popular music, sports, vocabulary or jargon, and rules of dating or "hooking up;" these elements set teenagers apart from other age groups and the culture of older generations. Teen or "youth

culture" involves seeing the world from the perspective of a teen in today's day and age.

While teens typically practice the traditions, values, beliefs, customs, and traits fostered by responsible adults in their lives, "teen culture" is as wide and varied as you can imagine and is distinctly different from that of adults. Teen culture can be characterized by the way young people live their lives based on peer group associations, lifestyle choices, fashion, common interests in pop culture and entertainment, slang and youth-speak, all while dealing with racial/ethnic, gender, sexuality, and other identity-related issues.

Teen life also includes rites of passage, or formalized transitions from childhood to adulthood. For a Latina, it may be about celebrating a quincinera at the age of fifteen, or for others the importance of getting a driver's license at sixteen and going out for that first drive alone without a parent. The "first kiss" and the "first time" are also rites of passage. Furthermore, teens may test their independence by being rebellious, sneaking out past curfew, and not listening to the advice of adults. Exploration of these areas all shape ways that teens define their own personalities and identities as they align themselves with where they feel a sense of belonging or "outsiderness." The importance of belonging among teen population cannot be underestimated: being part of a group shapes core identity and sense of self and helps to quiet anxieties associated with adolescent awkwardness by being among others like themselves, making them feel "normal."

Youth culture can be labeled by adults as rebellious, particularly when teens knowingly engaging in behaviors disapproved by adults. Adults often frown upon teens engaging in behaviors such as smoking, drinking alcohol, or staying out past curfew simply because teens are not adults (no one really cares when adults do these things). As boundaries are established and reestablished from childhood into adolescence, teens are aware of adults' constantly reasserted limits. It becomes one of the tasks of adolescence to test boundaries through behavior as they define their own identities and beliefs that may or may not be consistent with those of their families. Risk-taking is therefore

an expected aspect of teen culture; unfortunately when something traumatic such as an assault happens to them, it can reinforce self-blame because they have been warned against these dangers for their own good (“If I just hadn’t smoked weed, drank alcohol at a party, sneaked out of the house, etc....”). Interestingly, many adults forget what it was like to be a teen and as a result develop an intolerance for teen rebelliousness, which can legitimately have very serious and life-altering consequences, leading adults to clamp down harder on teens as authority figures.

Adolescent development when combined with teen cultures impact teen sexual assault survivors in unique ways. Youth culture can seem fluid and constantly changing, to the point that siblings a few years apart may have very different experiences. Rather than attempt to pinpoint or “fix” teen culture, counselor/advocates should recognize how this status impacts decision-making and judgment of teens. Teens can fall in and out of love from week to week, best friends can be dropped instantaneously, and long-held interests such as sports or games may fall suddenly by the wayside – these swings in personal interest may be part of the exploration of identity but may also be indicators of suffering from the trauma of sexual assault. Further, teens experience pressures to perform well academically, stressors at home with siblings, and perhaps the need to have an after-school job to help with family finances. Their age status puts them at odds with the juvenile justice system as certain laws specific to the age group (such as truancy, curfew, and drinking laws) can cause additional stress.

THE ROLE OF TECHNOLOGY

Adding to their overall general vulnerability to sexual and physical abuse and violence, teenagers face a new realm of sexual assault as their use of internet and social media platforms continues to rise. As “digital natives” most teens understand the modern world as one where online content and digital access is as ubiquitous and normalized as home utilities. As counselor/advocates you will note how digital devices and the online world become tools for assault, isolation, harassment, bullying, stalking, non-consensual sharing of intimate images, “sextortion,” and other abuses of power and control. Survivors of tech-facilitated abuse report feeling just as violated from cyber assaults in the physical world, but tend to have these forms of abuse minimized or dismissed as “no big deal.” In many instances, when technology is part of the abuse or violence, you will have to work with teens on how they can maintain their social engagement without continually exposing themselves to harassing texts, emails, images, and harassment – simply telling them to turn their phones off or ditch them usually is not an options. For more information on this topic, see eTAG (Ending Tech Abuse Across Generations), on strategies against technology facilitated abuse and teens.

TREATING TEENS WITH RESPECT

As a counselor/advocate, you will want to be aware of the adult-teen power dynamic and teens’ experience of being told to stop acting like a child in some cases, and being reminded that they are not yet “grown” in other instances. Young people are very aware of inauthentic sentiments from adults and can detect adults more interested in controlling their behavior than promoting empowerment and teaching them to make sound decisions about their safety and wellbeing. Guiding them through their process will seem challenging, especially if you feel they are not seeing things clearly: the temptation is to be directive, to nudge them into doing what you feel is best, instead of guiding them toward productive outcomes where they ultimately make decisions for themselves.

VALOR's original *Support for Survivors* (1999), updated below, does a good job of discussing ageism and adultism, teen culture, and teen sexual assault:

When a teen is raped, they are faced with the same issues and concerns of all rape survivors: medical needs, the decision to report or not, issues of shame and self-blame, safety fears, emotional anxiety, and so on. However, in addition to these tremendous difficulties, young survivors face the additional burden of having much less life experience, and certainly less power and control over their lives, than most adults have. With power and control a key motivating factor for sexual violence, counselors should pay special attention to how struggles over power and control present in a teen survivor's life.

For example, a youth survivor should have the right, just as every rape survivor should, to decide on how they want to proceed and to whom they want to disclose after a rape. It is important for sexual assault counselors to truly believe in this right and to convey it to the teen survivor.

It is important to avoid the ageist assumption that because a survivor is young, that they are ignorant, unsophisticated, or unintelligent. In fact, some teenagers are very worldly and mature. Given the realities of what teens are exposed to today – homelessness, mass shooting, threats of deportation of undocumented families, etc. – some are coping with 'adult' situations. Although it is important to clarify options with all survivors, it is nonetheless vital that we not presume that a teen does not know their options just because they are young.

Adultism is the belief that adults are more intelligent than and generally superior to youth, and/or the systematic mistreatment of youth by adults. Adultism is often manifested by adults not allowing youth to make their own decisions, assuming that youth are ignorant, and treating youth as if they matter less than adults. Ageism is the belief that young or elderly people are less intelligent,

capable, or worthwhile than others and the systematic mistreatment of youth and elders.

As a sexual assault counselor/advocate you will speak with survivors from many different backgrounds, identities, orientations and beliefs. Because teens make up a significant percentage of rape survivors, it is important that we are adequately trained to serve their needs. Because teens are often targets of ageism or adultism, we must learn to recognize and address the specific needs of teen survivors, which may differ from those of adult survivors. Finally, we must learn to challenge our own internalized ageist or adultist beliefs about youth.

In the state of California, teens have rights to access certain medical and psychological services without parental permission, as you will see later in this chapter. These rights include access to reproductive and mental health counseling. For many teens, involving an adult family member may make matters worse and further disempower them. As a counselor/advocate you will want to suggest that they identify a supportive, trusted adult to be there for them during their healing process; however it is not a requirement to receiving services and they should not be pressed to do so.

Risk Factors and Protective Factors for Sexual Violence

The Centers for Disease Control and Prevention has identified categories and behaviors that increase the risk for violence perpetration. However, many of these same factors create the conditions for targets of victimization; these elements can also contribute to other adolescent social issues such as teen substance abuse, pregnancy, gang activity, and delinquency. To be clear, these factors do not cause violence; instead they create the conditions for violence and abuse and the more factors youth are exposed to, the higher the potential for victimization and/or perpetration. With that in mind, the chart shows a list of risk factors impacting youth culture and violence categorized as "individual," "family," "peer/social," and "community" (CDC, 2019c).

RISK FACTORS IMPACT YOUTH VIOLENCE PERPETRATION AND VICTIMIZATION

INDIVIDUAL	History of violent victimization Attention deficits, hyperactivity, or learning disorders History of early aggressive behavior Involvement with drugs, alcohol, or tobacco Low IQ Poor behavioral control Deficits in social cognitive or information-processing abilities High emotional distress History of treatment for emotional problems Antisocial beliefs and attitudes Exposure to violence and conflict in the family
FAMILY	Authoritarian childrearing attitudes Harsh, lax, or inconsistent disciplinary practices Low parental involvement Low emotional attachment to parents or caregivers Low parental education and income Parental substance abuse or criminality Poor family functioning Poor monitoring and supervision of children
PEER/FAMILY	Association with delinquent peers Involvement in gangs Social rejection by peers Lack of involvement in conventional activities Poor academic performance Low commitment to school and school failure
COMMUNITY	Diminished economic opportunities High concentrations of poor residents High level of transiency High level of family disruption Low levels of community participation Socially disorganized neighborhoods

Today's youth are navigating a host of challenges. Many teens experience a variety of the risks described above, yet most make it through this period into adulthood with lessons learned. Other environmental factors that contribute to risks for violence include: poverty, racism and other forms of oppression or social isolation, media exposure to violence, blight, and lack of future opportunity. Again, risk factors increase potential for violence

as individuals, families, peers, and communities have diminished capacity to cope with stressors, resist the normalization of violence, and rebut the attitudes that support abuse/violence.

To counteract many of these risks, protective factors function to support teens, help them heal, and encourage them to remain hopeful when times get rough. As counselor/advocates you will want

to find ways to decrease tolerance for or normalizing of violence and increase receptivity for protective factors. Below is a list of protective factors that build coping skills, resiliency, mastery, help-seeking behaviors, and a prosocial outlook:

PROTECTIVE FACTORS MITIGATING OR PREVENT YOUTH VIOLENCE PERPETRATION AND VICTIMIZATION

INDIVIDUAL	Intolerant attitude toward deviance High IQ High grade point average (as an indicator of high academic achievement) High educational aspirations Positive social orientation Popularity acknowledged by peers Highly developed social skills/competencies Highly developed skills for realistic planning Religious beliefs
FAMILY	Connectedness to family or adults outside the family Ability to discuss problems with parents Perceived parental expectations about school performance are high Frequent shared activities with parents Consistent presence of parent during at least one of the following: when awakening, when arriving home from school, at evening mealtime, or when going to bed Involvement in social activities Parental/family use of constructive strategies for coping with problems (provision of models of constructive coping)
PEER/FAMILY	Possession of affective relationships with those at school that are strong, close, and prosocially oriented Commitment to school (an investment in school and in doing well at school) Close relationships with non-deviant peers Membership in peer groups that do not condone antisocial behavior Involvement in prosocial activities Exposure to school climates with the following characteristics: <ul style="list-style-type: none"> • Intensive supervision • Clear behavior rules • Consistent negative reinforcement of aggression • Engagement of parents and teachers
COMMUNITY	Communities that support families and take responsibility for preventing abuse Communities that foster a sense of communal belonging and cohesion Economic opportunities

These risk and protective factors can be applied to many social “ills” teens face today such as gang affiliation, unwanted pregnancy, or drug addictions. Risk factors specific to sexual assault and relationship violence include limited knowledge, the lack of sex-positive education, and the normalization of sex and violence. In many instances, teen survivors have no idea what consent is or they may not comprehend what they are consenting to, especially with the proliferation of, access to, and normalization of violent sexuality in the broader society. Conversely, this same cultural conditioning to sex and violence leads many young males to believe that manipulation, force, duress, and coercion are standard practice for “working out a yes” for sex, or the belief that they are entitled to it.

Without clear education about healthy sex and sexuality, teens remain vulnerable to assault, including within the context of an intimate relationship. Many young girls are unaware of their own genitalia, masturbation, or what an orgasm is, yet they are having sex. They may engage in sexual activity to please their partners, not for their own pleasure. This behavior by their partners may not be assaultive, but the pattern of compliance rather than agency and desire is unhealthy and increases risks for abuse and assault later in life.

Furthermore, teens uneducated in healthy sexuality are at risk for abuse from adults (including family members, school personnel, sport coaches, and youth pastors, among others) who groom young teens first with non-touching behaviors, then with touching. Non-touching behaviors can include voyeurism (trying to look at someone’s naked body), exhibitionism, or exposure to pornography. In addition, sexual assault does not always include penetration. Sexual assault can include any contact with private body parts (e.g., breasts, genitals, buttocks) that is unwanted, not agreed upon, or forced. Because teens have been taught to trust adults and they may lack experience, they may be especially vulnerable to abuse. This is confusing for teens and when it takes place during this very impressionable period of their physical, emotional, and social development, the impacts can be long-lasting.

Teenagers of all ages, races, ethnicities, and economic backgrounds may experience sexual abuse or sexual assault. Teen sexual assault affects both girls and boys in all kinds of neighborhoods and communities.

As a counselor/advocate, you will have to pay attention to the power dynamic in your relationship with teen survivors. As an empathetic adult, you may be one of the few adults who treats them with respect, asks their opinion, prioritizes their needs, and really listens to them without judgment. So take care to note any attachments they may have toward you – as the responsible adult, you have the responsibility to maintain healthy boundaries with teens who are still growing and developing.

Legal Issues

In many respects teens are still protected as minors. As such, legal issues for teens can be challenging to navigate. They can be made to feel partially to blame for their victimization should they participate in other status offenses such as truancy, being a runaway, or drinking alcohol (a status offense is behavior that is not criminal but is considered a violation due to the teen’s status as a minor). While teens can experience disempowerment by adults in numerous ways, a status offense can further disempower teens, causing them to lose support from peers and other adults.

As minors in the state of California, teens cannot by law consent to sexual activity. Statutory rape or unlawful consent with a minor (PC 261.5) and other similar laws were established to protect minors from predatory adults. Despite minors’ inability to consent to sex under statutory rape laws, child abuse laws generally do not include consensual sexual activity between minors of similar age (such as 14-17 years old), where there appear to be no obvious signs of force or abuse. You will have in-depth discussions during training about child abuse and mandated reporting, but California Rape Crisis Center workers are not deemed mandated reporters for adolescents seeking sexual assault services under most conditions (see Mandated Reporting Procedures and Agency Policy in Chapter 11). Below is a list of penal codes that address various sexual assault and abuse related laws for California teens.

Related California Statutes

CA PENAL CODE § 261.5

Unlawful sexual intercourse (statutory rape) means sexual intercourse with a person under the age of 18 years old. Policies regarding investigation and prosecution for unlawful intercourse between older teenagers (sometimes referred to as “teens in love”) vary (minor who is not more than three years older or three years younger than the other person, is guilty of a misdemeanor). However, if there is a significant age difference (more than 3 years) between the parties, the matter is viewed differently.

CA PENAL CODE § 261.5

Sexual intercourse between persons in authority and persons under the age of 18 (e.g. consensual student/teacher relationships with students under the age of 18) are unlawful and subject to prosecution under the sexual assault and/or child sexual abuse statutes, depending upon the circumstances of the case.

CA FAMILY CODE § 6921

Consent given by a minor for medical treatment cannot be negated or taken away by an adult (18 years or older).

CA FAMILY CODE § 6924

A minor, 12 years of age or older, may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter (runaway house or crisis resolution center) services, or both. The counselor can legally exclude the minor’s parent or guardian from the counseling, if the involvement is deemed inappropriate and the reasons are documented. If so, the parent is not liable for payment of services.

CA FAMILY CODE § 6925

Minors, 12 years of age and older, may consent to medical care related to the prevention or treatment of pregnancy, with some exceptions.

CA FAMILY CODE § 6926

Minors, 12 years of age and older, may consent to medical care related to the diagnosis or treatment of sexually transmitted diseases.

CA FAMILY CODE § 6927, 6928

Minors, 12 years of age and older, may consent to medical care related to the diagnosis or treatment of a rape or other sexual assault and the collection of evidence.

CA FAMILY CODE § 6928

Professional personnel rendering medical treatment for sexual assault to minor are required to attempt to contact the minor’s parent(s) or legal guardians, and to note in the minor’s treatment record the date and time the attempted contact was made and whether the attempt was successful or unsuccessful. This provision is not applicable when the professional person reasonably believes the parent(s) or guardian of the minor committed the sexual assault on the minor.

**CA PENAL CODE
§ 311.1(A)**

(a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laserdisc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others, or who offers to distribute, distributes, or exhibits to, or exchanges with, others, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished either by imprisonment in the county jail for up to one year, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, by a fine not to exceed ten thousand dollars (\$10,000), or by the fine and imprisonment.

**CA PENAL CODE
§ 311.2(B)**

(a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

**CA PENAL CODE
§ 311.11**

(a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laserdisc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under 18 years of age, knowing that the matter depicts a person under 18 years of age personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison, or a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the fine and imprisonment.

**CA EDUCATION
CODE § 33545**

When the “Health Framework for California Public Schools” (health framework) is next revised after January 1, 2015, the commission shall consider including a distinct category on sexual abuse and sex trafficking prevention education that includes, but is not limited to, all of the following:

- (a) Information on different forms of sexual abuse and assault; discussion of prevention strategies; how to report sexual abuse or suspected sexual abuse; and local resources for victims.
- (b) Discussion of healthy boundaries for relationships; how to recognize potentially harmful and abusive relationships; and refusal skills to overcome peer pressure and to avoid high-risk activities.
- (c) Information on sex trafficking and risk factors; the recruiting tactics of sex traffickers and peer recruiters, including recruitment through the Internet; how to report sex trafficking or suspected sex trafficking; and local resources for victims.
- (d) Discussion of legal aspects of sexual abuse and sex trafficking under state and federal laws.
- (e) Discussion of how culture and mass media influence and desensitize our perceptions of sexual abuse and sex trafficking, including, but not limited to, stereotypes and myths about the victims and abusers, victim blaming, and the role of language. This instruction shall emphasize compassion for people who have suffered from sexual abuse or sex trafficking, and support positive reentry experiences for survivors returning to school.

**CA PENAL CODE §
529**

False Personation. (a) Every person who falsely personates another in either his or her private or official capacity, and in that assumed character does any of the following, is punishable pursuant to subdivision (b):

- (1) Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take that bail or surety.
 - (2) Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true.
 - (3) Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person.
- (b) By a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

As a counselor/advocate, consider the number of times sexual assault survivors will “tell the story” of what happened to them. This number may increase because of their age/status. Police? Parents? Legal personnel? Hospital personnel? Child services? If you are among the first they disclose to, it will be important to discuss the various stages of the legal process in a way the survivor understands.

In some cases, you may become involved after the teen has already engaged the criminal justice system, in which case your support is valuable in explaining processes or encouraging them to identify ways that make them feel safe and empowered throughout the process. Occasionally, because of teens’ minor status, police officers, family members, medical professionals, school teachers, and others

charged with children's protection may feel the rules of privilege and confidentiality do not apply as stringently (if at all). If police officers and/or lawyers are already involved with a victim/survivor, they may want you to corroborate details they have about the case. As with adults, teens have rights to privacy, confidentiality, and privileged communication. Unless a survivor waives their right to privileged communication, you cannot break confidentiality.

Oftentimes, teenagers feel they have no viable options for safety simply because they are not knowledgeable of their legal rights and protections. It is crucial to have a solid foundation of knowledge about what their rights are in order to make and enforce healthy decisions about their sexual relationships and encounters now and in the future. Learn about the California statutes regarding the rights of minor survivors aged twelve and older. Know what the mandated reporting laws are and become familiar with them. It is important to treat teenage clients as individuals who have their own rights, not those that simply extend from parents and other caregivers. The right to privacy must be considered and adhered to by all involved in advocating for the teen survivor.

Counseling/Advocacy Issues and Concerns

COUNSELING AND NAVIGATING TEEN PRIORITIES

As a counselor/advocate, you will want to pay attention to certain indicators or warning signs when working with teens. Reactions to sexual assault among teens can vary widely. Many react to being victimized the same way an adult would and find that counseling and engaging with the criminal justice system can be forms of empowerment and healthy coping. Others may turn to substance abuse and other unhealthy high-risk behaviors. A teenager without a prior history of substance abuse or high-risk behaviors may turn to these coping mechanisms after a sexual assault in order to numb the pain and to avoid traumatic reminders. Furthermore, a teenager who avoids traumatic reminders may withdraw socially. Traumatic reminders such as certain smells or nightmares often

occur at any phase of their lives. A teenager who has experienced trauma may become less trusting of others, including those there to help them, such as advocates. It will be important to remember various cultural dimensions (such as developmental, gender, and racial factors) as you build rapport with them. What may be a good approach for one group culturally may not be such a good approach for others of a different cultural group.

As a counselor, in addition to addressing the particular acts of abuse and/or violence, you will also need to deal with broader issues teens are concerned with. Teens may feel a sense of mistrust, shame, embarrassment, and loss of self and autonomy as they begin to recover from such a traumatic event. Fear of being shunned by a social group often prevents teens from reporting the assault. They may not want to deal with outing themselves as a victim of a sexual assault to their peers. Likewise, there are many reasons teen survivors may not want to disclose to their parents. The following is a list modified from the original *Support for Survivors* (1999)

- They were dating the person who sexually assaulted them against their parents' wishes.
- They sneaked out the night the rape occurred.
- They are afraid their parents will find out that they are sexually active.
- They were drinking or doing drugs the night of the assault.
- They still love the harm-doer and may be confused about what happened.
- They believe their parents will punish them for what happened (for example, impose a strict curfew or not let them out of the house).
- They are concerned about a cultural norm that would have a female victim marry the person who raped them.
- They are afraid their parents won't think of it as rape but as premarital sex.
- They do not want to "come out" to their parents (and the disclosure of the rape would somehow reveal their sexual orientation, for example, if rape was done as a hate crime).

- They are afraid their parents will blame it on their sexual orientation.
- They are not close to their parents.
- Their parents are also abusive.
- For female victims, in her family/culture it is the norm for girls/women to suffer at the hands of men.
- Their parents have other problems in their lives, and they do not want to burden them.
- They are afraid family members will seek retaliation against the harm-doer.
- If they tell, they fear the person who sexually assaulted them will do harm to their family members.
- They know that the whole family will get involved including parents, siblings, grandparents, partners, and maybe even cousins.
- Parents have demonstrated that they are uncomfortable discussing sexual topics.
- The person who sexually assaulted them may be a family member or close family friend.
- They fear that their parents will not believe them.

Many families want to be supportive and become overly involved; this may be overwhelming or further disempowering to the survivor. In these cases, you will remember that you are there for the teen survivor and advocate for their needs within the family.

ROLE OF THE ADVOCATE FOR TEEN SURVIVORS

Support for Survivors (1999) discussed the role of the counselor/advocate as follows (some modifications have been made to the original text):

Survivors of any age rarely have a simple story to tell when they disclose rape. And we who dedicate ourselves to supporting survivors need to realize there is no magical swoop that we can do to “save” or “rescue” a young survivor who’s been raped. We need to listen to the stories of teen survivors, and we need to refrain from making false promises. If we tell a young survivor that we are going to make everything

all right, we are most likely lying. Furthermore, it is not our place to “make everything all right.” An effective sexual assault counselor does not do the fixing; [we] help the survivor find and use [their] own tools and resources to heal (not fix) themselves. It is human to, out of love, want to ‘make everything better’ for a teen in need, but we should channel these urges toward becoming knowledgeable about every single teen shelter, hotline, counseling service, job placement center, or other youth resource in our town. This type of information and advocacy along with just listening will take a survivor much further along their path of recovery than making false promises or setting up false expectations.

Teens may be more preoccupied with other issues impacting their lives such as pregnancy, juvenile delinquency, gang activity, bullying, substance abuse, poor academic performance, undocumented residency status, relationships with friends or partners, being homeless/runaway/displaced, academic pressures, and school activities and athletics. If so, you may have to deal with these issues before any discussion related to sexual assault can begin. As the advocate, you will need to be incredibly resourceful in working with this population.

In advocating for teens, you may find yourself engaging with medical, school, and/or criminal justice systems to ensure a teen survivor’s access to services are met and rights are respected. In working within the medical systems, teen survivors are entitled to:

- Respect: to be heard and treated civilly
- Know what to expect from a medical exam following an assault
- Have evidence collected and tested should they want a forensic exam
- Proper assessments and treatments including for pain, internal injuries, sexually transmitted diseases/infections, pregnancy testing and pregnancy termination
- Refuse to participate in portions of the exam that make them uncomfortable

In working with schools, teens are protected under Title IX of the Educational Amendments Act of 1972 that prohibits sexual harassment and discrimination at educational institutions that receive federal funds. Sexual harassment and assault create environments and circumstances that impede the educational progress of protected classes who have been historically marginalized (e.g., female students). If a school knows or should have known that their campus creates a gendered hostile environment that limits the educational progress of women and other sexual minorities, they must take action to make the student body feel safe. Once a complaint has been brought to the school's attention, failing to take action demonstrates "deliberate indifference" and can result in civil action against the school. According to United Educators (2015, p. 9):

A complaining party [i.e. survivor] is entitled to safety, security, and freedom from retaliation after making a complaint. The district may need to provide interim remedial measures, such as limiting contact between parties, changing the alleged harasser's classes, and providing other academic accommodations and support to the victim as needed. These actions must not penalize the complaining party. Upon notice of an incident, the [school] district must take these or other affirmative steps to prevent further harassment.

Further, if the assault occurs on campus (or at a campus-sponsored event) between two students, the victim/survivor has the right to "safety, security, and freedom from retaliation after making a complaint." This can mean changing classes to avoid the person who harmed them (and their friends), reducing or barring contact between the victim/survivor and the person who sexually assaulted them, and making available other academic and mental health supports for the victim/survivor. As the advocate, you will need to work with your RCC advocate coordinator for guidance on interacting with school personnel for academic accommodations and to ensure that the school operates with confidentiality on the part of the teen survivor. But you will want to ensure that the survivor knows that these rights exist.

Working with teen survivors can be challenging but very rewarding; remember the majority of sexual assault survivors experience rape during this stage of human development. Survivors will carry the scars of violence with them for a long time. This means your intervention will go a long way toward alleviating that trauma. Here are some clear "don'ts" modified from *Support for Survivors* (1999):

The "Don't" List for Working with Teen Survivors

- Don't confuse experience with intelligence; that is, just because a teen survivor may have limited life experience does not mean that they are not able to make complex and difficult decisions on their own.
- Don't make promises that you can't keep—trust is really important and you don't want to be known as someone who can't be trusted because of broken promises. Offer only those services that you know are appropriate; don't make lofty philosophical promises that you cannot follow up on.
- Don't assume that the teen hasn't already thought of ways to help and empower themselves.
- Don't withhold support because you are trying not to be presumptuous about their needs being met.
- Don't assume that the survivor is doing well in school, is in school, is living at home, is straight, etc.
- Don't forget to listen.
- Don't overstep and try to do everything for teen survivors – they welcome opportunities to make their own decisions especially with guidance and once they have been well informed.
- Don't "mother" the teen survivor; support the teen survivor in making their own decisions, by providing them with information they need to make choices.
- Don't assume that the rape is the teen's only problem.
- Don't assume that they are a virgin.

- Don't assume that just because they're sexually active, that they're sexually knowledgeable.
- Don't assume they know what rape is or what it takes to get pregnant.
- Don't assume the attacker is another teen.

Q: Do you think awareness surrounding teenage sexual assault has heightened or changed since you were a teenager? Why do you think these changes have taken place?

Q: What role do you think the education system plays in the development of teenage sexual assault awareness and prevention? How would you support a teen in asking their school for help after an assault?

Commercially and Sexually Exploited Children and Youth (CSECY)

According to the Los Angeles County Department of Mental Health (n.d.), the commercial and sexual exploitation of children and youth (CSECY) “has become an epidemic...throughout the United States” (para 4). CSECY is the “recruiting, harboring, or trafficking of a minor by force, fraud, or coercion for the purpose of sexual exploitation” including “prostitution, pornography, sex tourism, stripping, escort services, phone sex lines, and private parties” (para 1). CSECY is part of a larger, global issue known as human trafficking that includes systems of slavery (e.g., forced domestic servitude, forced labor); debt bondage for sexual, labor, and other forms of economic exploitation; early marriage; child soldier recruitment; and even organ harvesting. In some instances, human trafficking rings may be run by powerful, violent criminal organizations or street gangs, increasing the level of risk for victim/survivors once they attempt to leave.

The Office of Juvenile Justice and Delinquency Programs (OJJDP, n.d.) characterizes CSECY as a “range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person.” An underreported crime and human rights violation, global human trafficking is estimated to affect 40.3 million people (International Labour Office, 2017). While people trafficked come from all backgrounds, sexes, and economic levels, domestically, the OJJDP (2014, p. 3) states that:

In a 2011 report by the Bureau of Justice Statistics on the characteristics of suspected human trafficking incidents, almost 95 percent of sex trafficked victims were female. Over half (54 percent) were 17 years of age or younger. About one fifth of the victims were white, one fifth of Hispanic/Latino origin, and one third were black/African American. The vast majority of sex trafficking victims were U.S. citizens or permanent U.S. residents (approximately 77 percent), while less than 15 percent were undocumented or qualified aliens...

To be very clear, CSECY is a systematic form of child sexual abuse where teens experience polyvictimization (multiple acts of violence and/or abuse exacted and compounded over time); many victims first experience abuse in their homes, then at the hands of their captors/pimps, then by those that would pay for them. As a result, victims of CSECY suffer substantially from mental health challenges, as well as physical abuse and violence. Youth between the ages of 11-14 are most vulnerable to recruitment; victims are largely female with males and trans youth increasing in numbers.

Identifying victims is challenging due to lack of public awareness in identifying trafficking and because traffickers/pimps work very hard to keep victims from the public eye. But everyday people can encounter teen victims of CSECY among: homeless/runaway/throwaway youth panhandling or loitering on the streets; as teen survival sex workers; or those being “passed around” among street gangs. In addition to growing up in abusive

homes or experiencing sexual and physical abuse as a child, community, social, and environmental risk factors include:

- Homelessness
- Systems failure such as foster care
- Unaddressed traumas
- Juvenile incarceration (with recruitment by others who are incarcerated)
- Familial rejection of a child's LGBTQI+ identity
- Exposure to community violence, poverty, racism
- Tenuous or unstable immigration status
- Lack of resources for mental health treatment or developmental disabilities
- Lack of employment or educational opportunities
- Glamorization of sex work or pimp culture
- Early sexualization of children; hypersexualization of women
- Transient male populations (e.g., construction sites, farms, military bases, truck stops)
- Proximity to international borders and airports

The pathways to CSECY are numerous: parents can sell a young child for money, food, or drugs; a child is kicked out of their home for being LGBTQI+, begins sleeping on the streets, and exchanges sex for one evening's fast food meal and shelter; or, girls in juvenile hall ask other girls if they want to make some money once they are released from detention. As a counselor/advocate you will need to be alert to the subtle signs and clues youth reveal about their CSECY status (for example, references to "daddy" are about their pimp). Youth victims of CSECY will need intensive, multidisciplinary response to their cases. In addition to long-term counseling, wrap-around services may including: housing, school/educational advocacy, employment training and placement, and legal services. The Polaris Project, which operates the National Human Trafficking Hotline, has identified warning signs to help identify human trafficking victims (Polaris, 2019):

Because of trafficking's similarities to the dynamics of domestic violence and sexual assault and the parallels in both harm suffered by its victims and the tactics used by the people who cause harm, advocates should be educated on the nuances of trafficking. Similarities between CSECY/trafficking and sexual assault and domestic violence include:

- Victims of sex trafficking and sexual and domestic violence suffer similar abuse and harm.
- Traffickers and people who commit sexual and domestic violence use power and control over their victims.
- Survivors of sex trafficking, like sexual abuse and domestic violence survivors, need comprehensive social and legal services.

It is very important to see CSECY teens as victim/survivors and not as "criminals" despite any status offenses or and participation in prostitution, vagrancy, or other violations of the law. This means we work within a human rights framework and must emphasize the survivor-centered, trauma-informed approach for this population. CSECY victim/survivors frequently feel complicit in their own exploitation, due to their participation in recruiting new victims, or because they "willingly" remain with their pimps, and therefore they may not see themselves as victims, or appear "uncooperative." They may associate abuse with love, especially those who come from abusive homes. As with domestic violence survivors, they are often psychologically and emotionally bonded with their abusers, and may leave and return numerous times until they are fully extricated from that life. For these reasons and more, your sensitivity and awareness as a counselor/advocate in identifying the warning signs, being nonjudgmental, and activating key wraparound services will be essential.

Summary

The teen years are a time of enormous growth and development for adolescents because of their transition from childhood to adulthood. During this time, teens are exploring and testing peer, intimate, and familial relationships. Further, the teen years include an exploration of sex and sexual identity. Unfortunately, this is the period of time when teens are at most risk for sexual and physical violence from those close to them. While taking risks is a healthy part of adolescent development, teens can be vulnerable to victimization because of their lack of experience with sex and relationships. This risk is increased by any history of other adverse or traumatic experiences.

Teen culture is comprised of what was learned at home, attitudes of their peers and communities, and the beliefs and practices they adopt from wider society. While considered rebellious by many adults, teens should not be made to feel that any sexual and/or relationship violence they experience is their fault. Caring adults are essential to successfully guiding teens into adulthood and this includes counselor/advocates. This means treating teens with respect and avoiding aspects of adultism and ageism. It's crucial to include teens' perspectives in the advocacy process and ensure that survivors' voices are heard, no matter what their age.

As a counselor/advocate, you will remember that teens are recognized as minors under the law. Many other systems, such as educational and medical services, also have protections in place for teens, but do not always operate in their best interest. You can facilitate the healing and recovery process by treating teens with respect, helping them to access services, and advocating to uphold their rights.

THE POLARIS PROJECT – NATIONAL HUMAN TRAFFICKING HOTLINE (888) 373-7888

COMMON WORK AND LIVING CONDITIONS

- Is not free to leave or come and go at will
- Is under 18 and is providing commercial sex acts
- Is in the commercial sex industry and has a pimp / manager
- Is unpaid, paid very little, or paid only through tips
- Works excessively long and/or unusual hours
- Is not allowed breaks or suffers under unusual restrictions at work
- Owes a large debt and is unable to pay it off
- Was recruited through false promises concerning the nature and conditions of his/her work
- High security measures exist in the work and/or living locations (e.g. opaque windows, boarded up windows, bars on windows, barbed wire, security cameras, etc.)
- Is living and working on site
- Experiences verbal or physical abuse by their supervisor
- Is not given proper safety equipment
- Is not paid directly
- Is forced to meet daily quotas

POOR MENTAL HEALTH OR ABNORMAL BEHAVIOR

- Is fearful, anxious, depressed, submissive, tense, or nervous/paranoid
- Exhibits unusually fearful or anxious behavior after bringing up law enforcement or immigration officials
- Shows signs of substance use or addiction

POOR PHYSICAL HEALTH

- Shows signs of poor hygiene, malnourishment, and/or fatigue
- Shows signs of physical and/or sexual abuse, physical restraint, confinement, or torture

LACK OF CONTROL

- Has few or no personal possessions
- Is frequently monitored
- Is not in control of their own money, financial records, or bank account
- Is not in control of their own identification documents (ID or passport)
- Is not allowed or able to speak for themselves (a third party may insist on being present and/or translating)

OTHER

- Claims of just visiting and inability to clarify where they are staying/address
- Lack of knowledge of whereabouts and/or do not know what city he/she is in
- Appear to have lost sense of time
- Shares scripted, confusing, or inconsistent stories
- Protects the person who may be hurting them or minimizes abuse

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CHAPTER 5

CRISIS INTERVENTION

Introduction

Crisis intervention is one of the key services that Rape Crisis Centers offer for survivors of sexual assault. Whether you provide support and information on a phone line, as part of the Sexual Assault Response Team, or during an in-person advocacy session, you will also be providing crisis intervention. You may be working with a survivor in the immediate aftermath of a sexual assault, helping them to cope and make decisions in one of the most difficult times of any person's life. You may receive a call from a person who is crying or feeling panicked because a certain sight or smell reminded them of a traumatic sexual experience that occurred years in the past. You may need to provide immediate assistance and resources to a parent whose child just disclosed sexual abuse, or a survivor who has lost their job or housing as a result of sexual violence. Regardless of the situation, you will be balancing emotional and practical support to a person who most likely needs both, while maintaining confidentiality and your own emotional equilibrium under stress.

How a crisis affects a person depends on the nature of the stressor along with their previous experiences, coping skills, and support system, as well as available resources. While you cannot change someone's past or what they have been through, you can help them bolster their coping skills, support system, and resources. This can make a major difference in the outcome of the crisis.

The goals of crisis intervention include having the survivor feel heard and understood, establishing rapport, offering emotional support, and providing options and resources. Crisis intervention is empowerment and strength-based, which means survivors are treated with respect and they make the decisions about their own life.

It is extremely important that you are well-versed in your own agency's policies and procedures before becoming involved in crisis intervention work (see

Chapter 11). Make sure you know in advance how you are supposed to handle a wide variety of situations, such as the possibility of suicide, threats to other people, disclosures of abuse, medical crises, and interactions with other community service providers. Above all, do not hesitate to ask for help and support from your supervisor or colleagues if you are not sure how to proceed.

Survivor-Centered and Trauma-Informed Principles and Techniques

Advocates are guided by strong core values that inform their crisis intervention work. As you work with people in crisis, you will want to remain survivor-centered and trauma-informed. What does this actually mean when you are helping someone through a crisis?

Being survivor-centered means allowing the survivor to be in control of the entire process and to take the lead in how much or how little they want to share or participate. Advocates offering survivor-centered services provide options regarding support, reporting, and medical care; are transparent about our role and limits to confidentiality; and provide support from an understanding of the survivor's experiences. It means treating the survivor with dignity and respect, and avoiding victim-blaming questions and statements. It also means maintaining good boundaries when collaborating with other professionals on the survivor's behalf, while staying alert to how service providers and systems may encroach on the survivor's rights or autonomy. This aligns well with trauma-informed principles, as we take into consideration the trauma that a client has experienced throughout their lifespan.

Traumatic experiences, including sexual assault, create crisis responses during which an individual may become emotionally upset and have difficulty utilizing coping strategies and problem-solving skills. The purpose of crisis intervention is to help

reduce the reactions associated with the emotional upset and increase the survivor's ability to cope. People respond to crises in many different ways, and it is important to remember that there is no right or wrong way to react or act. As we've mentioned, people's reactions to crisis differ because of past and current experiences, support systems, and coping skills. Trauma from years ago can create or compound a crisis experience in the present. As individual responses to crises may vary, you may also need to tailor your approach to working with survivors who have had different experiences.

The phrase "trauma-informed" means to consider the effects of trauma in every aspect of the services you provide. A trauma-informed agency considers such things as reducing the intake demands for clients, providing privacy, giving clear information in language that survivors can understand, and making sure that survivors have a strong voice in what services they receive. Another way of understanding being trauma-informed is that you consider the question, "What happened to you?" rather than "What is wrong with you?" For example, if a survivor is angry and distrustful in their interactions with you, understand this is not personal. You might have to dig deeper to understand how their experiences have generated anger and distrust. You will also want to educate yourself about the historical and cultural contexts that inform survivors' experiences and perceptions.

The key principles of a trauma-informed approach, according to the Substance Abuse and Mental Health Services Administration (2018), are:

1. Safety
2. Trustworthiness and transparency
3. Peer support
4. Collaboration and mutuality
5. Empowerment, voice and choice
6. Cultural, historical, and gender issues

Trauma affects our bodies and our mental perceptions as well as our emotions. Trauma is also cumulative, meaning that the burden of past trauma (whether to the individual or as historical trauma that affects a community) can intensify or

change a person's reactions to what is happening in the present. For example, a survivor who has a long history of childhood sexual abuse may feel even more powerless and self-blaming after an adult sexual assault than a person who was not abused as a child and may also have more difficulty in believing that professionals could be helpful or that family and friends could be supportive.

Q: What are some examples of how you can use these principles of a trauma-informed approach in your advocacy work?

Someone who has experienced a sexual assault may seem angry, sad, depressed, anxious, or numb. A survivor may even display laughter as a coping mechanism. Whatever the response may be, your role is to provide a safe space, provide nonjudgmental support, and validate the survivor's feelings and experiences. How do you validate someone's feelings? It starts with simply acknowledging and accepting what the person is going through, rather than trying to talk them out of their own perceptions. For example, if a survivor tells you that the forensic nurse was rough during the exam, you would not want to argue even if you feel sure that was not the case because you trust that nurse. You might say, "That must have been very difficult for you" or "It sounds like you were in a lot of discomfort."

RESOURCE

The Spirit of Caring: A Volunteer Education Resource. Module 8: Developing an Understanding of Crisis and Trauma
 Provincial Spiritual Health Care
 Management Network
<https://www.uclahealth.org/nursing/spirit-of-caring>

While this resource was developed to enhance spiritual support in a medical setting, it includes helpful information about how trauma and crisis affect people generally, including the physical, emotional, behavioral, cognitive, and spiritual effects. Note the description of “Qualities and characteristics essential to working with trauma survivors” on page 12.

Responding to Disclosures

A general guide for responding to disclosures of sexual assault:

1. Believe the survivor.

All survivors deserve to be believed, especially when seeking support from a Rape Crisis Center. Regardless of the situation or circumstances surrounding the disclosure of sexual assault, it is important to believe the survivor. Their experience is their truth, and it must be honored as such. When someone shares with you that they have been sexually assaulted, it may be the first time they are disclosing this traumatic experience to anyone. Your undoubted belief is a critical first step toward healing. Survivors often remember the experience of disclosing the assault to someone, and the response they receive has an impact on them. It is also not our role to ask a lot of details or questions about the incident, as this can further traumatize a survivor. Our role is to provide nonjudgmental support and let the survivor take the lead in how much or how little they want to share.

2. Respond with empathy.

You can demonstrate empathy in many different ways. Simple statements that validate the survivor’s feelings and experiences are instrumental in demonstrating empathy and building rapport. Some examples include:

- “I believe you.”
- “You are not alone.”
- “It wasn’t your fault.”
- “It took a lot of courage to share that. Thank you for sharing with me.”
- “I’m here for you.”
- “Let me know how I can support you.”

Empathy can also be demonstrated through nonverbal communication, such as attentive listening, maintaining a calm and compassionate presence, and creating a safe and nonjudgmental space.

3. Listen and provide support.

- Actively listen and be emotionally present. Crisis intervention is time for focusing on the survivor, and hearing what their needs are. Do not tell them what to do. Even if you have experienced a trauma or an experience similar to the survivor, it is important to remember that every survivor’s experience is unique and individual. Do not assume that what helped you will help them. Make this time about the survivor and their identified needs.

Some examples of providing support and options:

- “I hear you saying you are overwhelmed and not sure what to do. Let’s talk about your options and see how you feel about them.”
- “I hear you saying you may want a medical exam to gather evidence and are concerned about STIs, but that you don’t want to make a police report right now. There is something called a VAWA exam where some evidence can be collected and you can receive medical care, but not make a police report at this time. Would you like to hear more about this option?”

RESOURCE

Start by Believing.

www.startbybelieving.org

This campaign, sponsored by End Violence Against Women International, encourages professionals and community members to respond supportively to disclosures of sexual assault.

Help Survivors Understand the Effects of Trauma

People who have recently experienced acute trauma may be frightened by their own reactions. Helping survivors understand the biology of trauma can make this experience less disturbing.

These tips are adapted from the Substance Abuse and Mental Health Administration's (2014) materials:

- Explain that feeling “keyed up,” having trouble sleeping, and other physical reactions are normal responses to extreme stress.
- Let survivors know that there are activities that may help, ranging from therapy to yoga.
- “Normalize trauma symptoms. For example, explain to clients that their symptoms are not a sign of weakness, a character flaw, or going crazy.”
- Provide support and a message of hope.

Confidentiality

Confidentiality is an important factor in developing the trust and rapport that allows a survivor in crisis to confide in you. Refer to Chapter 11 for information about confidentiality and legal privilege; be sure to know your own agency's policies and procedures.

Sometimes advocates have a hard time conveying information about confidentiality when talking to a survivor in crisis. Please remember that part of being survivor-centered is providing the space for survivors to be empowered in choosing what information to share with you. They cannot do this without having appropriate information about what

will happen to the information they share. Practice a brief speech (it should only take a minute or two) to convey information about confidentiality and any exceptions to confidentiality, so you can explain this information clearly and concisely BEFORE the survivor begins to tell you their story. If a person in crisis launches immediately into talking to you, gently say, “I want to hear anything you wish to tell me, but please let me take a minute first to let you know what will happen to information that you share with me.” That way, the survivor is able to make an informed decision about what to tell you.

Remember that, unless there is an exception to confidentiality based on the law or agency policy, you must have a written, specific, time-limited release of information form signed by the survivor before you can share information with anyone else, even in a crisis situation.

In a crisis situation, you may be so focused on assisting the survivor that you are less aware of privacy concerns. Make sure that any conversations with the survivor are held in an area that affords privacy. A survivor in crisis may start to blurt out private information in a lobby or hallway; you will want to gently say, “Let’s wait just a moment until we can get to a private place to speak.” Maintaining privacy can be a particular challenge if you are offering services outside of your own facility, such as in a hospital or courthouse, but ensuring confidentiality is vital in these external settings. Rape Crisis Centers often work with system partners to develop private areas to meet with survivors off site.

Needs Assessment and Survivor Options

When assessing needs and discussing survivor options, it is important to remember the survivor-centered and trauma-informed principles and techniques we have been discussing. Following this approach will also assist in establishing rapport. Always assess for safety first. Assessing for client needs also means not assuming what their needs are. Ask the survivor how you can support them.

Survivors in a heightened state of crisis may not be able to articulate what they need. You may offer suggestions based on information they have

shared. For example, “It sounds like you might not be safe and you’re worried about your partner finding out that you’ve reached out for support. Would you like some help creating a safety plan?” Another example could be, “It sounds like you’re not sure what you need right now. Can I share some of the services we offer and go over some options with you?” By asking these kinds of questions, you are supporting the survivor and allowing them to stay in control of identifying their primary need and determining a plan of action.

Avoid offering advice; instead, create space for the survivor to make their own decisions. They are the expert in determining what is best for them. When a person is in acute crisis, their ability to process information may be temporarily impaired. It is a good idea to explain things in simple terms, to provide written information for the survivor to look at later, and to pause and give plenty of opportunities for the survivor to ask questions.

Suicide Lethality and Safety: Assessments and Interventions

While a crisis hotline operated by a Rape Crisis Center is not a suicide prevention hotline, there may be times when survivors call and indicate that they may be having suicidal thoughts as a result of their state of crisis. Similarly, these thoughts and feelings may arise when working with a survivor in person. It is important to note that while someone may have suicidal thoughts, it does not necessarily mean they intend to end their life. However, all threats of suicide should be taken seriously. It is important to remain calm and empathetic to the client’s thoughts and feelings, and discuss safety planning.

A general guide for responding to disclosures of suicidal thoughts or suspicion of suicidal behavior:

1. Assessment

Assessment involves determining if there is intent, a plan, and means to commit suicide. It is important to be direct and use plain language when discussing the possibility of suicide. Do not be hesitant to bring up the subject if you are concerned, and do not be afraid to use the word “suicide.”

Assessment can include:

- Asking the survivor if they have had thoughts of suicide or ending their life.
- Asking the survivor if they intend to end their life.
- Asking the survivor if they have a plan to end their life.
- Other things to consider:
- Do they have access to the means to carry out their plan?
- Is there a history of previous suicidal attempts?
- Can they differentiate a suicidal thought versus acting on the thought?
- What is their support system like?
- Do they have a family history of suicide?

2. Intervention

You should always refer to agency policies when it comes to suicide intervention, and all threats of suicide and self-harm should be taken seriously. It is important that you be genuine and show that you care, avoid shock and disapproval, and avoid trying to explain their feelings away by providing reasons why they should live.

- Consult with your supervisor or manager.
- If someone is at a high risk for suicide, local law enforcement should be called to ensure the client’s safety, depending on your agency’s policies. Voluntary or involuntary hospitalization may be necessary.
- If someone is at moderate or low risk, assess if a safety plan is appropriate. Suicide prevention contracts are not recommended, as research has indicated they are not appropriate or effective in preventing suicide. Safety plans, alternatively, will help the client prepare to reach out for help or support if suicidal thoughts become overwhelming or they begin to feel suicidal. Safety plans may include identifying warning signs, coping strategies, support people and their contact information, and having the National Suicide Prevention Lifeline phone number (1-800-273-8255).

RESOURCE

National Suicide Prevention Lifeline website. <https://suicidepreventionlifeline.org/>

In addition to a 24/7 hotline, this website offers information for providers and professionals, learning resources, a dedicated Veterans Crisis Line and chat feature, options for Deaf and hard of hearing, a Spanish-language hotline, advice for concerned family and friends, and more.

General Safety Issues

Being trauma-informed means responding to the safety concerns of survivors in crisis. This could be as practical as providing referrals to locksmiths who can change the locks on a home, or as simple as offering to accompany a survivor to an anxiety-provoking appointment. It also means asking about the survivor's circumstances and safety concerns.

Because a great deal of sexual violence takes place in the context of past or present intimate relationships, you will need to access the same safety planning expertise and resources that domestic violence advocates use. If you work in an agency that also offers domestic violence advocacy, this process may be more seamless. If not, it is important to know where to refer survivors when they need these services, and to consider the survivor's safety needs (including economic and housing resources) in times of crisis. Children may also be at risk if a survivor is being threatened, physically abused, or stalked by a current or former partner. Know your agency's procedures for handling these situations. When a survivor is currently living with or recently separated from the person responsible for sexual assault, of course the risk of reoccurrence is high. Even if the person who sexually assaulted them is in jail, the survivor may be subject to threats or harassment.

Stalking is another crime that often coexists with sexual violence (Black et al., 2011). Stalking may

involve physical actions such as following a person or damaging their property, or it may consist of cyberstalking via email, text, or social media. As a sexual assault advocate, you will need to know what to do if a survivor describes being stalked, as this can quickly become a very dangerous situation. Take all reports of stalking seriously and consult your agency policies and procedures on how to help the survivor maintain safety.

Reproductive health concerns can also be safety issues or concerns during a crisis. For example, a person who uses sexual violence who is an intimate partner may be trying to force or coerce the survivor into pregnancy. Advocates do not have to ask for details; they can simply say, "We can provide information about emergency contraception or birth control that a partner is less likely to detect, if that is something you would like to know more about."

RESOURCE

Pregnant Survivors: An Integrated Approach to Intimate Partner Violence and Reproductive & Sexual Coercion
www.pregnantsurvivors.org

This site offers multidisciplinary guidance about trauma-informed services for adults and teens who may experience domestic violence, sexual assault, and/or stalking. Practical information about emergency contraception and birth control that is less detectable by abusers is provided.

Crisis Intervention with Friends and Family

The impact of sexual abuse and assault is not limited to the survivor who directly experienced the trauma. Significant others and family members often have a crisis response when learning about their loved one's traumatic experience. Some agencies provide services for significant others and family members, as they are often considered "secondary survivors." Responses may vary, just as they do for the primary survivor. A loved one may become angry, depressed, numb, anxious, or feel helpless.

Crisis intervention for secondary survivors follows the same principles as for primary survivors. Your role is to provide support and validation for the secondary survivor's thoughts and feelings, offer appropriate resource information, and help the person to sift through options. Friends and family may feel helpless or blame themselves because they were not able to prevent the primary survivor's traumatic experience. All of these thoughts and feelings are valid, and you can help guide the loved one in understanding the nature of sexual violence. It is crucial that they know what happened is not their fault, nor the fault of the survivor. The person who uses sexual violence is solely responsible for the crime. It is important for secondary survivors to seek support for themselves, so they can learn how to best support their loved one and process their own feelings around what has happened. See Chapters 3 and 4 for information about supporting nonoffending parents of children and teens.

There are many layers to the reactions of secondary survivors. For example, because people who sexually assault and abuse are generally known to the victim, they are known to the secondary survivor as well. The person who sexually assaults may be a partner, a parent, another relative, or a close friend. Secondary survivors often experience feelings of betrayal, anger, and disbelief. Sometimes the secondary survivor has their own history of sexual abuse or assault, possible even by the same abuser. This can create guilt, confusion, and even denial. Meanwhile, the secondary survivor may be experiencing practical consequences in their own

life, such as an economic impact, the need to move, or dealing with the range of emotional reactions of the primary survivor. Secondary survivors may also be hurt or angry that the primary survivor did not confide in them immediately, and can benefit from learning that this rarely happens. In addition to one-on-one advocacy, secondary survivors may find support groups or mental health counseling to be valuable in moving through the crisis.

When the person seeking help is the intimate partner of a survivor, they are often looking for ways to support their partner while managing their own emotions and reactions. Renee Fabian (2017), a sexual abuse survivor, wrote an article that outlines some specific tips for partners of survivors (she was talking about a dating relationship, but most of the advice is also appropriate for established partners):

- Get Educated About Trauma
- Let Survivors Tell Their Story on Their Schedule
- Communicate, Communicate, Communicate
- Put Consent Front and Center
- Respect Your Partner's Needs
- Let the Relationship Move at Its Own Pace
- Celebrate Recovery Together

The first tip, "get educated about trauma," can be very helpful as a partner tries to understand the emotional and sexual consequences that sexual abuse or assault may have on a relationship. It can be very frightening to see someone you love be overcome by the strong emotions that arise during a crisis. When a partner reaches out for help, they are more likely to be able to create a safe harbor for the survivor.

RESOURCE

When Your Partner Was Sexually Abused as a Child: A Guide for Partners
Family Services of Greater Vancouver
https://www.ksacc.ca/docs/when_your_partner_was_sexually_abused_as_a_child.pdf?LanguageID=EN-US

Identifying and Responding to Sex Trafficking

Sex trafficking is a complex form of sexual violence, involving being forced, tricked, or manipulated into performing sexual acts in exchange for something of value. Victims of sex trafficking are also victims of ongoing and repeated sexual assault. It is also common for a trafficker to be a family member or pose as an intimate partner, which adds to the complexity of this form of victimization. There are often barriers to seeking support and services for survivors of sex trafficking due to the stigmatization of sex work and sexual violence. It is important to be cognizant of your own preconceptions and biases when working with survivors of sex trafficking, and remember to practice survivor-centered and trauma-informed principles and techniques.

The average age that a person is first trafficked for the purpose commercial sex is 11 to 13 years for boys and 12 to 14 years for girls. Keep this in mind when working with adult survivors of sex trafficking. Refer to Chapter 4 on Teen Sexual Abuse for more information about the commercial sexual exploitation of children and youth.

Anyone could become a victim of sex trafficking regardless of age, gender, race, ethnicity, socioeconomic background, or any other factor. There are certain individuals who are at increased risk of being exploited, including those with a history of abuse or neglect, history of or active substance abuse, homeless or runaway youth, individuals with disabilities or mental illness, LGBTQI+ individuals, and others who have experienced oppression or discrimination.

Q: What words did you learn to use to describe sex workers? What attitudes do you have about sex workers? How might these affect your work as an advocate?

Traffickers often instill fear and distrust of service providers (such as medical personnel and advocates) in their victims as a means of control and an attempt to isolate their victims from those

who might intervene. You could be the person to disrupt that belief for the survivor by being supportive, nonjudgmental, and empathetic to their experience and feelings.

Indicators of sex trafficking:

- Language and terms associated with trafficking ("the life/game," "daddy," "trick," "stroll/track/blade," "hotel parties," "trap houses")
- Signs of physical or sexual abuse
- Signs of "branding" – tattoos, specific jewelry, etc.
- Self-harm or self-inflicted injuries
- Multiple cell phones or cell phone provided by "boyfriend" that must be answered
- Inappropriate dress for age, weather, or situation
- Frequent travel or moving
- Controlling or dominating relationship
- Monitored movement or communication
- Unexplained money or gifts – purses, jewelry, electronics
- Earnings are "held by" partner or other adult
- Engaging in "survival sex" – feel they must engage in sex for food, housing, or other necessities
- Photos of the individual have been placed online for advertising purposes
- Indicates fear of harm to themselves or family if they do not cooperate with "friend/boyfriend/girlfriend"
- Substance abuse or signs of addiction
- Frequent STIs or pregnancies
- Mental health concerns including PTSD, anxiety, self-destructive behavior, depression, etc.

Note: Some of the potential indicators may also be indicators of mental health concerns and substance use disorders, adverse or traumatic experiences, and other issues among individuals who are not being sex trafficked.

Responding to trafficking victims is complex and requires a multidisciplinary approach within the community. According to the National Sexual Violence Resource Center (2018), “The needs of trafficking victims are as diverse as the victims themselves... Emergency needs should be attended to first, ensuring physical safety until the next meeting with the service provider.” At a minimum, advocates involved in crisis intervention should know about resources for immediate needs such as housing, medical care, and legal assistance. The safety planning information below may be useful, along with knowledge of local resources.

RESOURCES

Safety Planning Information.
National Human Trafficking Hotline.
<https://humantraffickinghotline.org/faqs/safety-planning-information>

Human Trafficking.
Sexual Assault Response Team Toolkit,
National Sexual Violence Resource Center
<https://www.nsvrc.org/sarts/toolkit/5-15>

Developing an Action Plan

Once you have helped the survivor to focus on and prioritize needs, consider and select options, and highlight safety measures, you can work together to develop an action plan. In the context of a crisis, this action plan is likely to focus on short-term goals, such as securing temporary housing, obtaining a forensic medical exam, or managing nightmares and flashbacks.

Because an acute trauma response makes it hard for people to concentrate and remember, keep the action plan as simple as possible. Put it in writing. If the survivor feels capable of writing things down, that’s great. If not, you can be the scribe, but use the survivor’s words to the extent possible. For example, if they say, “I want to tell my Auntie Sue what happened,” write down, “Tell Auntie Sue what happened,” not “Disclose sexual assault to aunt.” Help the survivor break down goals into specific action steps. For example, if the overall goal is to secure temporary housing, the first action step

might be “Call Demetrius to ask if I can stay in his apartment for two weeks.”

For some survivors, reading and writing may be a challenge. Consider options such as recording information on their phone, while keeping safety and confidentiality at the forefront. Including a support person in the plan, if appropriate, may also help. For example, a survivor may feel comfortable asking a sibling or close friend to remind them to make calls or go with them to seek services.

Refer to Chapter 6 for information about how to make referrals and follow the survivor’s lead about how much help to provide. Offering to make notes on a bus schedule and give step-by-step instructions on how to get to an agency might be extremely helpful to one person but insulting to another. If you want to provide written materials to a survivor, be sure to ask if they feel safe to take the information with them – perhaps they don’t want a partner or parent to see it. If not, help them to brainstorm about the best way to have that information accessible.

Overall, don’t overwhelm the survivor with a massive action plan. Keep it short and specific; discuss how to move forward with continuing support once the first steps are taken.

Continuing Support

Crisis intervention is a brief process to stabilize the client and meet their immediate needs. When a survivor is no longer in a state of crisis, they may need or wish to have continued support. Depending on the services available at your agency, you may be able to offer continued support through follow-up case management, professional therapy, peer counseling, advocacy, and outside referrals. Healing from a sexual assault is a process that takes time. It is not linear, and there is not a prescriptive guide to healing. There will be times when a survivor does not want to talk about their experience and other times when they may feel ready for counseling or to share the experience with others. Survivors may feel as though they have moved on, but then something happens to remind them of the traumatic experience, triggering another crisis response. Healing from sexual

assault is a fluid process and Rape Crisis Centers are there to provide support for survivors at all stages of healing.

When you offer information about additional services or referrals, survivors may not want to engage in these next steps. Don't try to talk a person into accepting these recommendations, no matter how deeply you believe they may be needed. Remember that the survivor must decide when and if they are ready to pursue a particular option. Because a crisis can make you feel as though you must act, it is particularly important to circle back to survivor-led decision-making.

Let survivors know that healing and recovery are possible, and that they can come back for services when they need them. Help them to understand the ebb and flow of feelings and reactions – this is normal and doesn't mean they are not making progress in recovering from the trauma. You can work with the survivor to review the coping skills they have gained and the resources of which they are now aware. These items become part of the survivor's toolkit for dealing with the difficulties they will face.

Vicarious Trauma and Self-Care

“The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”
—Rachel Naomi Remen

Vicarious trauma is the impact of exposure to another person's traumatic experiences, and it is a common result of working with issues of sexual violence. Advocate self-care is incredibly important to reduce the impact of vicarious trauma. Exposure to traumatic experiences, whether hearing about another person's assault firsthand or discussing the topic in training, can trigger adverse reactions that may contribute to vicarious trauma. The risk of vicarious trauma and the intensity of its impact may also be influenced by your own personal

experiences, especially if you have a history of sexual abuse or assault. You should pay careful attention to your emotional and physical responses as you continue in this work. It is important to set boundaries, maintain a healthy work-life balance, and practice self-care. It may be helpful to identify coping strategies and self-care practices before you experience vicarious trauma, so those tools are readily available to you when you need it. Remember that it is not your responsibility alone to handle vicarious trauma. Your agency should acknowledge this issue and provide appropriate support through training, supervision, practices, and resources.

While you are actively engaged in helping a survivor manage a crisis, you may find that your own anxiety level begins to rise. Pay attention to your voice and your body language, which may become more intense as you unconsciously start to mirror the survivor's behavior. Relax by breathing slowly and deeply, sit back, and modulate your voice. These actions can help you to feel calmer and more in control and will often reassure the person with whom you are working. While by definition a crisis often involves unpredictable factors, the more you can develop a practiced and prepared response to frequently encountered situations, the easier it will be for you to manage your own anxiety and focus on the survivor's needs. This involves both training and practice. While many people avoid role-playing because they feel self-conscious, working through various scenarios with your supervisor and colleagues will help you know what to do in a crisis.

Debriefing with co-workers and supervisors can also be helpful, both for the learning opportunity and for the release of emotional energy. Appropriate and timely debriefing will make it easier to maintain a boundary between work and your personal life. You may also want to develop some practices that help you to “leave work at work,” such as going for a brief walk before going home, picking a transition point on the route home where you begin to focus your mind on your home life instead of what just happened at work, or changing clothes as soon as you arrive home to symbolize the difference between work and home.

RESOURCES

Low Impact Debriefing: Preventing Retraumatization,
by Francoise Mathieu

<https://www.tendacademy.ca/low-impact-debriefing-how-to-stop-sliming-each-other/>

This short article describes how to get support from colleagues without “spreading the trauma” unnecessarily.

Making self-care a part of your individual routine as well as part of the agency’s culture is integral to maintaining a healthy work environment and providing quality services to survivors. Some strategies for self-care within your agency include:

- Asking your supervisor if you can step out for a few minutes to take a few deep breaths before taking the next hotline call.
- Asking a coworker or supervisor if you could debrief about a difficult call or visit.
- Asking your supervisor about Employee Assistance Program plans or referrals for counseling outside of the agency where you can seek additional emotional support.
- Requesting inservice training on vicarious trauma and compassion fatigue.

Q: What resources do you need to help you manage vicarious trauma? What resources are available through your agency?

RESOURCES

Trauma Stewardship: An Everyday Guide to Caring for Self While Caring for Others
by Laura Vandernoot Lipsky with Connie Burke

<http://traumastewardship.com/inside-the-book/>

How to Make Stress Your Friend –
A TED Talk

by Kelly McGonigal

https://www.ted.com/talks/kelly_mcgonigal_how_to_make_stress_your_friend?language=en

This 14-minute video helps you apply research to train your brain to thrive in stressful situations.

Advocacy work can be invigorating but also difficult at times. As you move through this work, it is important to remember what motivates you and makes you passionate about working with survivors. Being aware of potential triggers and warning signs of vicarious trauma is critical in preventing and minimizing its impact. Remember to maintain balance and practice self-care, and connect with others who can support you.

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CHAPTER 6

REFERRAL RESOURCES AND METHODS

Introduction

All Rape Crisis Centers (RCCs) provide what can be considered “core” direct services, such as crisis counseling, accompaniment during forensic exams, advocacy, and referrals. Survivors will contact RCCs for assistance with a spectrum of needs, which may be urgent. In some cases, survivors may not know what they need and will “talk it out” in an effort to arrive at some solution or strategy to move beyond their immediate situation. Your work will almost always include helping survivors connect with services beyond the rape crisis organization. You will need to be skilled at listening and assessing a survivor’s situation in order to make appropriate referrals.

Typically RCCs have limited capacities (as do all social service organizations) yet understand the need to address the whole survivor, including physical, emotional, cultural, and social needs after an assault. RCCs also recognize that survivors’ experience of sexual assault is shaped by past experience and intersections of personal identity as discussed in Chapter 2: Discrimination and Oppression. Their life experiences cannot be separated from their assault, crisis response, or long-term healing. Advocates must convey an understanding of these complexities and seek to create an environment of belonging, not alienation. One of the ways to create a welcoming atmosphere is for public and private entities – including sexual and domestic violence organizations – to reflect the surrounding community in their staffing in terms of ethnicity, sexual orientation, ability, age, and other identities.

Not only is sexual assault an act of physical and psychological injury, but it causes a disruption or break from a survivor’s normal course of life. Ideally RCCs may provide a more comprehensive healing experience by addressing other immediate and long-term needs of survivors. As such, counselor/advocates will respond to immediate

needs related to physical injury and emotional trauma, but also related needs such as greater home security, emergency housing, longer-term therapy, transportation resources, assistance with employment or academic pursuits, help in finding an attorney, or something as simple as replacement of toiletries and clothing. Thus RCCs and counselor/advocates find themselves making essential referrals in an effort to assist the survivor to a new state of normalcy.

The need to accommodate survivors’ cultural considerations is coupled with these practical concerns. For example, an RCC may provide group counseling as a core service, but may have group sessions in Spanish or American Sign Language, or for underserved populations such as transgender survivors. Partnerships with culturally-specific agencies and programs in the community can enhance advocates’ understanding of the issues faced by survivors, while simultaneously expanding the RCCs capacity to effectively serve a broader community via referral. To that end, advocates’ understanding of the issues faced by survivors from diverse communities allows RCCs to refer survivors to services that better facilitate healing and recovery.

Procedures to Access Local Resources

RCCs strive to provide seamless, comprehensive services, but often cannot realistically anticipate or provide for all of the needs a survivor may have for their healing, as there may be cultural or systems-related challenges that compound a survivor’s trauma. For example, it can be burdensome to require a survivor of intimate partner sexual violence to complete duplicate sets of paperwork at a dual sexual assault/domestic violence organization because the organization separates services for these types of gender-based violence. Remember, in the aftermath of an assault, a survivor may be compelled to recount their experience each time they encounter a new entity (for example,

advocate, police officer, nurse examiner, district attorney, employer, or employment-disability office) on the road to healing.

Thoughtful referral planning provides survivors meaningful access to services. This is defined by the Full Frame Initiative (2013) as “the degree to which a person can meet needs particularly important for (their) situation in ways that are not overly onerous, and are not degrading or dangerous.” To this end, RCCs have established networks of support systems variously charged with responding to the particular needs of survivors. Beyond these networks, many RCCs have relationships with local vendors and outlets such as locksmiths or resale shops sensitive to the needs of RCC clients. Your supervisor and other experienced advocates in your agency will be able to provide you with a wealth of information about trusted sources of help for survivors in your area.

When you consider everything survivors must go through, you will realize how important it is to have accurate information about your community’s resources. The last thing you want to do is to add to a survivor’s stress. The more you know, the less hassle survivors will encounter when they try to connect with other services. Location, hours of operation, and types of services offered are the basics. In order to have a higher quality of referrals consider expanding your knowledge about providers to include a clear understanding of:

- their mission and program goals;
- the clients/customers they serve;
- their language and cultural capacity and/or emphasis;
- their shared goals and/or philosophy for clients; and
- their preferred referral process.

As you begin the process of making a referral plan, you may wish to consider the following, depending on the needs of the survivor:

- Are culturally sensitive services available?
- Are they easily accessible by public transportation?

- Are they easily accessible for persons with disabilities? What types of disabilities?
- Are they aware of governmental policies impacting a survivor’s residency status?
- Are there costs involved?
- Do they speak the language that the survivor prefers to use?
- Are they able to accommodate support people who may accompany the survivor?
- Are there interpreter services available?
- What is their average response time to a survivor?
- Do they have evening hours?
- What is the best way to communicate with them?

Your ability to communicate accurate timelines, expectations, and even a specific person or program area to contact will help survivors rebuild a sense of stability and order in their day-to-day experiences after an assault.

Creating an Individualized Referral Plan

Making referrals is about more than providing survivors with a phone number and a website address. An individualized referral plan is about identifying key steps toward healing and recovery. Consistent with a survivor-centered approach, advocates work with the survivor to develop a referral plan that puts the survivor’s needs at the center of any discussion of options, decisions to be made, and problems to be resolved. While potentially overwhelming, the original *Support for Survivors* (Mooney, 1999, p. 391) lays out a process for counseling and referrals starting with the position of the advocate:

Your role as [an advocate] is to be an active listener and an active participant in the survivor’s healing process. The value of validating a survivor’s experience cannot be understated, nor can the benefit of helping [them] sort through confusing issues and making suggestions. The process of identifying

the survivor's full range of needs requires your active participation, creativity, knowledge of the effects of sexual assault, and a general understanding of how hard it can be just to cope with day-to-day life, much less a crisis. Sound hard? It's not really. You do it every day in your own life. You are presented with problems that have varying degrees of stress related to them, and you deal with them.

Helping others manage crises can be daunting or even anxiety inducing. You may be worried that you are doing or saying too much during the survivor's silences, frustrated in their inability to make a decision, or disappointed when suggestions are negated. Again, in these moments, remember that an empowerment-based model insists that advocates create the conditions for survivors to connect with their own personal power to as a strategy toward healing. To do so, you will work with survivors to:

- Identify needs
- Determine options
- Assess options
- Make a plan

These processes do not necessarily progress in a straight line; instead like any conversation, they can be fluid, disjointed, and fragmented. Whether proceeding methodically or in a free-form manner, you will need to listen closely, pay attention, be engaged, and keep track of what does and does not work for the survivor. For this next section, returning to portions from the original edition of *Support for Survivors* is helpful. We have edited and updated the original text by Susan Mooney.

IDENTIFY NEEDS

Helping survivors identify needs after a sexual assault is one of the simplest yet most essential tasks for advocates as it is both empowering and practical. Sexual assault survivors will have many concerns, some of which will be more pressing than others. Conversely, things that they believe to be problems may not really be problematic, or may fall beyond the scope of the RCC's capabilities. For example, a survivor may reach out because

they believe that their chronic unemployment or substance abuse issues are the result of a childhood sexual assault. What does the advocate address first? The only way to determine where to begin is by actively listening to what the survivor tells you and asking questions, which may be as simple as "How can I help?" or "Where would you like to begin?"

A wide variety of issues are likely to arise when working with survivors, including fluctuating emotional reactions, physical and/or emotional safety, interruption of the ability to work or attend school, problems in the family, isolation, crisis in or loss of faith, the termination of an intimate relationship, sleep disruption, or, in most cases, a complex combination of these issues. As the advocate you will assist the survivor to sort through the range of issues and identify possible options for dealing with them, or in some cases, identifying whether they are indeed issues. Often the process is not easy for someone in crisis; you may need to help them identify an underlying issue.

Some needs will be plainly stated and straightforward. For example, a survivor may reveal that they do not have health insurance and are concerned about pregnancy or a sexually transmitted disease. You will validate that concern, support them for wanting to do something about it, and after asking if they feel comfortable about seeing a medical professional, make a referral to a local health clinic. In other instances, the survivor may not see an underlying need and you will want to point it out to them. For example, if the survivor expresses anxiety about being alone in their home, you will want to explore whether there is a need to be around people, or if they need better security. The survivor can then determine whether they would feel better having a cousin come stay with them, or change the locks, or both.

It is important that as a counselor/advocate you do not become over-focused or unduly eager to identify the survivor's needs. Refrain from the temptation to jump to the obvious, go immediately to problem solving, or assume too much. Help the survivor to work through the problem, ask questions, and only then consider making

suggestions. Identifying needs for the survivor grounds the aftermath of sexual assault in very practical, tangible strategies that support the survivor in reasserting control of their physical, emotional, and mental wellbeing.

EXPLORE AND ASSESS POSSIBLE OPTIONS

Once the survivor has identified their needs, your role as a counselor/advocate is to assist in identifying options to get those needs met. Some survivors are adept at problem-solving and very aware of what resources are available to them; others may be immobilized by crisis or a lack of problem-solving skills. You bring your experience, knowledge, and creativity to the conversation, and the survivor brings these things plus self-knowledge. As this process is rooted in empowerment, or the process of helping others see and actualize their own power, it is important to remember that survivors are the experts on their own life and experience.

Identifying and exploring options is a collaborative effort between you and the survivor. Do not be afraid to make suggestions; you may think of things the survivor does not. However, certain resources, which for some appear obvious, may be met with a resounding “no” from a survivor. For example, some ethnic or immigrant populations do not consider law enforcement helpful; an LGBTQI+ survivor may be fearful of a faith-based resource; a male survivor may not want to speak with a female therapist; someone assaulted by a coworker may fear losing their job by telling human resources; and a teen assaulted while inebriated may shut down any suggestion of disclosing to a school nurse. Advocates should remember that working with a survivor is based on who they are and where they are in their healing process. This does not mean that those options should not be discussed; it just means understanding that if the survivor says no or hesitates, they have their reasons for doing so. Do not press the issue. In some instances, talking things through may help a survivor to overcome initial fears, and they may change their mind about contacting a resource you suggest. Of course you want to avoid becoming overinvested in any one

option because another individual may not make the same choice you would. Whenever possible, work to identify a range of options so survivors can weigh the potential benefits of several scenarios.

Keep the individual survivor’s needs in mind as you develop referral options. For example, if they mention not having very much money or no health insurance, you would not want to refer to a private therapist who charges for counseling. Similarly, if the survivor expresses fear about reporting to law enforcement due to lack of immigration documents, you would be careful about referrals to governmental social service agencies. Do not leave these resources out of the conversation, but be prepared to talk through each option. Weighing the pros and cons, examining likely outcomes, and talking about the process for each option can be important support.

Your familiarity with your agency’s policies and procedures for referrals will help you make good referrals. Be aware of your center’s screening process so that you can tell survivors how resources are evaluated. Also, be sure to encourage survivors to let you know how the referrals work out for them to inform your work with survivors in the future. There are times when assessing the options is particularly important because there is not an ideal referral for the issue the survivor is dealing with in your community or perhaps the one available is not accessible to them due to language, cost, agency philosophy, or other issues. Your community may not have a full range of services that are sensitive to the needs of sexual assault survivors. You may have difficulty identifying resources that can provide culturally appropriate services. You may be working on issues that your agency’s referral list does not cover. You may also be providing referrals to agencies that the survivor is unfamiliar with and may be intimidated by. Therefore, it is important to be truthful and realistic with the survivor when presenting referrals. If a good option is not identified, work with the survivor on how to access the best option you can come up with. You may learn of additional resources by brainstorming with your supervisor or coworkers.

MAKE A PLAN

As previously mentioned, sexual assault functions as a traumatic break that disrupts our life journey. Making a plan in the aftermath of an assault reveals to survivors not only how strong and resilient they are, but also that they have a right to fully participate in society and thrive. Helping survivors make a plan helps set them on a pathway toward self-determination.

For sexual assault survivors, making a plan focuses on practical steps to achieve their goals. The more complex and numerous the issues or needs the survivor faces, the more important it is that you assist them in crafting a thoughtful plan. Their plans should be executable, not overwhelming, and help them organize their steps in logical ways. Clearly their most immediate needs, such as safety and housing, should be addressed first.

Preparing survivors for what they may encounter when accessing resources can be critical. It may be helpful for you to walk through the steps of accessing the resource. For example, if the survivor is going to apply for food stamps because they have not been working since the assault, but have never dealt with social services before, you may need to walk them through step-by-step. Should they call and make an appointment first, or just walk in? Will it be clear who to talk to when they get there, or will they need to figure out whom to ask for instructions? Are there any papers to take, or are they filled out at the office? Your familiarity with your community will help with this process, but you do not have to know all the answers. If you don't know, don't fake it. You can either problem-solve with the survivor around any gaps in knowledge or, when appropriate, find out and then follow up. Ask your supervisor about opportunities to visit frequently used services and do a walk-through or speak to staff. The key here is to guide survivors through tasks in manageable steps that eventually lead toward their ability to return to a new normal.

Making referrals can contribute significantly to empowering the survivor. The information you provide can help them take control of their life and healing process.

Q: What do you think will be the most challenging part of making referrals?

Q: How do you think you might feel if the survivor you are working with does not want to pursue referrals that you think would be helpful, or even vital, to them?

RCC Procedures

RCCs all have procedures to document the number, types, and timing of the referrals that are offered to survivors. This information will help determine the needs of the survivors in your area, identify gaps in resources that can be addressed to improve services, and prioritize needs for additional support in upcoming funding applications. Documenting your activities is an important part of providing the best possible support to sexual assault survivors now and in the future.

Be sure to learn and follow your RCC's procedures for documenting referrals and follow-up care with survivors. Understand how to fill out forms such as intake and referral forms your organization uses. Your center may require you to provide such information as the day and time of the referral, a brief description of the need that the referral addresses, and the date that a follow-up call and/or email is required.

Local Referrals and Support Services

The first strategy in supporting the survivor is to connect them to the core and comprehensive services within the RCC. As mentioned above, often survivors have needs that cannot be met by the RCC alone and therefore it is important that you have a working knowledge of the community-based agencies in your area. You will especially want to become familiar with organizations that are culturally specific, have specialized services, and that provide complementary services to the RCC. You will be provided with a referral guide

that lists approved organizations and providers for referrals. There are a number of services that survivors may utilize including:

- Healthcare facilities
- Social services
- Food banks
- Homeless shelters
- LGBTQ service centers
- Independent living centers
- Consulates
- Substance abuse treatment facilities
- Faith-based organizations
- Legal Aid, private attorneys, or organizations such as those for immigrants' legal needs
- Counseling or therapy services and support groups
- Self-defense classes
- Victim Compensation Board
- Culturally specific organizations
- Transportation resources
- Child care

The list of local resources is often updated, and you may receive updated referral lists periodically. You can help your agency create and maintain an accurate and up-to-date list. As you work with various survivors, remain aware of outdated or inaccurate referrals. You will gain this information when following up with the survivor or while working side-by-side with them. Following through on a referral can take courage for a survivor; unknowingly passing along a bad referral (such as a disconnected number or misinformation about hours and services) can make some survivors feel defeated and discourage them from moving forward. You will build trust faster if your referrals are perceived as useful and valuable. Conversely, a bad or inappropriate referral can be seen as a waste of the survivor's time.

Inappropriate referrals can happen for a variety of reasons. Changes in staffing, inaccurate claims about types of services offered, or reduced

funding can significantly impact the referral. For example, changes in funding can lead to elimination of some services, changes in how an agency provides services, or in some cases, the closing of doors. Change can also happen for the better. Organizations can build their capacity to serve survivors through training or funding. A positive experience with a referral can be both useful and empowering. It is important for you to tell your RCC staff and other advocates about any changes you discover, in order to ensure that the most helpful and accurate resources are available to survivors.

Q: What types of referrals are you already familiar with in the community that may be useful to survivors?

Best Practices and Strategies for Warm Referrals and Community Referrals

Operating within best practices serves two functions: it ensures consistency and quality in the care provided to survivors. In developing a referral system RCCs have engaged in a number of best practices within a network of overlapping community players. This includes relationship building, transparency, confidentiality, staying current on emerging trends, professional behavior, communication, demonstrated compassion, and building and maintaining a solid reputation, to name a few. Remember, other public and private entities will make referrals to your RCC. As a representative of the RCC, it is incumbent upon the advocate to reflect these principles when engaging with survivors, other colleagues, multidisciplinary teams (see Chapter 7). A critical best practice is relationship building with outside referrals, which on some level can ensure a smooth transition of survivor from one organization to another.

As you explore the survivor's needs with them, remember that they are in charge of the conversation and that they determine the priority of their needs. During the conversation, assess the appropriateness of using "warm" versus "cold" referrals.

WARM REFERRALS

Warm referrals require your direct participation as the advocate by being part of a three-way call or emailing the referral source on behalf of the survivor. It also requires your ability to follow-up with the referral within a reasonable amount of time to determine if the need has been met. Typically, the most pressing referrals or those made during acute crisis are treated as warm referrals.

Warm referrals are often relationship based. In most situations, the RCC has a standing relationship with the referral source. There may be history of making referrals, collaborations developed around programming, and/or relationships built between staff members. More seasoned advocates have developed their own relationships with referral sources, and an email or phone call can receive a quick and accommodating response. In your role as an advocate, it is important to uphold these connections by creating and maintaining positive professional relationships.

Agencies often have preferences on how they like to receive client referrals. Some local resources prefer an email sent to their general address; others prefer the referral be sent to an identified staff member; still others prefer a phone call. It is important to contact these resources in the manner that they prefer, respecting their internal processes, and thereby helping to maintain the referral and keep the lines of communication open.

In order to gain and maintain quality referral relationships, please ensure that you:

- Follow the guidelines that the referral agency prefers – for example, if they prefer emails when requesting services do not leave them a voicemail.
- Follow up in a timely fashion. If you indicate that you will call them in three days, call them in three days.

- If a problem or miscommunication develops, report the concern to appropriate RCC staff in order to develop a strategy to address the problem before it develops into something more serious that can damage the relationship.

• Cold Referrals

In contrast, in a cold referral, survivors are given information about services to contact and follow up with on their own. There are benefits and challenges to cold referrals. Cold referrals are less likely to be used and may not be appropriate when a survivor is in acute crisis or hesitant to access the referral on their own. However, judiciously timed cold referrals can be a tool to help the survivor regain control over their lives. As you continue to work with the survivor you can ask about the status of the referral and support them as they move forward with their referral plan.

When making cold referrals, it is particularly important to ensure that you have accurate, up-to-date information about the services provided by the referral agency. A survivor who is in crisis may be discouraged and disheartened to arrive at food bank on Wednesday, for example, and discover that food is only available on Tuesday and Thursday mornings. The more accurate information you can provide about logistics such as hours, bus routes, costs, and other practical matters, the more likely it is that the survivor will have a positive experience with the referral you provide. In the aftermath of trauma, even a minor obstacle may feel too big to overcome.

Q: Besides the need for the services offered, how might a cold referral be useful to a survivor?

Q: How do you know when it is appropriate to give a cold referral?

Summary

Exploring and developing a referral plan is an important part of supporting and building trust with survivors. Remember to look to your referral guide for ideas, to ask coworkers and your supervisor for suggestions, and to be led by the individual survivor that you are working with to build an individualized plan. The four steps to making referrals are:

- Identify the issue
- Determine options
- Assess options
- Make a plan

Your ability to listen and provide appropriate referrals and tools to the survivor helps them to enhance the network of support they need to regain control, make decisions based on their priorities, and heal.

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CHAPTER 7

MULTIDISCIPLINARY COLLABORATION AND SYSTEMS

Introduction

All Rape Crisis Centers (RCCs) in California participate with one or more collaborations or multidisciplinary teams (MDTs) that serve the purpose of providing comprehensive support to survivors across the many systems that they will encounter in the aftermath of sexual assault. The MDT consists of representatives from different areas of expertise that serve sexual assault survivors including, but not limited to, law enforcement, district attorneys, medical personnel, campus representatives, military representatives, and advocates like yourself.

Sexual Assault Response Teams (SARTs) and Coordinated Community Response Teams (CCRTs) are types of multidisciplinary teams whose goal is to provide the survivor with a coordinated approach to service delivery so the survivor gains the best outcome from each part of the system that they may travel through. Success of the team depends upon an appropriate exchange of information and clear understanding of the roles and responsibilities of each team member. As an advocate, it is critical that you understand your role and the limitations of your role.

History and Goals of Collaboration

Collaboration – the cooperation and coordination between systems for better outcomes and reduced trauma – began in the 1970s. In subsequent decades, our field began to provide joint services with law enforcement and medical personnel to minimize the number of times survivors needed to discuss the details of their sexual assault. Also, community-based clinics were established to specialize in providing evidentiary exams and give survivors a more private setting than the hospital. In the past twenty years, core standards for the various professions working with survivors,

including the Sexual Assault Service Standards that guide the RCC's core services, were created (see Chapter 11). Though there is much variety in how RCCs and their SARTs implement services, they all must follow the minimum standards established by their respective governing bodies. Over time these collaborations turned into what we now know as citywide or countywide SARTs in the larger community and CCRTs found at educational institutions.

Working on an MDT allows representatives to get to know one another as well as to learn the goals, limitations, and role of each provider who touches the cases of sexual assault survivors. Over the years, these teams together have proven to be effective not only in streamlining services to individual survivors, but also in creating systemic change that has resulted in increased access for survivors and increased accountability of the systems in upholding survivors' rights.

MDTs also have multiple challenges. Though each member is there in service to survivors, each has a different set of goals and outcomes that they are hoping to achieve in their professional role. For example, law enforcement is focused on collecting evidence and interviewing the survivor about the details of the assault and therefore may ask rapid-fire questions that could be upsetting to the survivor, potentially reinforcing victim-blaming and a sense of shame. The nurse examiner must require that the survivor not eat, drink, or shower in order to preserve evidence on the survivor's body and clothes. As an advocate you will find a balance between explaining the reason for some of these practices and stepping in on the survivor's behalf if they are unwilling or unable to move forward temporarily or permanently.

As an advocate, it is important to remain mindful of the historical meaning of various service systems for you and for the survivor you represent. While each

of these entities has a commitment to survivors, their histories may contain elements of the more widespread history of oppression and discrimination in the United States, which remains present today to varying degrees. You may see this in the form of implicit or unconscious bias. For example, there is a shameful history of overt racism in the undertreatment of pain among black patients, and this persists to the present day. Researchers conducted a study with contemporary medical students that “demonstrates that beliefs about biological differences between blacks and whites—beliefs dating back to slavery—are associated with the perception that black people feel less pain than do white people and with inadequate treatment recommendations for black patients’ pain” (Hoffman, Trawalter, Axt, & Oliver, 2016). Similarly, a recent study in Oregon showed that black patients receiving emergency medical services were 40 percent less likely to be given pain medication than white patients with similar conditions, and Asian patients were 36 percent less likely to be treated for pain (Kennel, 2018). These are examples of serious disparities in how a vital system perceives and treats people because of race.

While an individual service provider may not have personally oppressed or discriminated against someone, the system they represent often has. Professionals bring their assumptions and preconceived prejudices, as well as their good intentions and present work, into the collaboration and into the room with the survivor. This distorted perception may show up as dated policies, false assumptions about marginalized people, and/or a bias towards a white Christian male experience as being the aspirational standard. For example, law enforcement may not make an arrest or prosecutors may not proceed with a case because assumptions about the survivor, potential defendant/person who sexually assaulted, or circumstances of the assault lead them to think the case will be “unwinnable.”

Counselor/advocates will find in some cases that their most valuable role in a multidisciplinary group is to correct misperceptions about sexual assault and survivors’ reactions. In fact, they may need to intervene, provide factual information, and suggest new approaches to reduce systemic injustice.

Focusing on being trauma-informed (addressing the harmful impact) and survivor-centered (asserting the strength and resilience of the survivor) can provide an additional opportunity for advocacy within the systems themselves. As you work with survivors within these systems, you are modeling a language and approach that can be emulated by other individuals from other systems and organizations. MDTs also provide opportunities to make change to these larger systems from within. Making small incremental changes in policies and procedures can have a big impact over time. For example, advocating for an additional option under “gender” on official forms creates more inclusion for transgender survivors or advocating for a ramp at the exam center improves accessibility for those in wheelchairs or with mobility challenges. These small changes can also be the catalyst for larger discussions of the needs of survivors.

Q: What is the history of some of the common systems counselor/advocates work within and how might that affect the way survivors view them?

Clarifying Your Role as an Advocate

How do you as an RCC counselor/advocate represent the issues of the survivor within the multidisciplinary team framework? It is important to remain mindful that your advocacy must be survivor-centered at all times and you should always respect and maintain the survivor’s confidentiality rights. Your role is solely focused on supporting the survivor by validating them, believing them, and helping them to navigate complex systems. You are not an extension of law enforcement, the campus, military, or other providers, and this difference makes your work with the survivor special and vital.

“Staying in your lane,” otherwise known as respecting boundaries, is a critical concept for you to understand in your role as advocate for two primary reasons: establishing and maintaining good boundaries is in the best interest of the survivor and in the best interest of the advocate.

Clearly understanding your role and sticking to it can be challenging, especially when dealing with the levels of influence that big systems can impart. The advocate's role is to maintain a focus on the survivor's agenda to counterbalance the various agendas of the big systems. For example, the prosecutor's office, in an effort to build their case, might push police officers to request additional interviews that may be retraumatizing to the survivor. While the prosecutor and law enforcement may be sympathetic to the survivor, their goals may be different from the survivor's goals. An advocate's role is to help the survivor understand these different agendas and support them in making an educated choice according to their own wishes about proceeding with the case.

Within the multidisciplinary collaborative framework, there are three main roles for advocates: RCC, System, and Victim Witness. This manual trains you to become an RCC advocate. There are other types of advocacy within the collaboration framework that you need to understand because their roles and functions may overlap and/or align with yours. You will most likely be working with other types of advocates in your role of RCC counselor/advocate, so it is important that you understand what other advocates do.

RCC COUNSELOR/ADVOCATE

You serve a vital role as an RCC counselor/advocate (sometimes called a "community-based advocate") because you are the only one who is there solely to support the survivor. You provide emotional support, validation, resources, and referrals that the survivor needs to get to safety and heal, help navigate complex systems, and even assist in helping them to communicate with family members or significant others. You may likely be the only member of the collaboration not collecting evidence or investigating.

It is also important to understand the distinction between a "support person" and counselor/advocate, as a survivor has the right to have one or both present during a medical exam or investigative interview. A support person is someone a survivor chooses to be with them including a friend, family member, or significant other. Counselor/advocate,

on the other hand, have privileged communication with the survivor and must keep communications with the survivor confidential.

RCC counselor/advocate differ from system advocates in that they work with survivors who choose not to participate in the criminal justice system, as well as those that do. You may assist a survivor who has never been involved in a criminal case, an individual whose criminal case has concluded, or a person who was assaulted a long time ago. Your work may include helping nonoffending parents or caregivers, as well as other friends and family members who are concerned about a sexual assault survivor. RCC counselor/advocate are also often involved in community education and prevention efforts.

SYSTEM ADVOCATE

This advocate has a specific expertise within a single system. They understand the complex working of their system and they act as a liaison on behalf of the survivor for system personnel. For example, a military advocate understands the complex military system and has professional relationships with military personnel to advocate for the survivor. This advocate may have confidential communication with the survivor but most often does not have privileged communication. Other examples of system advocates would be advocates employed by police departments, prosecutors' offices, and corrections departments.

VICTIM WITNESS ADVOCATE

This is the most specialized and narrow of the advocate roles. A victim witness advocate helps guide the survivor through the criminal justice system and apply for financial compensation to receive compensation if they chose to report. The victim witness advocate does not have privileged communication with the survivor. As with other system advocates, this type of advocacy is limited to the time of an active case in the criminal justice process.

RESOURCE

Breaking Barriers: The Role of Community-Based and System-Based Victim Advocates.
End Violence Against Women International.
<https://evawintl.org/courses/evawi-13-breaking-barriers-the-role-of-community-based-and-system-based-victim-advocates-2/>

Community Partners and Resources

Boundary issues can develop when working with members of the multidisciplinary team. It is important to preserve the survivor-centered stance, the stance that is the basis for the empowerment model. You are following and supporting the survivor's lead and prioritizing their needs ahead of the desires and expectations of any multidisciplinary team members. For example, do not assist the forensic medical examiner with their duties, no matter how inconsequential they may seem. Helping to fill out a form or hold a ruler for photos is inappropriate. Helping law enforcement question a survivor or providing translation services can cause role confusion for the survivor and put the client confidentiality privilege in jeopardy.

Similar issues to the ones discussed in the Referral section of this manual apply here. As an advocate you are encouraged to seek out and maintain good relationships with a variety of community partners. Building solid working relationships by participating in the collaborative meetings is a way to connect with staff from other agencies. It is also a means to gain greater knowledge about their programs and how they can support survivors. Also, keep in mind that membership within the collaborative is an internal system change opportunity to bring more diversity to the process. Be mindful of issues of diversity and representation by strategically advocating for additional community partners to be included within the multidisciplinary team.

You will be based out of the RCC. Most often you will connect with the survivor during the SART medical examination and/or on the phone during a hotline call. In many cases, the advocate follows individual survivors throughout the process, from the examination room and eventually into the criminal justice system if they chose to report, providing support and referrals along the way that help survivors stabilize their lives. Based upon staffing patterns, organizational structure, and policy, RCCs may need to use different advocates to work with a survivor at different steps in the process. For example, if the survivor goes to court another advocate may take over the support of a particular survivor.

Q: How is it helpful to survivors when you set boundaries?

Q: How is it helpful to you personally when you set boundaries?

Q: What challenges might come up with collaborative partners when setting boundaries?

Privileged Communication with Collaborators

A survivor's communications with an RCC sexual assault counselor or a domestic violence counselor are confidential and protected under the evidence and penal codes (confidential and privileged communications). When you work with system partners to help a specific survivor, and the survivor wishes you to communicate with that person, you will of course need to have a written release of information signed by the survivor. When you participate on a multidisciplinary team, your role is not to provide information about specific survivors; it is to help other members of the team understand the dynamics of sexual assault, the general concerns of survivors, and the effects of trauma on survivors' needs and behaviors.

Working with Specific Systems: Medical, Law Enforcement, Prosecutors

The medical, law enforcement, and prosecutorial systems all have distinct roles to play within the sexual assault response system. These different and complex roles impact the survivor in a visceral way: their bodies are examined, their memories challenged, and the merits of their case judged by others. The survivor's assault moves beyond their own personal experience and becomes an issue for the state.

The role of medical personnel is to assess the injuries of the survivor, provide treatment, and collect evidence. This element of the multidisciplinary response can be the most invasive and if not handled properly, can retraumatize the survivor.

Law enforcement's initial responsibilities involve processing the crime scene and addressing the safety needs of the survivor. Law enforcement manages the investigative process, gathering facts to provide to the prosecutor. They are responsible for requesting the forensic exam and gathering all relevant evidence, including interviews with victims, suspects, and witnesses. If this phase of the investigation is not handled properly, the survivor can feel as though they were simply the "place" where the crime occurred, which is dehumanizing and demoralizing.

The prosecutor determines if charges should be filed, based upon the facts gathered by law enforcement and the medical evidentiary exam, which may include an interview with the survivor early in the fact-gathering process. The prosecutor handles the criminal proceedings including the preliminary hearings, plea bargains, trials, and sentencing if the case proceeds. Remember, only a small percentage of sexual assault cases result in criminal charges, fewer go to trial, and fewer still result in people who sexually assault being found guilty and receiving sentencing. The experience of participating in the medical and criminal justice process can be empowering and disempowering for survivors.

Your role as an advocate is to remain focused on survivors' needs, prepare them, and help them to gather and maintain as much agency as the situation and the circumstances allow. Your support in explaining the different roles within these systems, talking about what to expect during the evidentiary exam and investigative interviews, and describing reasonable expectations about timelines and outcomes will help the survivor make informed decisions. As a counselor/advocate, you will help the survivor understand and navigate this confusing and challenging process with information and tools to put them back in control in the areas that they can have control over.

Military

The Department of Defense addresses sexual violence through the Joint Task Force for Sexual Assault Prevention and Response which was created in 2005. This was followed in 2011 by additional accountability measures to submit an annual report to Congress, which includes the number of incidents, reporting rates, and the military's response to sexual violence (Sexual Assault Prevention and Response Office, n.d.). A 2014 study estimated that 2.1% of men and 14.7% of women had experienced sexual assault since joining the military, with 65% of the assaults taking place at a military installation or ship and 49% occurring while on duty/during work hours (Morral, Gore, & Schell, 2015). The same study by Rand Corporation also found that 22 percent of women and 7 percent of men experienced sexual harassment in the last year.

Military culture and structure may present some unique obstacles for survivors. In many cases, military personnel live on base and their personal and family life is interwoven with their work life. No matter where they live, there is usually less separation of private life and work for military personnel and civilian employees than there is in the civilian world. For example, personal health information and even – under certain circumstances – mental health information may be disclosed to military commanders (DHA Privacy and Civil Liberties Office, 2015). Survivors are often reluctant to come forward because of privacy concerns and worry about potential harm to their military careers.

To address some of these issues, the military has developed the option of two types of reporting of sexual assault: restricted and unrestricted. In the case of a restricted report the survivor can remain anonymous and receive confidential support counseling, advocacy, and legal counsel. Restricted reports do not result in an investigation of the assault or accountability of the person who sexually assaulted them. An unrestricted report triggers an investigation through the chain of command as well as access to all support services and options for protective orders and emergency transfers. In the military, one's commanding officer has a level of concentrated power where their judgement of an individual situation, including a sexual assault, gives them independent decision-making power over the investigation and/or punitive results of a reported sexual assault. Survivors may fear reporting in order to avoid damaging their status in the eyes of the commander as well as their peers by being labeled, blamed, viewed as weak, or seen as a liability because they are coping with trauma.

Though the military has made improvements through changes to procedures such as the reporting described above, survivors may fear re-victimization, social stigma in a male-centered environment, or retaliation. In fact, "52 percent of women who officially reported sexual assaults perceived some form of professional or, more often, social retaliation..." (Morrall, Gore, & Schell, 2015, p. 93). Military survivors have reported receiving disciplinary action for their own actions at the time of the assault (such as drinking or being in an unauthorized location), called "collateral misconduct," when they have reported sexual assault to their command structure. A survivor's report may also have a negative effect on potential training opportunities, choice deployment options, and/or future advancement which affects their potential income and retirement opportunities. In 2017, the Department of Defense enacted special reporting and accountability procedures to prevent and respond to incidences of retaliation.

All branches of the military have made systemic changes to respond more effectively to sexual assault, striving to support survivors and hold people who use sexual violence more accountable. There

is a specialized MDT called the Sexual Assault Prevention and Response (SAPR) team that the military has created to provide medical care, counseling, advocacy, and support in navigating the Uniform Code of Military Justice, which is the governing law in the military. The SAPR team's purpose is to:

- educate service members to prevent sexual assault,
- provide support for survivors and their families,
- investigate sexual assaults fully and in a timely manner, and
- assess the military's progress toward reducing sexual assault.

A military survivor who makes a restricted or unrestricted report within the military system is assigned a SAPR advocate. This advocate:

- provides expertise on sexual assault in the military
- connects the survivor to military support services including counseling, medical, and legal resources
- provides crisis intervention and emotional support
- maintains communication with military legal system and the survivor's chain of command
- coordinates with civilian services including the RCC as requested by the survivor

Despite these services and the separate legal system, active duty military personnel or reservists may choose to access services outside of the military system either to remain confidential or because they are not available through military services. As an advocate you may work with a military survivor to connect them to services provided at your RCC or in the community. A military survivor may or may not choose to disclose this to their SAPR Advocate. If they do, you will work in collaboration with the SAPR Advocate in support of the survivor. Remember that there is very little confidentiality in the military, so it is important to be very clear about what information the survivor is comfortable sharing with the SAPR Advocate.

Support for veterans who have experienced Military Sexual Trauma (MST) may also be provided by the Veterans Administration (VA), and advocates who work with MST survivors will want to learn about VA resources and support for treatment and disability compensation.

RESOURCES

Sexual Assault Prevention and Response Fact Sheet,
Department of Defense
http://www.sapr.mil/public/docs/press/SAPROOverviewSlickSheet_20160725.pdf

This is an overview of the SAPR Office. For more information, check out www.sapr.mil

VA Services for Military Sexual Trauma
<https://www.va.gov/health-care/health-needs-conditions/military-sexual-trauma/>

There are many risk factors that reflect the challenges and new opportunities of college life that increase sexual assault on campuses including, but not limited to:

- adjusting to new surroundings/away from family
- isolation (especially prevalent for exchange/international students)
- exploring personal autonomy and navigating social situations
- potentially being new to relationships
- being a victim of previous abuse
- low self-esteem and depression
- heavy drug or alcohol use and/or binge drinking
- stress due to pressure to perform academically

Sexual violence, alcohol use, and college “hook-up” culture are often correlated as individual risk factors. Larger social factors also contribute to both the incidence, acceptance of, and response to sexual assault on campus. Campuses with large Greek systems, notable athletic programs, and/or strict alcohol policies have shown in studies to have increased incidence of sexual assault according to Moylen and Javorka’s 2018 research review, *Widening the Lens: An Ecological Review of Campus Sexual Assault*. For example:

- Prominent athletic programs and Greek systems may bring significant revenue into the campus which may affect how a university responds to a report of sexual assault by a well-regarded student or sports team.
- Many students feel an expectation to participate high levels of drinking as part of college life; however activities that include alcohol are unregulated and usually off campus at fraternities and house parties, allowing the fraternity or other young people to control the party atmosphere.
- Athletics may reinforce characteristics of toxic masculinity (see Clemens, 2017 for a discussion of this term).

Educational Institutions

Since the beginning of the current century, sexual assault on college campuses has entered the media spotlight. According to a Department of Justice report covering the years 1995 to 2013 (Sinozich & Langton, 2014), while in college 23.1 percent of women; 21 percent of transgender, gender-queer, or nonconforming gender; and 5.4 percent of men experience sexual assault. College students are less likely to report, with 20 percent of students reporting versus 32 percent of nonstudents reporting sexual assault, citing the following reasons:

- 26% believed it was a personal matter
- 20% had a fear of reprisal
- 12% believed it was not important enough
- 10% did not want the person who sexually assaulted them to get in trouble
- 9% believed the police would not or could not do anything to help (Moylan & Javorka, 2018)

Certain groups of students (such as international students and those with disabilities) may be at increased risk of victimization because of social isolation. International students, along with undocumented students, may be afraid to report sexual assault for fear of jeopardizing their immigration status.

In addition to state and federal laws pertaining to sexual assault there are additional legal and regulatory statutes specific to educational institutions. On the condition of receiving state funds, California law requires all college campuses to adopt protocols and procedures to respond to sexual assault, domestic violence, and stalking. In addition, campuses must adhere to requirements set forth in Title IX and the Clery Act.

Title IX is a federal civil (noncriminal) law. Title IX is federal legislation that was a follow-up to the Civil Rights Act of 1964. This legislation is often mistaken to be only a sports-related law. While it did improve opportunities for female athletes at federally funded colleges and universities, it is primarily a civil rights law that includes sex as a protected class. All schools receiving federal funding (elementary through university) must comply with Title IX requirements which protect against discrimination based on sex that creates a hostile environment, including sexual harassment and assault. Schools must take steps to prevent sexual assault, have a process in place to respond immediately to discrimination cases, have a campus adjudication process that includes timely investigation, and have a Title IX Coordinator who ensures compliance with all Title IX requirements. Title IX Coordinators may also designate confidential persons that survivors can go to for confidential support.

The Clery Act is a regulatory act requiring all schools participating in the federal financial aid program to provide an annual report on crime statistics on campus, post timely warnings about potential danger on campus, investigate all crimes on campus, and receive training on sexual assault, domestic violence, and stalking. Jeanne Clery was raped and murdered on campus in 1986. Her parents sued the university, saying the campus had not been properly secured and that they had not

been properly informed of crime on campus. This led to legislation in 1990 that required colleges and universities to disclose crime statistics and security policies (Clery Center, 2019).

Campuses may have a CCRT that is an MDT with representatives from multiple areas of campus life, including academics, athletics, Greek life, student health, student counseling, Title IX Coordinator, administration, campus sexual assault services (if applicable), and outside providers such as the district attorney's office and local RCC or domestic violence organization. This team comes together to plan sexual assault prevention and awareness events, review and revise related policy and procedures including investigative and sexual offense policies, and to ensure that sexual assault, domestic violence, and stalking are addressed appropriately on campus.

There are limits to confidentiality on campuses. Many staff are required to report sexual assault regardless of the wishes of the survivor and regardless of whether the survivor wishes to report to the police. This creates barriers to survivors receiving support services on campus if they prefer confidential services. There are some exceptions to this reporting requirement, including counseling services and those designated by the Title IX coordinator. It is important for campuses to have a formalized partnership with an RCC to give student survivors an option for privileged communication, which is more protected under the law than confidential reporting because the court must have a compelling reason to subpoena RCC communication according to the penal and evidence codes that protect communication between a survivor and RCC (Chapters 10 and 11).

A campus sexual assault and prevention program can be affiliated with a rape crisis center but cannot become one itself. The campus advocate has important expertise on navigating services on campus, Title IX, the Clery Act, and the campus adjudication system, but they have limits to confidentiality and potentially limited services on campus. Therefore, it is important for campuses and RCC advocates to work together on behalf of campus survivors to ensure that they receive privileged communication

with a support person, have support navigating the criminal justice system, and have access to both on- and off-campus services.

RESOURCE

LEGAL INTERSECTIONS: An Outline of Federal Laws, Guidelines, and California State Law on Campus Sexual Assault, California Coalition Against Sexual Assault
<http://www.valor.us/publications/legal-intersections-an-outline-of-federal-laws-guidelines-and-california-state-law-on-campus-sexual-assault/>

Prisons/Jails/Detention Facilities

The commonly known detention centers are prisons and jails, but they also include fire camps, lock-ups, juvenile facilities, and immigration detention facilities. According to the Prison Policy Initiative (Wagner & Sawyer, 2018), “the American criminal justice system holds almost 2.3 million people in 1,719 state prisons, 102 federal prisons, 1,852 juvenile correctional facilities, 3,163 local jails, and 80 Indian Country jails as well as in military prisons, immigration detention facilities, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories.” Minorities and low-income people are disproportionality incarcerated.

A 2011 federal survey reported that 4% of people incarcerated in state prisons and 3.2% of people incarcerated in county and local jails indicated they had experienced sexual abuse in a 12-month period. Juveniles experienced a higher rate of 9.5% (Beck, Berzofsky, Caspar, & Krebs, 2013). This includes inmate-on-inmate as well as staff-on-inmate sexual violence. Public awareness about sexual assault within prisons, jails, and detention facilities has risen along with a call for the Department of Justice to take action to reduce sexual assault in detention centers, which resulted in the Prison Rape Elimination Act (PREA) in 2003.

Just as in the community at large, power and control is the primary dynamic of sexual violence within detention centers, but unlike the larger community there are little or no resources available for detained survivors. When the rules, norms, and

culture of a system cause harm to individuals, this is called structural violence. Structural violence in detention centers puts those who are incarcerated at risk of sexual assault and perpetuates sexual assault because of lack of reporting, accountability for those who sexually assault, and support services. Structural violence is played out in multiple ways in detention centers by people who sexually assault (both staff and other persons who are incarcerated) and the prison system itself. The following are examples:

- **CODE OF SILENCE** – This code speaks to persons who are incarcerated and correctional officers not telling on one another, or “snitching,” in order to protect themselves and/or their group. This is particularly harmful for people who are incarcerated who often receive no protection after reporting sexual assault, and often receive retaliation in the form of continued violence.
- **NORMALIZED VIOLENCE** – When violence is seen as the norm, it is dismissed and trivialized.
- **PREJUDICE** – Prejudice against one individual or group often leads to victim-blaming or dismissing violence against them.
- **RETALIATION** – The threat of retaliation using violence, taking away earned privileges, or withholding basic needs keeps survivors from reporting and seeking support.
- **ISOLATION** – By the nature of being detained, these survivors are isolated from the community at large, including support people and services.

Individuals who are incarcerated and detained have a right to serve their sentences without fear of sexual harassment, rape, sexual exploitation, and trafficking. It is important that survivors in detention receive support and access to the services that RCCs provide.

In 2012, the most recent standards issued for PREA require that detention centers allow access to emotional support services, crisis lines, hospital accompaniment, in-person counseling, and written correspondence (U.S. Department of Justice, 2012).

Entering detention centers to provide services is tricky and they are often located in remote areas, making in-person services difficult. Phone calls and letters are good options for communicating but are generally not confidential due to the detained status of the survivor. RCCs may have special agreements and/or funding to serve detention centers and may provide confidential advocacy, in-person and group counseling, and staff training on site. RCCs can provide a variety of support services for survivors within detention centers services, including hotline calls, SART exam accompaniment, letter writing, and educating detention center staff.

Despite the lack of access to outside resources it is important to use a survivor-centered empowerment model in order to help the survivor regain control over any decisions and action steps whenever possible. Be clear about timelines and expectations and always be consistent. It is okay to not have all the answers and there may not be an extensive list of referrals and options for survivors in detention, but your time listening, validating survivors' experiences, and advocating on their behalf makes a difference to their ability to heal.

Q: Which of these systems are you most looking forward to working with? Why?

Q: Which of these systems are you most anxious or uncomfortable working with? Why?

RESOURCE

The National PREA Resource Center offers training and technical assistance, including live and archived webinars, individualized technical assistance for agencies, and grants for demonstration sites.

<https://www.prearesourcecenter.org/training-and-technical-assistance>

Summary

This chapter highlighted multidisciplinary teams from three large systems—the military, educational institutions, and detention centers—as well as community-based multidisciplinary groups. These teams leverage one another's expertise in the different systems that survivors may need to navigate. However, there are many types of collaborations, MDTs, and systems in which advocates participate. Your role as an advocate remains the same regardless of the collaboration or system in which you are working. You are there in support of the survivor and maintain privileged and confidential communication as a counselor/advocate. By participating in these groups, you also have the opportunity to learn more about available services and to offer the unique perspective of a community-based advocate.

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CHAPTER 8

MEDICAL

Introduction

Whether or not to seek medical care is a big decision for many survivors. It can be fraught with worry and concern as well as fear about who will find out or how they will pay for care. Many survivors are not aware of the rights they have under federal and state law nor are they aware of trained specialists who can help them in a medical setting. Seeking care is an extremely personal decision and can be affected by past experiences with medical personnel, access to health insurance, a person's culture and identity, and concerns about being judged or blamed. As an advocate working with a survivor on this decision, talk with them about their options and the pros and cons of seeking medical care quickly, especially if the sexual assault just occurred. This chapter will review some of the most important considerations in understanding the medical process for a sexual assault survivor, so you can better explain what they can expect.

Rights of the Survivor

When advising a survivor on the medical process and helping them navigate their decision about whether to seek medical care, it is important to share with them the rights available to them. According to SAFEta.org (2011), "The sexual assault medical forensic exam is an examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients." In addition to making sure the survivor has appropriate treatment, the medical professional collects and preserves evidence that can be used in court.

- Survivors have the right to access a forensic medical exam at no cost to them if they wish to preserve evidence for a sexual assault. They are not obligated to work with law enforcement in order to receive the exam at no cost.
- Survivors have the right to consent or not consent to the collection of evidence.
- Survivors have the right to confidentiality. A survivor's medical records can only be released with their express consent.
- During a forensic medical exam or a physical examination, the survivor has the right to request the presence of a sexual assault counselor (as defined in Section 1035.2 of the California Evidence Code), and a support person of the survivor's choosing. "Sexual assault counselor" in this context means you, the advocate. This right must be provided to the survivor in writing or verbally before the forensic medical exam begins.
- Survivors have the right to be notified in writing 60 days ahead of when their sexual assault evidence kit is due to be destroyed.

CALIFORNIA LAWS RELATED TO SURVIVOR RIGHTS

CALIFORNIA PENAL CODE 264.2 (B) (1)	The hospital may notify the local rape counseling center, when the victim of specified sex crimes is presented to the hospital for the medical or evidentiary physical examination, upon approval by the victim	It should be noted, however, the requirement to contact the local rape crisis counseling center rests specifically with law enforcement.
	The law enforcement officer, or law enforcement agency, shall immediately notify the rape victim counseling center, whenever a victim of specified sex crimes is transported to a hospital or site for forensic medical evidentiary or physical examination.	Upon encountering the victim of a sex crime, law enforcement must immediately contact the local rape crisis center so that they can provide a Counselor/Advocate for the survivor.
CALIFORNIA PENAL CODE 264.2 (B) (2)	Prior to the commencement of any initial medical evidentiary or physical examination, a victim shall be notified orally or in writing by a medical provider that the victim has the right to have present a sexual assault counselor and at least one other support person of the victim's choosing.	The victim must be apprised of their right to have a Counselor/Advocate present before any medical exams take place.
CALIFORNIA PENAL CODE 264.2 (B) (3)	The hospital may verify with the law enforcement officer, or law enforcement agency, whether the local rape victim counseling center has been notified, upon approval of the victim.	Hospital personnel may check with law enforcement to make sure that proper notification of the rape crisis center has taken place.
CALIFORNIA PENAL CODE 264.2 (B) (4)	A support person may be excluded from a medical evidentiary or physical examination if the medical provider or law enforcement officer determines that the presence of the individual is detrimental for the purpose of the examination.	The medical provider or law enforcement can exclude a support person from the examinations if they determine the support person will be a detriment to the exam. Counselor/advocates are not support persons for purposes of this Code.

CALIFORNIA PENAL CODE SECTION 11160	Hospitals and health practitioners are required to report to the local law enforcement agency all cases in which medical care is sought where injuries have been inflicted upon any person in violation of any state penal law. The report must be made immediately by telephone and in writing within two working days of receiving the information. It must state the name of the injured person, if known, the current whereabouts, the character and extent of injuries, and the identity of the person who sexually assaulted the victim, if known.	Medical professionals are required to report to law enforcement any injuries that have been inflicted in violation of the law (as opposed to accidents, etc.)
CALIFORNIA PENAL CODE SECTION 11162	The failure of a hospital or health practitioner to report cases where injuries have been inflicted in violation of a state penal law is punishable by a fine not to exceed \$1000, by imprisonment in the county jail for a period not to exceed six months, or both.	Crime-related injuries are required to be reported by healthcare providers.

Best Practices and Cultural Considerations Related to Medical Procedures

Seeking medical care after a sexual assault can be complicated. There are many factors affecting a survivor's decision to seek help. Survivors experience sexual assault intersectionally; that is, systems respond to them based on their multiple identities. They may experience oppressive behavior based on their race and gender, or their religion, and nationality, for example. Hospitals are big systems and may not easily flex to be supportive of a survivor's specific cultural or identity needs. Your role as the advocate is to support the survivor in getting their needs met and ensuring the survivor's sense of self is not further violated by the healthcare system.

For example, a trans man may not feel comfortable disrobing with a medical practitioner when they do not know the medical practitioner's knowledge, skill or understanding of the trans community. They

may have already been misgendered (referred to in a way that doesn't reflect their gender identity) by law enforcement or other providers as they find their way to disclosing their assault. Or perhaps a woman may not be able to work with a male doctor based on her religious and cultural practices. In this case, it will be imperative to ensure the survivor works with a woman medical provider.

Other considerations include individuals whose religions prohibit certain medical procedures like blood transfusions, a person's level of education and/or reading ability, or a person's immigration status. Immigrant survivors of sexual assault who are undocumented may be fearful of seeking medical care because of what this may mean for their immigration status. They may be especially fearful of talking with law enforcement because of these concerns. Additionally, many survivors may struggle to find culturally responsive care outside of their community. Depending on the size of a survivor's community, it is possible they may not want to seek care or support from within

their community because of a lack of anonymity. You cannot assume a survivor's family, friends, or larger community will be supportive of them in the aftermath of a sexual assault.

While it may not be possible for you to know every cultural or identity nuance, it is your responsibility to educate yourself as best you can. You should not rely on the survivor to educate you about their needs, particularly when they are in crisis. The more you know and understand, the more responsive you can be with issues arising in the medical setting. Do not make assumptions about a person's needs. It is important to be aware that the person you are supporting may have had a very different experience of the medical community and law enforcement than you, and it is their experience that shapes their willingness to engage further. Take your cues from survivors about what their specific needs are. Never assume you know.

Forensic Medical Examination (Full and Abbreviated) and Evidence Collection

The forensic medical exam is an important component of any criminal investigation but can be both a frightening and validating experience for survivors. It is sometimes referred to as a "rape kit" or "sexual assault kit" but its formal name in California is the Forensic Medical Exam. Forensic medical exams, as described above, are performed by trained medical professionals who understand the dynamics of sexual assault and the effects of trauma on memory and the body. The components of a forensic medical exam are defined in California Penal Code Section 13823.7. Elements include swabbing the mouth and any part of the body that came in contact with the person who sexually assaulted them, head and pubic hair combing/collection, photographic documentation of injuries, and a pelvic and/or rectal exam. The exam can last anywhere from a couple of hours to several hours depending on the severity of the assault, if injuries are present, or a survivor's capacity to consent to care.

Making the choice to speak with a medical provider about an assault experience is scary for survivors; therefore, having access to medical staff who are

committed to supporting sexual assault survivors is crucial in their healing journey. The best time to perform a forensic medical exam is within five days of a sexual assault (120 hours). This is known as an acute exam. Nonacute forensic medical exams may be performed outside of this window, but it is important to explain to survivors how evidence may have deteriorated beyond this time frame. The possible trauma of going through an invasive medical examination may outweigh the likelihood of finding any DNA evidence. However, the survivor ultimately gets to decide what they wish to do. Many hospitals will perform forensic medical exams outside of the five-day window. Best practice is to begin the process of the forensic medical exam within one hour of the survivor arriving at the medical facility.

Sexual Assault Nurse Examiners/Sexual Assault Forensic Examiners

Medical professionals trained specifically to perform forensic medical exams with sexual assault survivors are called Sexual Assault Nurse Examiners (SANE) or Sexual Assault Forensic Examiners (SAFE). The only difference between the two is that the SANE is a registered nurse or nurse practitioner who has had additional training and certification to conduct sexual assault exams, while SAFE is a broader term that can include other medical practitioners such as physicians or physician assistants, as well as nurses, who have had such training. Forensic Nurse Examiners (FNE) are nurses who have been specially trained to collect forensic evidence in a variety of crimes, including but not limited to sexual assault (U.S. Department of Justice, 2013, p. 59).

California law (Penal Code section 13823.9) requires each county designate an acute care medical facility to provide forensic medical exams to adult and child survivors of sexual assault. It also requires counties with more than 100,000 residents to ensure that a trained medical professional in sexual assault medical examinations is either present or on call in a county hospital or contracting hospital (California Clinical Forensic Medical Training Center, 2016).

While any medical professional can follow the directions on the sexual assault forensic exam kit and perform the exam, you really want a SANE, SAFE, or FNE performing the exam. They are more knowledgeable about all aspects of sexual assault and survivor responses and are better able to provide understanding, compassionate, and educated care to survivors. A SANE/SAFE has specific training, but they are also medical providers, and their concern is to meet the medical needs of the patient in addition to any evidence collection. If any injuries are found, they are treated. A full history is taken, medications are provided as necessary, and resources are given to support a survivor in their healing. In addition, because of their specialized training, these professionals are experts in the proper collection and preservation of evidence, which can be crucial in convicting persons who sexually assault if survivors choose to participate in the criminal justice process.

Pathways to Care

There are many ways a survivor might find their way to requesting a forensic medical exam. You might be involved in the process from the very beginning or called to join a survivor at the hospital.

1. If a survivor arrives at a hospital without law enforcement and identifies they are a survivor of sexual assault, the hospital will notify law enforcement per their mandatory reporting requirements and notify the local rape crisis center and you will be called out to the hospital. The survivor will be medically cleared and connected with a SANE/SAFE to begin the forensic medical exam, assuming they provide their consent.
2. A survivor might be transported to the hospital by law enforcement. State law requires law enforcement to notify the local rape crisis center a survivor is on their way to the hospital for a forensic medical exam. You or another advocate will meet them there. The hospital can also follow up with the law enforcement agency to ensure an advocate has been notified. The survivor will be medically cleared on arrival to the hospital and where possible, the forensic medical exam process will begin within one hour of their arrival.
3. A survivor might be talking with you or another advocate about their options and decide they wish to get a forensic medical exam. You or another advocate will transport the survivor to the hospital per your agency's protocol, and the hospital will call law enforcement once the survivor discloses the reason for their visit. The survivor will be medically cleared on arrival to the hospital and where possible, the forensic medical exam process will begin within one hour of their arrival.

FULL ADULT/ADOLESCENT FORENSIC MEDICAL EXAM

Historically, advocates and law enforcement alike would warn survivors against using the restroom, changing their clothes, douching, eating or drinking. While these behaviors can affect evidence retrieval, a survivor's comfort is paramount. Work with the SANE/SAFE to collect certain evidence first, so a survivor can attend to the activity they want and need to do. For example, a SANE/SAFE can swab a survivor's mouth initially, so the survivor can drink or eat freely if that is what they want to do. Work with the survivor and medical provider to create the best and most comfortable environment for the survivor during this difficult and sometimes humiliating process.

When a survivor opts for a full forensic medical exam, this will involve not only the medical exam and evidence collection but also talking with law enforcement and a criminal investigation. In a full exam, the crime scene will be visited and documented, and the suspect and witnesses will be interviewed. The survivor cannot be charged for the cost of the exam and is eligible for crime victim compensation to cover any associated costs (see below). The law enforcement agency in the jurisdiction where the crime occurred is responsible for paying for and storing as well as sending the kit for analysis. Law enforcement agencies must send evidence kits booked into storage for analysis at a crime lab within 20 days of receipt (Penal Code 680 (b)(7)(A)(i)) and DNA analysis must occur as soon as is practicably possible, but not later than 120 days from receipt (Penal Code 680 (b)(7)(B)(i)).

ABBREVIATED ADULT/ADOLESCENT FORENSIC MEDICAL EXAM

The difference between an Abbreviated Examination and a full forensic medical exam is in the Abbreviated version, only perishable evidence is collected, and the survivor talks very briefly with law enforcement. A full law enforcement investigation is not conducted which means the crime scene is not analyzed, witnesses are not interviewed, and other investigation strategies are not implemented.

The Cal OES 2-924 form was developed for the purpose of documenting and providing guidance on the elements of an Abbreviated Exam for medical professionals. It defines what perishable evidence needs to be documented, collected, preserved, and packaged in the sexual assault evidence kit used by the local law enforcement jurisdiction.

Evidence collected under the Abbreviated Exam option is kept for a minimum of two years by law enforcement at their evidence storage facility and can be destroyed after this time with a 60-day notice given to the survivor per the Sexual Assault Bill of Rights referenced in Chapter 9.

The sexual assault kit will be identified by a law enforcement case number given to the medical provider calling to meet their mandatory reporting requirement. This case number can be given to the survivor in the event they wish to “convert” or “activate” their case to a full report at a later date. They can then call the law enforcement agency where the kit is being stored and make the request. You can help them with this at a later date.

Consent for a Forensic Medical Examination

Every survivor has the right to consent to a forensic medical exam in the aftermath of a sexual assault. Medical practitioners cannot perform the exam without the consent from the survivor. This is really important. The consent form is detailed, and it can be hard for survivors, particularly those experiencing acute trauma, to fully comprehend all the elements of the consent form. Your role as an advocate, in partnership with the SANE/SAFE, is

to assist survivors in understanding what they are consenting to. Survivors can refuse any part of the forensic medical exam, also. If there is something they don’t want, they don’t have to consent to that part of the exam.

On each consent form, there are several items the survivor will be asked to review and acknowledge before providing consent for the exam. On the Abbreviated Exam, Form OES 2-924, there are eight items comprising the informed consent section they will read and initial before providing consent for the exam. Survivors are asked to initial statements explaining:

- They do not have to work with law enforcement to receive the exam per Violence Against Women Act of 2005, 42 U.S.C. § 3796gg-4(d)
- Possible consequences for the case if they delay engagement with law enforcement
- Benefits of engaging with law enforcement at this time
- They do not wish to be interviewed by law enforcement
- They will not be billed for the forensic medical exam
- Law enforcement will store evidence for two years plus a 60-day notice of the kit’s destruction per the Sexual Assault Survivor’s DNA Bill of Rights.
- Medication is available for unwanted pregnancy and sexually transmitted infections (STIs), and
- Material from the exam can be used for training and educational purposes (anonymously).
- On the Full Exam consent form, OES 2-923, there are four areas a survivor provides consent for:
 - Consent for the examination at public expense and release of the forensic medical report to law enforcement authorities;
 - Consent for photographing injuries including the genital area;
 - General consent for a forensic medical examination; and

- Material from the exam can be used for training and educational purposes (anonymously).

MINORS: CONSENT ISSUES

- Minors 12 years of age and older may give consent to the provision of medical care related to the diagnosis or treatment of a sexual assault and the collection of evidence (Fam. Code §§ 6927 and 6928). The reverse is also true; they have the right to refuse consent.
- Minors 12 years of age and older may give consent to the provision of medical care related to the prevention or treatment of pregnancy (Fam. Code § 6925).
- Minors 12 years of age and older may give consent to the provision of medical care related to the diagnosis or treatment of sexually transmitted diseases (Fam. Code § 6926).
- Consent given by a minor is not subject to disaffirmance because of minority (Fam. Code § 6921). This means that a minor's rights cannot be taken away by an adult.
- Family Code section 6500 defines a minor as an individual who is under 18 years of age.

MINORS: NONCONSENT ISSUES

- Nonconsent by minors: Since California law clearly establishes a minor's right to consent, the reverse is also true; they have the right to refuse consent. Questions regarding minors' rights should be directed to the district attorney's office or to hospital counsel.
- Nonconsent by children under age 12: The conventional and collective wisdom of child abuse experts is to never force a sexual abuse forensic medical examination upon a child. This can have the effect of terrorizing the child and rekindling the memories of victimization. It can also create fear of healthcare providers.

The consent forms (Cal OES 2-924 and 2-923) can be found on the California Office of Emergency Services website.

INCAPACITY FOR INFORMED CONSENT

There may be several reasons why a survivor may not be able to give consent at the time of requesting a forensic medical exam. For someone to be deemed capable of giving consent, they must be able to fully understand the nature of the medical issue and the proposed treatment along with any alternatives. For example, if a survivor is intoxicated, they are not able to provide consent to medical care and will need to wait until they have reached a level of sobriety where they can fully understand and legally consent to care. Another example may be when a survivor is unconscious or badly injured and their injuries have incapacitated them. Survivors may also be unable to fully understand due to dementia or developmental disability. A determination of incapacity must be documented. If a survivor is not able to consent at that time, medical providers should refer to their internal protocols about gaining consent from a third party, if applicable.

Payment of Expenses

One of the many barriers to reporting for survivors of sexual assault is the medical costs associated with seeking help. Many survivors may be uninsured or underinsured, or perhaps are covered by the insurance plan of another person that they do not want to confide in, such as parents or a spouse. To address these concerns, the Violence Against Women Act (VAWA) reauthorizations in 2005 and 2013 prohibited survivors from being charged directly or indirectly for the cost of seeking a forensic medical exam in the aftermath of an assault. Indirectly means providers cannot bill a patient's health insurance or MediCal/Medicaid for the cost of the exam. These VAWA provisions also prohibit law enforcement agencies from requiring survivors participate in the criminal justice system as a condition of covering their medical expenses. This is sometimes referred to as "forensic compliance."

RESOURCE

Forensic Compliance Frequently Asked Questions
End Violence Against Women International
<http://www.evawintl.org/Forensic-Compliance/FAQs>

LAW ENFORCEMENT

To comply with Cal Pen Code §13823.95 (Costs for medical examination of sexual assault victims), the law enforcement agency where the crime occurred must treat the medical exam as a local cost and cannot pass the costs onto the survivor. In the case where a survivor is not willing to identify the location of the assault, the law enforcement agency in the jurisdiction where the forensic medical exam was performed will pay for and take custody of the kit.

In the case of an Abbreviated Exam, the law enforcement agency can be reimbursed by submitting a claim to the California Office of Emergency Services (Cal OES) for a maximum of \$300 per Abbreviated exam.

ASSOCIATED COSTS

While VAWA prohibits survivors from being charged for their forensic medical exam, there are often associated costs with seeking medical care in the aftermath of a sexual assault. For example, a survivor may incur an ER visit charge, or if there are injuries, perhaps there will be costs for diagnosis and treatment. The additional costs can be covered by the California Crime Victim Compensation Board, or CalVCB.

VICTIM'S COMPENSATION

The California Victim Compensation Board (CalVCB) has funds available to assist victims of crime with costs incurred as a result of the crime. CalVCB will pay compensation to California residents who experience crime in California and in other states. CalVCB can be used to cover violent crime related expenses, including medical treatment for sexual assault. In general, CalVCB requires survivors report the crime to an authority (such as law enforcement or child protective services) and work with the authority to be eligible for compensation funds.

However, in the case of a survivor who has chosen an Abbreviated Exam per VAWA, they are not technically "cooperating" with law enforcement. CalVCB does acknowledge there may be mitigating circumstances and exceptions to their "cooperation" rule. Some of the factors CalVCB will consider in approving crime victim compensation funds include:

- Staff may use other factors to determine a crime occurred when a crime report is unavailable. CalVCB guidelines (personal communication) for reviewing the preponderance of evidence for sexual assault crimes include, but are not limited to the following:
 - » Law Enforcement report and/or the Law Enforcement Clarification Request Form (formerly known as an In-Lieu of Crime Report) by the investigating officer.
 - » Medical records documenting findings consistent with allegations of sexual assault, including sexually transmitted infections (STI) and pregnancy results.
 - » If medical records are unavailable, staff may use a written or verbal statement from the victim's treating physician, physician's assistant, nurse practitioner, or sexual assault forensic examiner.
 - » Documentation the victim received a sexual assault examination (SAE).
 - » A letter or other written statement from a sexual assault counselor [advocate], as defined in Evidence Code, section 1035.2, stating that the victim is seeking services related to the allegation of sexual assault.
 - » A letter or other written statement from a licensed mental health provider stating that the victim's symptoms or behavior is consistent with sexual assault.
 - » Title IX or other university campus report that demonstrates a preponderance of evidence.
 - » A letter or other written statement from a credible source that the victim disclosed the details of the incident and can corroborate the crime of sexual assault.
 - » A restraining order against the person who sexually assaulted the victim/survivor.

CalVCB acts in accordance with Cal Gov Code § 13956(b)(3) (Eligibility of certain classes of victims; Eligibility of victims of certain crimes), which states that a claim of sexual assault must not be recommended for denial solely because the victim did not report the crime.

The initial statute went into effect January 1, 2016. The amended version went into effect January 1, 2019. As the advocate, you can help a survivor explore these options to minimize the likelihood they will be saddled with large healthcare bills.

CalVCB operates a variety of victim witness centers that can be of assistance is submitting an application to CalVCB.

Survivors' Health Concerns

In addition to the trauma experienced from a sexual assault and its effects on a survivor brain, there are other health concerns that may arise in the aftermath of a sexual assault. As an advocate, it is important you validate these concerns as they arise regardless of whether you perceive them to be big or small. They matter to the survivor and you should work with them to brainstorm solutions and options to address any concerns they have.

SEXUALLY TRANSMITTED INFECTIONS (STIS)

It is not unusual for a sexual assault survivor to be worried about sexual transmitted infections, especially if there was non-consensual penetration. Treatment for possible STIs can occur at the hospital where survivors receive their forensic medical exam and the hospital can also provide referrals to follow-up care. Some prophylaxis (prevention), in particular for HIV, can be very expensive if a person does not have insurance, their insurance doesn't cover it, or they do not wish their insurance to be billed. These are valid concerns you can discuss with a survivor as you talk with them about their needs.

HIV/AIDS

It is important for the survivor to talk with medical personnel if they are concerned they are at risk of contracting HIV. Medical providers can counsel survivors on their risk, talk about the efficacy of current testing, and provide information about resources available for HIV prophylaxis. The State of California also allows survivors to request a sample of the defendant's blood to be tested for HIV once the suspect has been arrested and appeared at a preliminary hearing. Even if charges are not yet filed, a survivor can still make this request. A search warrant needs to be issued to get a sample of blood and a search warrant can be issued for this purpose even if charges are not filed.

PREGNANCY

Many survivors of sexual assault may also worry about pregnancy. It may not be clear to them if their abuser used contraception during the sexual assault. This concern can add a significant worry to a person already struggling with the trauma of what happened to them. California law (Pen. Code, § 13823.11) gives survivors the right to receive post-assault contraception (e.g., morning-after pill or a specific type of intrauterine device (IUD)) upon request. Declining a forensic medical exam or any part of the forensic medical exam does not preclude the survivor from accessing these medications. Treatment for sexually transmitted disease and pregnancy prevention are often provided by the hospital facility.

As an advocate, it is important to educate yourself about emergency contraception, including its availability and how it works. Survivors' concerns about these issues may affect when and whether they choose to seek medical care. In addition, survivors who are experiencing intimate partner sexual violence involving reproductive coercion may wish to have information on contraceptive choices that are less detectable by an abusive and controlling partner.

RESOURCES

Emergency Contraception.

Planned Parenthood

<https://www.plannedparenthood.org/learn/morning-after-pill-emergency-contraception>

Birth Control Methods That Can Be Used Without a Partner's Knowledge (posters in English and Spanish)

Washington Coalition of Sexual Assault Programs & Washington State Coalition Against Domestic Violence

<https://pregnantsurvivors.files.wordpress.com/2013/07/birth-control-posters-in-english-and-spanish.pdf>

MENTAL HEALTH

In addition to concerns about physical health, survivors may also experience mental health concerns in the aftermath of sexual assault. Chapter 1 details the ways trauma can manifest for survivors. Everyone responds differently to sexual assault and it is important for you to validate any responses the survivor has. Make sure you connect the survivor to counseling resources in their community, or outside their community if they are concerned that they will lack anonymity if they seek help close by. Family and friends can be an important support for survivors, but never assume they are close to family or have supportive friends. Gently ask if they can name any support systems in their life and then plan with them how they can access support and ask for what they need. See Chapter 6 for information on the referral process.

RESOURCE

What Advocates Need to Know About Therapy

Washington Coalition of Sexual Assault Programs

<https://www.wcsap.org/resources/publications/special-editions/what-advocates-need-know-about-therapy>

Notification and Agency Response Procedures

- California state law requires law enforcement to notify the rape crisis center immediately when a survivor of sexual assault is on their way to a hospital for a forensic medical exam (Penal Code Section 264.2). Hospitals can follow up with law enforcement with to ensure they have notified the local rape crisis center. If a survivor arrives at the hospital without law enforcement, the hospital will notify the local rape crisis center of their arrival with the survivor's permission and an advocate will be sent to meet the survivor there.
- Survivors of sexual assault have the right to a sexual assault counselor (as defined in Section 1035.2 of the Evidence Code), and other support person to be with them during the exam unless law enforcement or medical providers determine the presence of a support person would harm the case. "Sexual assault counselor" is the legal term for rape crisis center advocate. State law requires a survivor be notified of this right, verbally or in writing, before starting the forensic medical exam.

As part of your training, your specific agency will let you know their own process for responding to a hospital to support a survivor.

Role of the Advocate During Medical/Forensic Examinations

Your role in supporting a survivor through the medical process is really important. However, you must remember you are there to support and advocate for the survivor, not as a member of the medical team. Your role is distinct from that of the SANE/SAFE. They are impartial medical examiners trained to collect evidence and provide patient care. Your role is to advocate and support the survivor, ensuring the survivor's voice is heard, their needs are being met, and their questions are being answered.

If the survivor requests you be present for the forensic medical exam, it is imperative that you not be involved in the examination in any way,

even including holding an item. Your DNA cannot be mixed with the survivor's, as this would create issues for the case down the road, and perhaps pull you needlessly into the case.

An important element of the forensic medical exam process is chain of custody. Chain of custody refers to ensuring the journey the sexual assault evidence kit (or any evidence) makes is documented and all healthcare providers sign off on specialized logs recording the transfer of evidence from one person to another person. You must not become a part of this chain of custody. Hospital and law enforcement agencies have specific protocols established about storing evidence and delivering it to the right person. If a medical provider or law enforcement officer fails to document the chain of custody for a sexual assault evidence kit, it will raise the question of whether or not the evidence was contaminated.

ADVOCATES SHOULD NOT SERVE AS INTERPRETERS

An advocate **SHOULD NOT** provide language interpretation services for a client as this creates a dual role and is inappropriate. Your role is as an advocate and you need to ensure you maintain a boundary around that. If you try to be more than an advocate for a survivor, it can create confusion for them and may jeopardize your statutory privilege (see Chapter 10 for more about the concept of privilege). You are not an extension of the medical profession or law enforcement. Your role is very precise, and you want to be clear about your role with other professionals if they ask you to perform task outside of the advocacy zone.

GENERAL ROLE OF THE RAPE CRISIS CENTER ADVOCATE

Your role is to provide emotional support, information, and advocacy on behalf of the survivor and their family and friends. You are an important member of the team and provide a valuable service. Here are some general guidelines for you to consider when responding to a survivor of sexual assault at a hospital:

- When you are called, let the hospital personnel know your approximate time of arrival so they know roughly when to expect you.
- Offer to talk with the survivor and/or their support people before you leave to answer any immediate questions or concerns they may have.
- When you arrive at the hospital, don't just sit quietly in the waiting room. Identify yourself at the check-in desk or triage station so they know you have arrived and can bring you back to the survivor.
- If possible, speak with the law enforcement officer or medical professional who called you to learn of any special needs the survivor might have. Also, if you do speak with the survivor ahead of your arrival, ask them if they have any specific needs you can help them with before you come by.
- When you arrive and are brought back to meet with the survivor and any support people, introduce yourself and explain your role. They likely will have spoken with quite a few people at this point and may not understand how you are different from a hospital social worker or counselor. Mention your level of confidentiality as this is an important component of the service you provide. It's also helpful to let survivors know that your agency will be there to provide ongoing support after the exam.
- Your primary role while there is to provide emotional support and information to the survivor. You are not interviewing the survivor—that is the law enforcement officer's role if the survivor has consented to an interview.
- Before the forensic medical examination commences, let the survivor know you and/or another support person can be with them during the exam to provide emotional support. If an explanation has not already been provided, explain what the sexual assault forensic medical exam entails, and assist the examiner and officer in answering any questions the victim might have. The SAFE/ SANE examiner most commonly interviews and describes exam procedures to the survivor, so you likely won't have to do this. However, be prepared in case the survivor has questions.

- Do not participate in the exam, touch any of the materials or take anything from the SANE/SAFE if requested. Talk to the survivor about anything they want—sometimes survivors will want to talk about a completely different subject to distract themselves. Other times they may pepper you with questions about the process. Validate their feelings and follow their lead.

Summary

Beyond evidence collection, in many cases, survivors just want to receive medical care to know they are okay. The forensic medical exam is one part of the process, and survivors can consent to all, some, or none of its elements. As an advocate supporting a survivor through this process, remember that evidence collection is not an important element for all survivors. The notion their body is also a crime scene from which evidence should be collected is scary and disconcerting, especially when they might want to forget what happened to them. Being able to clearly and empathetically provide information on the forensic medical exam, and other related medical concerns (such as access to emergency contraception or how medical costs will be covered) will assist survivors in making informed decisions about their next steps.

Throughout your advocacy relationship, central to the support you provide is a recognition all choices rest with the survivor. Do not assume you know what a survivor wants at any given time throughout this process. Support their requests and provide education to help them understand the options they have. Seeking medical care can be scary for any number of reasons. Validate a survivor's concerns, fears, and uncertainty. Know the rights they are afforded through California law, and ensure those rights are met.

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CHAPTER 9

LAW ENFORCEMENT

Introduction

This chapter will cover elements of working with law enforcement, so you can better understand law enforcement's processes and the laws governing their actions. Understanding the role of law enforcement will help you support a survivor who is considering reporting their assault to law enforcement or who is already involved in an investigative process. This chapter will also cover California sexual assault laws, the rights of the survivor during a sexual assault investigation, investigation procedures, local law enforcement agency procedures, and the factors affecting a survivor's decision to get a forensic medical exam.

Since the inception of the penal code in California, rape, sexual battery, and other forms of sexual violence have been investigated as criminal offenses. However, significant changes in handling sexual assault investigations have occurred over the past twenty years. One of the areas that has evolved the most over the last few decades is law enforcement's treatment of survivors and reports of sexual assault in general. Historically, law enforcement has struggled to respond to sexual assault reports in the same manner as other crimes. Often, sexual assault reports were not documented, survivors were treated with suspicion or accused of fabricating their assault, investigations were poorly done, and law enforcement failed to authorize payment for a forensic medical exam. This system led to the disengagement of thousands of survivors from the criminal justice system and thousands of people who sexually assault remaining unaccountable for their behaviors.

The systemically embedded struggle with responding to sexual assault precipitated numerous town halls, summits, research programs, and task forces from outside and within law enforcement. Most notably, the Police Executive Research Forum (PERF) and the International Associations of the Chiefs of Police (IACP) have provided guidance

to law enforcement. In Philadelphia, the discovery of a systematic downgrading of sexual assault cases led to the establishment of annual external case reviews with community agencies (Women's Law Project, 2017). In Detroit and other cities, the discovery of thousands of untested sexual assault evidence kits ("rape kits") led to public outrage and legislation requiring the testing of all kits. Thousands of DNA matches for persons who repeatedly sexually assaults and/or rapes have been identified across the country, people who sexually assault are being arrested, and prosecutions are happening. There are still many challenges in addressing untested evidence in sexual assault cases (Archambault & Lonsway, 2017).

Both PERF and IACP have published documents addressing best practice in sexual assault investigations, the value of participating in sexual assault response teams, and implementing trauma-informed response practices (International Association of Chiefs of Police, 2008; Police Executive Research Forum, 2012; Police Executive Research Forum, 2018). Law enforcement agencies are more regularly training their sex crimes investigators and patrol officers on the effects of trauma and survivor responses to sexual assault, as well as developing standards and requirements for sexual assault investigations. Federal and state laws have shifted to ensure survivors are treated with respect and dignity and their reports are properly investigated in a timely manner.

Developing Strong Relationships with Law Enforcement

As you think about your role as an advocate and where you fit into the sexual assault response pipeline, we encourage you to develop strong partnerships with law enforcement. Avoid falling into an "us versus them" mentality, even though sometimes it can feel as though you are talking at cross-purposes. Working together to deliver a seamless provision of service to a survivor will benefit survivors. Rape

Crisis Centers should partner with law enforcement to better understand their purpose and practice. If you have a clear sense of their role and why they take the steps they do, you can more effectively support and advocate for survivors. In turn, law enforcement can better understand how valuable victim advocacy is for survivors.

The advocate role is distinct in that it is not pushing reporting, prosecuting, or collecting evidence. You are there to support the survivor in their healing, whatever that means for them. Many law enforcement officers and agencies understand the relevance and importance of victim advocates, both inside and outside of law enforcement. If you build sustainable relationships with these officers and agencies, they will be your champions should any conflicts arise. Some examples of how you can work to build sustainable and beneficial relationships with law enforcement include participating in a multidisciplinary committee, such as a sexual assault response team; attending and/or providing cross-training; or seeing if you can do a ride-along with police officers.

While no system is perfect in its handling of sex crimes, and challenges do still exist, it is important to acknowledge law enforcement has vastly improved its response to sexual assault survivors and many agencies across California are doing an excellent job. This context is important to understand, because survivors are often apprehensive about engaging with law enforcement because they feel they may not be believed, may be judged, or will be treated poorly. You must be able to provide an unbiased view of law enforcement's role and process regardless of your own experience, while also understanding the specific concerns a survivor may have. Sometimes it is hard to wade through the messages circulating in our culture about law enforcement, but understanding history and context will assist you in doing so.

At the time of writing this chapter, media coverage of several high-profile sexual assault cases (e.g., Brett Kavanaugh, Bill Cosby, Harvey Weinstein) and the emergence of the MeToo movement are elevating sexual assault into the national spotlight once more. Narratives about false reporting still

permeate our culture, as well as narratives attacking law enforcement's handling of sex crimes. Law enforcement and our larger cultural response to sexual assault has by no means advanced to a place where survivors are believed and blame rests solely with the person who sexually assaults. However, an important avenue to achieving an effective response to survivors is by developing and sustaining meaningful relationships with law enforcement. A strong relationship with your local law enforcement agency will not only assist you in understanding their perspective, but also help you provide clear information to survivors about what they can expect if they choose to make a report.

Rights of the Victim/Survivor

As sexual assault laws have changed and shifted over time, so too have the rights afforded sexual assault survivors. As an advocate, it is critical for you to understand what those rights are, so you can best advise a survivor you are working with. The next section will briefly outline some of the key survivor rights related to sexual assault reporting and investigation in the state of California. Chapters 8 (Medical) and Chapter 10 (Legal and Court) provide additional information about survivors' rights.

SEXUAL ASSAULT SURVIVORS' BILL OF RIGHTS

On October 12, 2017 the Governor of California signed into law what is known as the Sexual Assault Survivors' Bill of Rights (SABOR). This law amends Sections 264.2, 679.04, 680, 13823.11, and 13823.95 of the Penal Code, and adds to Section 680.2 of the Penal Code. The SABOR includes these directives:

- Law enforcement must provide sex assault survivors with a card explaining their rights upon their first interaction.
- Law enforcement is prohibited from discouraging a survivor from receiving a forensic medical exam or physical exam.
- Women must be provided birth control after their assault at no cost to them.

- Law enforcement agencies must preserve all sexual assault evidence kits for unsolved cases for a minimum of 20 years or until a victim who is a minor turns 40 years old.
- Law enforcement, upon receipt of a written request from the survivor, must provide a victim with a copy of the initial crime report.
- A prosecutor, upon receipt of a written request from the survivor, must provide the defendant's information on the sex offender registry.

STATUTE OF LIMITATIONS

While this is not specifically a "right," it is important to know that effective January 1, 2017, California eliminated the criminal statute of limitations on felony sexual assault. The bill passed with bipartisan support, amending Penal Code secs. 799, 801.1, and 803 and allowing "the indefinite criminal prosecution of rape, sodomy, lewd or lascivious acts, continuous sexual abuse of a child, oral copulation, and sexual penetration" (Leyva, 2016, September 28). Survivors may be unsure about whether they can even make a report to law enforcement based on how much time has passed. This law creates a pathway for survivors to seek criminal justice recourse regardless of how long ago they were victimized.

ACCESS TO A FORENSIC MEDICAL EXAM WITHOUT CHOOSING TO ENGAGE WITH LAW ENFORCEMENT

The 2005 reauthorization of the federal Violence Against Women Act (VAWA) created provisions allowing survivors to access a forensic medical exam without requiring their involvement with law enforcement. Survivors no longer need law enforcement permission to receive an exam. Survivors also cannot be charged directly or indirectly for the costs of receiving the forensic exam. In California, the costs shall be charged to the local law enforcement agency in whose jurisdiction the alleged offense was committed (Cal Pen Code § 13823.95). An option was created in California to address these VAWA provisions. It is called an "Abbreviated Exam" and became effective January 1, 2012. (Pen. Code § 13823.95(b).). For more information on this option, see the end of this chapter and Chapter 8.

NOTIFICATION OF RAPE CRISIS CENTER BY LAW ENFORCEMENT AGENCY

The California Penal Code Section 264.2 expressly states a law enforcement officer or agency must notify the local rape crisis center immediately when a victim of sexual assault is on their way to the hospital for a forensic medical exam. It is a requirement that law enforcement must make this call, not a choice, and is not dependent on a survivor's consent. During a forensic medical exam or a physical examination, the victim has the right to request the presence of a sexual assault counselor (as defined in Section 1035.2 of the California Evidence Code) and a support person of the victim's choosing.

THE RIGHT TO AN ADVOCATE IN AN INTERVIEW

California Penal Code, Title 17, section 679.04 states:

- A victim of sexual assault as the result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys.

Prior to the start of an interview, the victim must be notified in writing or orally of their right to an advocate.

CONFIDENTIALITY

One of the most frequently stated concerns expressed by survivors of sexual assault is the loss of confidentiality associated with reporting to law enforcement. While law enforcement encourages survivors to report their sexual assault, so they can hold people who sexually assault accountable and prevent future assaults, a survivor may not be ready to work with law enforcement or talk about their sexual assault experience. There are a number of reasons survivors may not be willing or able to report their experience to law enforcement, and as a sexual assault advocate it is critical you support survivors' reporting decisions and their requests for confidentiality.

Since having a confidential resource is integral to a survivor's healing and decision-making process, the California Evidence Code (secs. 1035-1036.2) provides sexual assault victim advocates with statutory privilege. This privilege covers all your communications with the survivor. What this means is you are prohibited from sharing any part of a survivor's communication with anyone else without their express permission, with certain exceptions. (Note: RCC advocates acting in peer counselor mode are not mandated reporters - see mandated reporting sections in Chapters 3 and 11 for additional information.) Your statutory confidentiality can facilitate greater trust in your advocacy relationship because a survivor can talk freely with you without fear you will call law enforcement without their permission.

If a survivor you are working with decides they would like to file a police report, they are able to request their name and address remain confidential. This does not happen automatically, so it is important you advise your client they must make the request for confidentiality. If they do not make this request, their name and address will become a part of the public record associated with the case. The responding officer taking the report is required to let the survivor know they have the right to confidentiality. When a survivor makes this request, the only individuals who will be able to access the survivor's name and contact information are the prosecutor, the parole officer and public agencies authorized or required by law to receive the information (Penal Code sec. 293).

Victims of sexual offenses have the right to request that their name be withheld and not become part of the public record. Law enforcement is required to inform the victim of this right, but because people experiencing trauma may not understand and remember everything they are told, it is important for you to let survivors know they must actively request this confidentiality if they wish to have their identity protected.

FINANCIAL COMPENSATION

As a counselor/advocate, you will likely support survivors who have concerns about the costs associated with reporting their sexual assault and seeking medical care. Under the State of California Victims of Crime Restitution Program, a victim/survivor "has a right to reimbursement for medical expenses and other costs incurred as a result of the crime" (Fellers, 1999). An important element of this right is that survivors cannot be denied compensation funds solely on the basis of not filing a police report (Cal Gov Code § 13956). Many survivors are extremely apprehensive about talking with law enforcement about their sexual assault, yet they still incur medical and associated costs related to their victimization. In the case where a survivor has made a report with law enforcement, the investigating officer must give written notification to the survivor that they are eligible to apply for this restitution (Penal Code sec. 13835). If the investigating agency fails to notify them of this right, the survivor has the right to bring an action for actual damages (up to \$1,000). In addition, "the survivor has the right to file a civil suit in order to recover civil damages regardless of any action that may be taken in criminal court" (Fellers, 1999).

SEXUAL ASSAULT VICTIMS' DNA BILL OF RIGHTS

The Sexual Assault Victims' DNA Bill of Rights, amended section 680 of the Penal Code, went into effect in 2003 as the first law of its kind nationally (National Center for Victims of Crime, 2012). It was most recently [amended in 2018 \(effective January 1, 2019\)](#). The law was enacted to recognize that DNA (deoxyribonucleic acid) and forensic identification analysis are powerful law enforcement tools for identifying and prosecuting people who rape/sexually assault. It also acknowledged survivors of sexual assault "have a strong interest in the investigation and prosecution of their cases" (Penal Code 680 (b)(3)).

This is an important acknowledgement because it recognizes DNA analysis is not a survivor-less process; survivors are just as invested as law enforcement officials in DNA analysis. The California statute requires law enforcement agencies to submit

any forensic evidence collected to a crime lab within 20 days of booking the evidence into their facility (Penal Code 680 (b)(7)(A)(i)). The crime lab has 120 days to analyze the DNA and submit any DNA profile to the Combined DNA Index System (CODIS) if it meets the federal requirements for submission (Penal Code 680 (b)(7)(B)(i)). The survivor has the right to request an update on the status of their evidence in the testing process (Penal Code 680 (b)(8)(c)(i)). If the evidence is not analyzed within the statutory time frame, a survivor must be notified within six months (Penal Code 680 (b)(8)(c)(3)(d)). If a law enforcement agency intends to dispose of forensic evidence in an unsolved sexual assault (a victim of a violation of Section 261, 261.5, 262, 286, 288a, or 289), they must notify the survivor in writing of their intent to do so at least 60 days before its destruction (Penal Code 680 (b)(8)(c)(3)(f)).

Section 680(b)(7)–(j) also states:

(2) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:

(A) The right to be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit evidence or other crime scene evidence from their case.

(B) The right to be informed whether or not the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence has been entered into the Department of Justice Data Bank of case evidence.

(C) The right to be informed whether or not there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, provided that disclosure would not impede or compromise an ongoing investigation.

RESOURCE

DNA Resource Center,
The National Center for Victims of Crime.
<http://victimsofcrime.org/our-programs/dna-resource-center>

This site offers brochures and FAQs to help victims understand how DNA works, what happens to sexual assault kits, information about notifications in cold cases, and other material that may be useful to both survivors and advocates.

POLYGRAPH

A survivor of sexual assault cannot be required by a state or local government official involved in the investigation or prosecution of a crime to submit to a polygraph examination in order for the state or local official to pursue an investigation or criminal complaint against a defendant (Penal Code sec. 637.4).

FREEDOM FROM HARASSMENT

The state of California prohibits anyone from dissuading a survivor from filing a police report or testifying in court (Penal Code sec. 136.1). In addition, the law prohibits people convicted of sexual assault from revealing the contact information of a victim or witness to another prisoner, so the other prisoner can harass the victim on the offender's behalf (Penal Code sec. 136.7). If you learn from a survivor the offender is engaging in any of these behaviors, it would be important to let the survivor know these actions are prohibited and are chargeable offenses. The survivor can report these behaviors to law enforcement, who can hold the person who sexually assaults accountable.

The criminal justice process is very confusing for individuals who are unfamiliar with it. In addition, sexual assault survivors may still be experiencing the effects of trauma and may not understand who is contacting them and why. It is possible the defendant's attorney, or their representative, may try to contact the survivor. While this is not prohibited by law, the survivor is not obligated or required to speak with the defense attorney, or anyone associated with their office. Defense attorney's staff may be intentionally vague about their role, and a survivor may believe they are talking to someone from the district attorney's office. Work with the survivor to help them understand people's different

roles so they are better educated about who they can and should speak to. If at any time the survivor is unclear about who is calling them, encourage them to contact law enforcement to verify the identity of the caller before talking to them.

RIGHT TO BE UPDATED ON PROGRESS OF CASE

In addition to the responsibility of the deputy district attorney to let the survivor know what is happening with the case (Penal Code sec. 679.02; see Chapter 10 for more information), the investigating officer can be instrumental in providing updates to the survivor. You can support the survivor in obtaining this information through your relationships with law enforcement.

RIGHTS RELATED TO HIV/AIDS

One of the many concerns a survivor of sexual assault may have after their assault is whether they have contracted a sexually transmitted infection (STI), in particular HIV. Once the suspect has been arrested and appeared at their preliminary hearing in court, the survivor can request a sample of the defendant's blood be obtained and an HIV test administered with the sample. In order to obtain a blood sample, a search warrant must be issued. One thing to share with a survivor is that a search warrant for this purpose can be issued even if charges are not filed. As part of this process, the survivor should receive counseling and guidance from medical personnel about their risk of contracting HIV from the defendant. Medical personnel can also explain the benefits and limitations of current testing practices for HIV, the efficacy of HIV prophylaxis, and also to provide the survivor referrals to additional health care and support services that can assist the survivor specifically with their concerns about HIV contraction and other STIs. See Chapter 8 for additional information about medical concerns.

Did you know charges do not need to be filed by the district attorney for a survivor of sexual assault to request a search warrant be issued to obtain blood from a defendant for an HIV test?

Sexual Assault Laws

There are numerous laws relating to sexual assault in the state of California and several changes have been made in the last several years. Most notably, a number of changes were implemented in response to the conviction and subsequent sentencing of Brock Turner, a college student found guilty of sexually assaulting an unconscious woman in 2016. The California State Assembly passed AB 701 which amended the Penal Code's § 263.1, broadening the definition of rape to cover any non-consensual sexual assault, which includes penetration with a foreign object. It also expanded the state's definition of rape beyond the use or threat of physical force.

Additionally, in response to Brock Turner's sentencing, AB 2888 was signed into law. This law amended Section 1203.065 of the California Penal Code to "prohibit a court from granting probation or suspending the execution or imposition of a sentence if a person is convicted of rape, sodomy, penetration with a foreign object, or oral copulation if the victim was either unconscious or incapable of giving consent due to intoxication." (Full text of the Bill is available at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB2888.)

There are a number of behaviors prohibited by California law. To better understand the laws, it is helpful to know the definitions of some of the central terms used throughout the California Penal Code in relation to sexual assault. Below we have provided a few of the most relevant definitions to your work.

Key Definitions

SEXUAL PENETRATION

California Penal Code Section 263 states that "any sexual penetration, however slight, is sufficient to complete the crime."

ASSAULT WITH INTENT TO COMMIT A FELONY (PENAL CODE SEC. 220)

Assaulting another with intent to commit mayhem, rape, sodomy, oral copulation, felony child molestation, or penetration by a foreign object.

CONSENT (PENAL CODE SECS. 261.6 AND 261.7)

Positive cooperation in act or attitude pursuant to an exercise of free will, having knowledge of the nature of the act. A current or previous dating or marital relationship is not sufficient to constitute consent. A request by the victim that the person who is sexually assaulting them use a condom or other birth control device is not sufficient to constitute consent.

FELONY

A crime punishable by imprisonment in the state prison for a period of more than one year.

KIDNAPPING (PENAL CODE SEC. 207)

The act of stealing, taking, holding, or detaining another person by force or fear.

LEWD OR LASCIVIOUS ACTS (PENAL CODE SEC. 288)

Willful acts, including the acts described in Penal Code secs. 261–269, committed upon a child under the age of fourteen or upon a dependent adult, if the person who sexually assaults is the dependent adult's caretaker.

MISDEMEANOR

A crime punishable by imprisonment in the county jail for a period of one year or less. Some crimes can be charged as either a felony or a misdemeanor, depending on the facts of the case.

PENETRATION BY A FOREIGN OBJECT (PENAL CODE SEC. 289)

Penetration of the genital or anal opening of the victim by any object except the sexual organ, accomplished against the victim's will by means of force, fear, or threat.

RAPE (PENAL CODE SEC. 261)

The act of sexual intercourse with a person not the spouse of the person who sexually assaults, accomplished under any of the following circumstances:

- The person is incapable of giving consent.
- The act is accomplished against the person's will by force or fear of immediate bodily injury to the person or to another person.

- The person is prevented from resisting because of intoxicant or anesthetic.
- The person is unconscious of the nature of the act.
- The act is accomplished against the victim's will by threat of retaliation.

RAPE OF SPOUSE (PENAL CODE SEC. 262)

The act of sexual intercourse with a person who is the spouse of the person who sexually assaults, accomplished under any of the circumstances listed under the definition of rape.

SEXUAL BATTERY (PENAL CODE SEC. 243.4)

Touching the sexual organ, anus, groin, buttocks, or breast of the victim while the victim is restrained against the will of the victim and for the purpose of sexual gratification or abuse.

SEXUAL ASSAULT COUNSELOR (SECTION 1035.2 OF THE CALIFORNIA EVIDENCE CODE)

This refers to any person, paid or volunteer, "whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code. It also refers to psychotherapists with master's degrees in counseling or related fields and with one year's experience, six months of which include rape counseling.

UNLAWFUL SEXUAL INTERCOURSE (PENAL CODE SEC. 261.5)

Sexual intercourse accomplished with a person not the spouse of the person who sexually assaults, if the person is under the age of eighteen. (Note: Eighteen is the age of consent for sexual intercourse in California; however, there are differing penalties for sex with a minor depending on the ages of the people involved. See California Penal Code Section 261.5 for more information.)

You can find additional information on the specifics of California sexual assault law at <http://www.leginfo.ca.gov/>. Sections you should reference are California Penal Code Sections 243.4, 261-269, 281 - 289.6.

Local Law Enforcement Agency Procedures

As you think about the advantages and disadvantages of reporting a sexual assault to law enforcement, an important consideration is the survivor's safety and the safety of other people connected to the survivor or suspect. Providing the survivor with information about what they can expect if they choose to report to law enforcement will help them understand the totality of the process. Many of us take our cues about sexual assault investigations from television shows or other media representations of law enforcement response. These representations are often inaccurate and don't represent the specific experience with your local law enforcement agencies. Deciding whether or not to report to law enforcement is a very personal decision, and one best made with all the information. A survivor's decision may be influenced by family and friends, their own previous experiences with law enforcement, or emotions such as fear, uncertainty, and self-blame. Make sure your own opinion about law enforcement or reporting does not infiltrate the information you provide the survivor.

Local law enforcement responses to sexual assault will vary based on the individual agency, its size, and the resources available to them. Each jurisdiction may regulate their protocols and processes differently, so the rape crisis center where you work should provide you with localized information. However, there are some basic elements that are considered best practices. For example, most law enforcement agencies will conduct a preliminary investigation, usually at the patrol officer level, and then refer the case to a detective or investigator for follow-up. In some cases, misdemeanor sexual assaults may be investigated solely at the patrol officer level whereas felonies are referred to an investigative unit. For other agencies all sex crimes, regardless of their level, are handled by an investigation unit.

Not all law enforcement agencies will have a specialized unit for handling sex crimes investigations, or a detective who has received specialized training. It is generally accepted that specialized training can enhance detectives' ability to investigate sex crimes and build better rapport with a survivor (International Association of Chiefs of Police, 2015), thus decreasing the likelihood the survivor will disengage from the criminal justice process. Specialized training on sexual assault investigations can also reduce the likelihood a case will be erroneously unfounded.

In general, when a call is made to the police to report a sexual assault, it will flow through the local area dispatch center. A dispatcher will gather basic information and send an officer to the crime scene or to the location of the survivor – for example, the survivor's home, a hospital, or a workplace. The responding officer will take a brief report from the survivor, provide them information on their rights, and if they are not at the hospital, offer medical care. If the assault occurred within the previous 120 hours, (and for some hospitals, 168 hours), the survivor will be offered the option of a forensic medical exam. It is best practice for responding officers to avoid taking an extensive statement from the survivor, particularly in the case of an acute sexual assault. Neurobiology of trauma research tells us that invasive interviews in the recent aftermath of an assault, including asking for the who, what, where, and when of an assault, are unlikely to yield consistent or clear responses because of the effect of trauma on the brain's ability to order and recall details of a traumatic event (Archambault & Lonsway, 2017). Whether detailed interviews are conducted by the responding officer will depend on an individual law enforcement agency's internal policy.

If the survivor wishes to obtain a forensic medical exam, then the law enforcement officer will notify the triage nurse at the local sexual assault nurse examiner (SANE) or sexual assault forensic examiner (SAFE) program and notify the local rape crisis center an exam has been requested. The responding officer will offer to transport the survivor to the nearest SANE/SAFE program, or the survivor will travel with friends and/or family if that feels more comfortable for them.

At the hospital, the responding law enforcement agent will either return to duty or wait at the hospital to take custody of the sexual assault evidence kit. If the officer is not present at the conclusion of the forensic medical exam, the kit and associated evidence and forms are placed in a secure locker to preserve the chain of custody. Once the law enforcement officer is in possession of the kit and it is checked into evidence at the appropriate law enforcement agency, the evidence must be sent for analysis to a crime lab (with survivor consent) within 20 days (Penal Code 680 (b)(7)(A)(i)). Once the forensic medical exam is completed and the survivor is discharged, a patrol officer may be dispatched to transport the survivor home if they do not have friends or family members to assist them.

If the survivor refuses the option of having a forensic medical exam or if the sexual assault occurred outside of the five-day window for a forensic medical exam, the survivor may still wish to seek medical care for any injuries or to be tested for pregnancy or sexually transmitted diseases. They have the right to these services regardless of whether they choose to participate in a criminal investigation (Pen. Code, § 13823.11). For more information on what happens at the hospital for the survivor, see Chapter 8.

Once the initial report and associated medical forms have been completed, the case is referred to the investigations unit for follow up and investigation. The detective assigned to the case will gather as much evidence as possible and follow all leads available. This includes interviewing the survivor, the suspect (if known), and any witnesses. Once the detective believes they have enough evidence to demonstrate probable cause, they will present the case to their local district attorney's office for the decision on whether or not to file the case. If a case is declined for filing, each local DA's office and/or law enforcement agency will have a protocol in place for notifying the survivor of the outcome.

Jurisdictional Issues

The location of the crime determines which law enforcement agency will respond to and investigate the crime. As a sexual assault victim advocate,

you may find you are working with numerous law enforcement agencies, and it is therefore important to develop relationships with all the relevant law enforcement agencies in your area. Below we describe some specific jurisdictional considerations based on some specific locations beyond your local city or county.

SEXUAL ASSAULT IN STATE BUILDINGS, PARKS, AND LANDS

When a sexual assault occurs in a state park, the state park ranger is responsible for investigating the crime. If it occurs in a state building or parking lot, then the investigation would be the responsibility of the California Highway Patrol. However, both of these agencies have the option of requesting a local city law enforcement agency or sheriff's office investigate the sexual assault because they tend to have more experience doing so.

SEXUAL ASSAULT IN FEDERAL PARKS AND LANDS

If you are working with a survivor who experienced a sexual assault in federal parks or federal land, then the National Park Service is the agency with legal jurisdiction. The process for investigation involves the park ranger turning the case over to the Bureau of Land Management Criminal Investigations Unit. In most cases, you will find the Bureau of Land Management Criminal Investigations Unit will then reach out to the local county's sheriff's department to initiate the investigation. It is possible the Federal Bureau of Investigation (FBI) may instead be asked to manage the investigation; however, this is not universally the case.

SEXUAL ASSAULT ON NATIVE AMERICAN LANDS

Public Law 280, codified as 18 USCS § 1162, designates that criminal offenses committed on Native American lands should be investigated by the local law enforcement agency with jurisdiction for the area (in certain states, including California). In most cases, the agency with jurisdiction ends up being the local sheriff's office. Tribal police officers are not usually sworn peace officers and are not able to conduct a criminal investigation for the purposes of prosecuting non-Native people

who sexually assault within the criminal justice system. When the person who sexually assaults is Native, the jurisdiction is concurrent (tribal and State), but the case will most likely be tried by the state of California. Currently, tribes are not able to prosecute non-Native persons who sexually assault but are able to prosecute non-Native people who commit domestic violence in limited circumstances as outlined in the 2013 VAWA reauthorization.

SEXUAL ASSAULT ON MILITARY BASES

There are several jurisdictional possibilities when sexual violence involves aspects of the military. If a survivor you are working with was assaulted by a military member, the jurisdiction for investigating and prosecuting the offender rests with military courts. When a civilian commits sexual assault on a military base, then local law enforcement agencies will have jurisdiction over the investigation. Depending on the military base, there may be a medical facility with personnel trained in performing a forensic medical exam for sexual assault survivors. They may also have sexual assault advocates available to support survivors. If this is not the case, then the military base will likely have an agreement with local hospitals that are able to provide these services and with local rape crisis centers who can provide support to survivors on the base.

If you would like to learn more about how the military has been addressing the prevalence of sexual assault, refer to the [Department of Defense Annual Report on Sexual Assault in the Military](#) for updates.

SEXUAL ASSAULT ON UNIVERSITY OF CALIFORNIA, STATE UNIVERSITY, COMMUNITY COLLEGE, AND PRIVATE COLLEGE CAMPUSES

Over the last decade, there has been increased attention on the incidence of sexual assault on college campuses. Given the spotlight on campus sexual assault, campuses nationwide have amended their response policies and have begun to provide more comprehensive advocacy services to survivors. College students experience some unique challenges when considering

reporting their sexual assault, as both the college campus and the local law enforcement agency will have jurisdiction. The campus has obligations to investigate under Title IX, which is a civil rights, administrative process, and the local law enforcement agency will investigate for the purposes of pursuing criminal prosecution. However, many California campuses, including the University of California and State University, have sworn peace officers on campus (versus a campus security department) and therefore the campus police have jurisdiction instead of the law enforcement agency in the city or county where the campus is located. Even though a campus police department has jurisdiction for crimes committed on campus, they do also have the option of requesting support from the local law enforcement agency.

When both the survivor and the person who sexually assaults are students, but the assault happens off-campus, the law enforcement agency in the jurisdiction where the crime occurred would be responsible for conducting the investigation. It may not involve the campus at all. However, should campus administrators learn of the assault, it may initiate policies requiring an on-campus Title IX investigation. The campus may also be able to provide support to the survivor in the form of accommodations (like switching classes or residence halls) if the survivor requests support. Please check with the individual campus's Title IX office, sexual assault response office and/or their student conduct office to learn more about their specific policies. It is also important to note, a report to a campus official does not necessarily mean a report will also be made to campus or local law enforcement and vice versa.

Remember: It is important to talk to survivors of campus sexual assault about their options for reporting both on and off campus.

OTHER JURISDICTIONAL ISSUES

As an advocate working with sexual assault survivors you may encounter additional jurisdictional issues in your work. For example, sexual assaults occurring in the air or at sea are handled by the FBI. To ensure you are able to provide the most accurate support and guidance to survivors seeking your assistance, you should check with your district attorney's office in the event you are unsure what law enforcement agency has jurisdiction over a case based on the location of the crime.

RESOURCES FOR FURTHER LEARNING

Archambault, J., & Lonsway, K.A. (2018). Interviewing the victim: Techniques based on the realistic dynamics of sexual assault. End Violence Against Women International. Retrieved from <http://www.evawintl.org/library/DocumentLibraryHandler.ashx?id=742>

Department of Defense Annual Report on Sexual Assault in the Military Know Your IX (www.knowyourix.org): This is a survivor and youth led organization, started in 2013, to ensure students know their rights under Title IX and to advocate for ending sexual and dating violence in schools.

Factors Affecting Decision to Authorize a Forensic Medical Examination, Investigation and/or an Arrest

VAWA FORENSIC COMPLIANCE

As identified earlier in the chapter and discussed in Chapter 8, when VAWA was reauthorized in 2005, it included a provision which enabled survivors of sexual assault to access a forensic medical examination without having to work with law enforcement and at no cost to them. This provision was then incorporated into California state law amending Penal Code secs. 13823.7, 12323.13, and 13823.95 to bring the state into compliance with VAWA. The choice to seek medical care and a

forensic exam in the aftermath of a sexual assault is the survivor's choice only. Law enforcement does not "authorize" a forensic medical exam. In the 2013 reauthorization, VAWA stated that survivors cannot be directly charged and reimbursed for the forensic medical exam. This cost should never be billed to a survivor. Together, these VAWA provisions are known as "forensic compliance."

According to guidance provided to VAWA recipients by the California Office of Emergency Services (formerly California Emergency Management Agency) on October 31, 2011:

- A victim of sexual assault is not required to participate or engage with law enforcement or the prosecution at any time in order to receive a medical evidentiary exam;
- The cost of the medical evidentiary exam is not chargeable directly or indirectly to the victim;
- The cost of the examination is a cost chargeable to local law enforcement in whose jurisdiction the alleged offense occurred;
- The local law enforcement may seek reimbursement from the California Emergency Management Agency (Cal EMA) [note: now CAL OES] for the cost of those examinations in which the victim does not participate in the criminal justice system.

One of the continued struggles is not all law enforcement agencies, medical facilities, or advocacy agencies are aware of these provisions. In some cases, forms have not been updated, or agencies are working from outdated statements of policies. Historically, many states, including California, required a law enforcement authorization for survivors to receive a forensic medical exam. Since the enactment of VAWA's forensic compliance provisions, this authorization is no longer required nor is it appropriate. Survivors can and do consent to their own forensic medical examination without input or involvement from law enforcement.

Q: Think about why these VAWA provisions are so important for sexual assault survivors. What barriers do they remove for survivors considering seeking medical care but uncertain they want to talk to police?

TIMELINES FOR THE FORENSIC MEDICAL EXAM

In some cases, exams are performed within hospital-based settings but at times they are offered at sites that are not attached to a hospital. Generally, Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE) programs or Forensic Nurse Examiner (FNE) Programs will perform a forensic exam within five to seven days of the assault. The California Medical Protocol (2001) recommends collecting evidence if the assault occurred within 72 hours of requesting the exam (California Office of Emergency Services (Cal OES). However, in most cases an exam will be performed up to five days from the time of the assault. A number of factors affect the decision as to whether a survivor should have a forensic medical exam. One thing to consider is that evidence collection is only a small part of the larger forensic medical exam. If you are working with a survivor whose assault is outside of the three- to five-day window, this doesn't mean they should not seek medical care from a forensic nurse trained in working with sexual assault survivors. DNA stability and DNA testing sensitivity has evolved to the point where evidence collection may still be possible after more time has elapsed (California Medical Protocol, Cal OES, January 2001).

Historically, advocacy, law enforcement, and medical agencies have recommended survivors refrain from doing a number of things after their assault if they are considering participating in a forensic medical exam. Some of these recommendations include not showering, using the bathroom, cleaning their teeth, eating, or drinking. While these actions may compromise the availability of forensic evidence, it is important to prioritize the survivor's comfort. If they need to eat, it is okay if they do. They have experienced a horrific crime, and we must do everything we can to give

power and control back to them. Prohibiting them from eating, drinking, or using the restroom can further harm their sense of self and security. If they are working with a forensic nurse, the nurse can swab their mouth first, so the survivor can eat and drink. As an advocate supporting a survivor in their decision-making process about seeking medical care, it is important you talk to them about the pros and cons of decisions such as waiting to get the exam, eating, drinking, urinating, and showering. However, you should do so in a kind and supportive manner, so the survivor does not feel as though they cannot do any of these things.

Law Enforcement's Role in the Forensic Medical Exam Process

While law enforcement cannot authorize a forensic medical exam, they may be involved in the process of facilitating the exam for a survivor. If a survivor reaches out to law enforcement to make a report, then the law enforcement agency may transport the survivor to the hospital, including calling ahead to notify the program they are on their way. In addition, law enforcement officers may discuss needs and information with the forensic nurse and provide information to the survivor about the process. The local rape crisis agency will also be called by law enforcement when they are en route to the hospital; it is at this time you might be called to respond to the hospital.

MAKING AN ARREST

Law enforcement must weigh numerous factors when deciding to make an arrest. Most prevalent in their decision-making process is the determination of probable cause. Probable cause means the law enforcement officer has a reasonable belief a person committed a crime. During an investigation, law enforcement officers will interview victims, suspects (if known), and any identified witnesses. They will document and review the crime scene if possible and follow other leads (see Investigation Procedures later in this chapter) to gather as much information as possible to prove a crime occurred. After the responding officer takes the initial report, the case is usually forwarded to a detective based on the type of sexual assault

and internal law enforcement agency procedures. The detective investigating the allegation may or may not be part of a specialized sex crimes or special victims unit. This will depend on the size of the law enforcement agency and the resources available to them.

Once enough information has been gathered to demonstrate probable cause (a complete investigation is not necessarily needed), the law enforcement officer can work with the district attorney (DA) to request an arrest warrant from a judge. This may happen the day of the assault, a few days later, or several weeks later. It depends on the circumstances of the assault and whether the suspect is known or unknown. In the case where the detective does not feel like they have enough evidence to demonstrate probable cause, they will continue to investigate, or they may close or inactivate the case, and an arrest will not be made at that time.

Considerations involved in determining if an arrest should be made include, but are not limited to, survivor safety, potential danger to others, the possibility the suspect will leave the state, availability of forensic and other evidence, and the likelihood of securing a confession from the suspect. It is also possible the DA will request the detective gather more information before they feel comfortable requesting an arrest warrant from a judge. This is especially relevant because once an arrest has been made, and a defendant is in custody, the DA has 48 hours to file charges or law enforcement must release the suspect.

For more specific information on the legal process after charges are filed, see Chapter 10.

RESOURCE

Lonsway, K.A. (2017). The Earthquake in Sexual Assault Response: Implementing VAWA Forensic Compliance. End Violence Against Women International.

<http://www.evawintl.org/library/DocumentLibraryHandler.ashx?id=750>

INVESTIGATION PROCEDURES

As a sexual assault counselor/advocate, it is important for you to familiarize yourself with the investigation process at your local law enforcement agency. While law enforcement agencies will generally follow similar investigation processes, there will likely be differences from agency to agency based on internal protocol, resources, and staff available. Make sure to educate yourself on the processes and requirements of the specific agencies you will be working with.

INITIAL RESPONSE

During the initial investigation phase, the responding officer may do a number of things depending on agency protocol:

- Transport a survivor to the hospital, if they would like a forensic medical exam.
- Call the local rape crisis center to notify them a survivor is on their way to the hospital.
- Call an on-call detective per agency protocol.
- Document statements made by the survivor and any witnesses. These may be video recorded and are usually in the survivor's and witness's own words. Depending on agency protocol, responding officers may be instructed to capture minimal information instead of taking a full statement given the effects of trauma on recall.
- Ask the survivor to describe distinctive characteristics about the suspect's identification and location— if known and suspect is not in custody.
- Prepare a BOLO (Be On the Look Out) alert or an all-points bulletin if the suspect is a stranger.
- Document the survivor's condition and outward appearance of the survivor, including any evidence of trauma. Police reports should not include personal opinion about the truthfulness of a survivor's experience or demeanor;
- Document the condition of the survivor's clothing (e.g., torn, stained).
- If there is an identifiable crime scene, the responding officer and/or on-call detective will secure the crime scene, document observations about the crime scene, and document any evidence collected.

- If a survivor has consented to a forensic medical exam, the responding officer will collect the sexual assault evidence kit and either deliver it to the appropriate crime lab or book it into evidence storage at their law enforcement facility.

EVIDENCE COLLECTION

- Depending on when the sexual assault occurred, and if the survivor consents to a forensic medical exam, a forensic nurse may collect evidence as part of a larger physical exam with the survivor. The evidence collected will be booked into the law enforcement agency and sent for analysis at a crime lab if the survivor decides they would like to work with law enforcement. See Chapter 8 for more information on evidence collection as part of the forensic medical exam.
- Due to the U.S. Supreme Court case of *Crawford v. Washington* (2004) 541 U.S. 36, joint interviews with the SANE/SAFE are no longer recommended. Your local district attorney's office can provide advice on whether they support joint interviews in your particular county.
- If a crime scene is known and identified, the scene may be secured, and evidence may be collected. This may include video footage, photographs, dusting for finger prints, and removal of items and clothing from the crime scene for analysis.
- It is possible law enforcement may also request a forensic exam to gather DNA evidence from the suspect. If the suspect does not consent to this, a search warrant can be request from a judge.

It can be really difficult for survivors to lose their personal items for crime scene analysis. Personal items often carry meaning and being without them for weeks, perhaps even months, may feel like another victimization, another way a survivor has been stripped of their identity. Validate their sadness,

frustration, or anger at losing these personal items and provide support for them as they grieve their loss and what those items may represent.

FOLLOW-UP INVESTIGATION

- In most cases, when a survivor is interested in working with law enforcement, they will meet with a detective in the days following the initial report. The timeline for this interview will be determined by internal law enforcement agency protocols.
- The detective will review the initial crime report and the Cal OES 2-923 Forensic Medical Report or the Cal OES 2-924 if the sexual assault survivor originally chose the Abbreviated Exam and later converted or activated their case.
- The detective will conduct an interview with the survivor, and an advocate and/or support person can be present per California law for this interview. Advocates can arrange for transportation for the survivor to attend an interview if needed.
- If the survivor was assaulted by a stranger, the detective may arrange for a photo or in-person line-up if they believe they have identified the suspect.
- The detective will employ a number of investigative techniques in their follow-up investigation, including, but not limited to, pretext phone calls (having the survivor call the suspect to elicit a confession), social media review, suspect and witness interviews, crime scene analysis and review, and seeking any video footage of the assault if available (for instance, if the survivor was assaulted in a parking lot).
- In addition to their investigative techniques, the detective will also submit a request to the crime laboratory to analyze any physical evidence gathered. They will also be in communication with the lab when they have concluded their forensic analysis.

- Once an investigation is complete, the detective will present their case to the district attorney's office. It is the DA who will determine if charges will be filed. In a case where charges are filed, the law enforcement detective may be requested to provide additional information and will work to support the DA's process. In some jurisdictions, a DA investigator will take over the investigation.
- If charges are not filed, the survivor is notified. Depending on agency policy, this may be by a detective, a DA, and/or a victim advocate. It is really helpful for you to be present when a survivor is notified their case is not filed. However, whether you can be there will depend on individual law enforcement agency and DA office protocol.
- Throughout the investigative process, you can work with law enforcement to ensure the survivor is apprised of their rights.
- The length of a law enforcement investigation can vary based on the facts of the case. If a suspect is known, the investigation will likely be concluded more quickly than if the suspect is unknown.
- The right to be released on reasonable bail or on their promise to appear in court until the time of trial. A judge sets the bail amount and takes into consideration the safety of the victim and others associated with the suspect, and the likelihood the suspect will flee the state or country.
- The suspect also has the right to know what evidence is being used to prove their guilt. As you may remember from earlier in the chapter, a survivor can request they remain confidential, so their personal contact information is redacted from reports. Since the suspect has the right to read investigative reports, this would be an important reason to ensure a survivor you are working with understands what not requesting confidentiality can mean.
- The right to "confront and cross-examine" anyone who comes forward against them in court. While this does not permit the suspect or their attorney to harass the survivor or witnesses, it does create the opportunity for them to ask questions of the survivor (if they choose to testify) and witnesses in court.
- Suspects are also allowed to communicate with others from a jail. This includes phone calls and letters. However, this does not give the suspect the right to harass victims or witnesses or ask another person in custody to harass a victim or witness on their behalf.

RIGHTS OF PEOPLE SUSPECTED OF COMMITTING A CRIME

Throughout the criminal justice process, suspects also have rights protected by federal and state constitutional provisions as well as significant case law. The U.S. criminal justice system is based on the notion that someone accused of a crime is innocent until proven guilty. If law enforcement officials and prosecutors don't safeguard the rights of a suspect, they could face legal action themselves and/or they could jeopardize the validity of the case.

You may have heard of the term "Miranda Rights." These are rights which must be told to the suspect on arrest and include:

- The right to remain silent
- The right to an attorney and if they cannot afford one, a public defender can be appointed, free of charge, to assist them

In addition, suspects have the following rights that must also be shared with them:

Role of the Counselor/Advocate During the Investigation

The RCC counselor/advocate plays such an important role in supporting the survivor through an investigative process. It is critical you understand all the rights afforded to survivors of sexual assault, so you can pay attention to whether those rights are being protected. Survivors may be very unfamiliar with the criminal justice system and may not even know what questions to ask. You can help facilitate conversations with criminal justice professionals and assist a survivor in understanding their options and rights as the investigative process unfolds. You might also help to outline the process to assist survivor in making an informed decision.

You might interact with a survivor in a number of ways. It is possible you could be supporting a survivor at the hospital, in law enforcement or prosecutor interviews, or just generally supporting a survivor as they heal from their assault. Think of yourself as a passenger in a car with a survivor. The survivor is the driver, and you are providing map-reading skills and helping them think through the best route to their destination. This is true for all stages of your involvement. You are not the decision-maker. You support the survivor's decision-making process.

If you are an advocate in a community with a sexual assault response team (SART), you likely will have good relationships with law enforcement, prosecutors, and forensic nurses. These relationships will greatly assist you in being the best possible guide for a survivor during the investigative process. As you provide your advocacy and support, here are a few things to keep in mind:

1. Maintaining a positive relationship with the law enforcement officer investigating the crime is critical. You want to work as a team, each understanding the unique role you play in supporting survivors and holding offenders accountable.
2. You or another advocate from the rape crisis center will likely be one of the few people present throughout the survivor's entire process. You may be with them at the hospital all the way through to trial. Your consistency and reliability will help a survivor feel supported throughout the process.
3. Survivors may have very little experience with the criminal justice system broadly and law enforcement investigations specifically. They will likely have lots of questions. Encourage them to ask when something is unclear and assist them in getting answers, so they can feel informed.
4. In any interview where you are present, you are there to provide crucial emotional support only. You should not respond to questions on behalf of a survivor. Participating in an interview can jeopardize the confidentiality you have with a survivor and could risk pulling you into the investigation.
5. If a suspect is arrested, this can bring a great sense of relief for a survivor or it could cause enormous anxiety and fear. Validate a survivor's feelings and responses, whatever they are. When an arrest is made, it may mean more people will become aware of the sexual assault. Survivors may start to feel guilty about "ruining" the person who sexually assaulted's life or may experience anger and blame from people around them. Create space for a survivor to share their concerns and provide them with additional resources, such as counseling, to assist them in processing what is occurring.
6. If charges are not filed in a case, anticipate a survivor's reactions. Emotions may range from anger or hurt to regret for reporting in the first place. These are natural responses and you can help the survivor understand the reasons the detective closed the case or why the DA decided not to file charges.
7. While your role is primarily to support and guide survivors as they negotiate their journey to healing, you are also in a position to identify broader patterns of behavior or attitudes within the systems and agencies you encounter. Advocacy exists both on the individual and system level. Sometimes, the needed change is systemwide. As you engage with the various systems, including law enforcement, it will be important to note any troubling patterns of unfriendly behavior or attitudes towards survivors, as well as any procedures that seem to make things more difficult or retraumatizing. Share your observations with your supervisor who can work to address any larger problems.

Crime Victim Compensation

An additional resource available to survivors of sexual assault is Crime Victim Compensation (CVC), administered by the California Victim Compensation Board (CalVCB). This funding

stream is the “payor of last resort,” meaning that other funding sources must be used first if available. CVC provides financial assistance with costs associated with the crime a victim has experienced. For example, CVC/VCB funds can cover the costs of counseling, out-of-pocket medical expenses, and sometimes lost wages.

Completing the application form can feel like yet another burden on a survivor as they traverse the criminal justice system. Offer to assist them in filling out the form and submitting an application to CalVCB. While survivors can apply online for the state victim compensation program, California has Victim Witness Assistance Centers which are a helpful resource for survivors. They can follow up on the survivor’s CalVCB application status and also offer additional local resources. You can reach a victim/witness resource center by calling 1-800-VICTIMS or searching by county at <https://victims.ca.gov/victims/localhelp.aspx>

RESOURCES

Victims of Crime Resources Centers:

<https://1800victims.org/>

This Center, located on the Pacific McGeorge School of La campus in Sacramento, provides information and referrals to California victims, families, service providers, and advocates. They offer technical assistance including legal research on victims’ issues, publications, and limited representation to victims of crime to protect their rights.

California Crime Victim Compensation Board (Cal VCB):

www.victims.ca.gov/victims

Victim Witness Assistance Centers

<http://www.victims.ca.gov/victims/local-help.aspx>

Advocates and Law Enforcement:
Oil and Water?

Kimberly Lonsway and Joanne Archambault (revised 2017)

<http://www.evawintl.org/library/DocumentLibraryHandler.ashx?id=881>

Abbreviated Examination

As identified earlier in the chapter, the 2005 federal Violence Against Women Act reauthorization (42 U.S.C. § 3796gg-4(d)) removed the requirement that survivors of sexual assault must work with law enforcement to receive a forensic medical exam. In California, this provision was implemented in 2012 and is known as an “Abbreviated Examination.”

For more on the forensic medical exam process and what survivors can expect, see Chapter 8.

Summary

Working with law enforcement is a critical part of your role as a counselor/advocate. Law enforcement’s actions play a major part in the success of any case and supporting their efforts, while also advocating for the survivor, is fundamental to your role. It is imperative you think about yourself as part of a larger team, while maintaining your primary commitment to the survivor. Each agency or team member has a unique and important role to play in the response to sexual assault survivors. While sometimes it can feel like each agency or person representing their corner of the system is at odds with each other, remember your shared purpose: to support survivors and hold people who sexually assault accountable.

The survivor in this process may have many reasonable and legitimate fears about working with law enforcement. Validate and assist them in understanding the larger picture and how it aligns with their hopes, needs, and healing. As trust builds between you and the survivor, your capacity to explain how all the pieces fit together will become more meaningful. Building strong relationships with your local law enforcement agency, instead of perpetuating an “us versus them” narrative will not only make your role easier but will ultimately make the survivor’s experience with all the component parts of the criminal justice system more manageable.

You are an advocate, and strong relationships with law enforcement officers and leaders will allow you to advocate more effectively. If you take the time to understand law enforcement’s perspective and acknowledge the hard work many officers and leaders are doing, your advocacy for survivors and system change will be more successful.

References

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CHAPTER 10

LEGAL AND COURT

Introduction

If you are not familiar with the court system, it can be confusing and a bit overwhelming to learn enough to help survivors. This chapter provides basic information about how both the state and the federal court systems are structured and gives definitions for legal terms you may encounter. As a counselor/advocate, your role is to help survivors understand how the legal system works and inform them of the many rights they hold under the law. The principles of confidentiality and privilege are central to upholding those rights. This chapter will help you understand each of the steps in the civil and criminal cases in which survivors may be involved, and how you can provide effective advocacy to survivors who have chosen to engage with the court system. In combination with the previous chapters on medical and law enforcement procedures, your understanding of these issues will enhance your ability to provide support so survivors can make informed decisions.

While the sheer quantity of information in this chapter may seem daunting, bear in mind that it will make more sense to you as you gain experience. You can use this information as reference material that you will return to as needed. Please consult your supervisor and other experienced counselor/advocates as you apply this knowledge to your advocacy work.

Overview of Court System & Common Legal Terms

CALIFORNIA STATE COURTS

Broadly speaking, the California Court state system is made up of three levels of courts. The first level, called the superior court, is the trial court and has general authority to decide all types of civil and criminal cases in California. Each county has a superior court and judges are either appointed or elected. Depending on the size of the county,

there may be several physical courthouse locations and several departments or courtrooms. In larger counties, departments/courtrooms are often organized by type of case – for example, criminal cases are heard together, civil cases together, and family law matters together – and each department has a different judge. In smaller counties or counties with fewer people, one or two departments or judges may hear all types of cases. Cases are filed in the superior court of the county where a crime was committed, where the defendant lives, or sometimes where the plaintiff lives. This court is sometimes called the “finder of fact” and is the court that victims and survivors will interact with most. The trial court level (superior court) is where the judge or jury hears facts, evidence, and witness testimony and decides what happened in a specific case. Judgments are issued and, in criminal cases, punishment sentences are made in this level of the court system.

If a defendant in a criminal case, or either party in a civil case, believes the outcome of the trial court case was wrong, they can file an appeal to the Court of Appeal (also called the appellate court) challenging that outcome. An appeal is an affirmative act; no cases are automatically passed from the trial court to the appellate court. There are six appellate districts in California; each appellate district covers several counties and hears cases that come from the superior courts in those counties. The appellate court’s role is to review appeals to make sure that a trial was conducted properly and that the judge or jury in that trial applied the law correctly to the facts of the case. The appellate court does not re-examine the facts; it must assume that any findings of fact from the trial court are correct. If the appellate court finds nothing wrong with the trial court outcome, it will affirm the trial court’s decision. If it finds there was a mistake of procedure, it will return the case to the trial court to fix the mistake, which sometimes means having a new trial. If it finds there was a mistake in how the law was applied to the facts,

it can overturn the trial court's decision and issue a new ruling. These rulings are then law that the superior courts must follow in future cases.

From the appellate court, a case can be appealed to the California State Supreme Court, which is the highest court in the California state system. Cases from all six appellate districts are heard by the California Supreme Court. Appealing to the Supreme Court is also an affirmative act; cases are not passed along automatically. This court, like the appellate court below it, does not re-examine facts. Instead, it reviews how a trial or appeal was conducted procedurally and/or reviews how the law was applied to the facts of the case by either the trial court or the appellate court. As with the appellate court, if the Supreme Court finds nothing wrong with the prior outcomes, it will affirm the ruling of the appellate court. If it finds there was a mistake of procedure, it will return the case to either the appellate court or the trial court to correct the mistake, depending on the mistake. If it finds there was a mistake in how the law was applied to the facts, it can overturn the appellate court's decision and issue a new decision. The California Supreme Court's decisions are binding on all the other courts in the state. Part of the court's role is to clarify confusing or unclear issues in state law or settle differences between decisions made by the different appellate court districts.

FEDERAL COURTS

The federal court system is structured very similarly to the state court system. The three levels are district courts (trial), circuit courts (appellate) and the United States Supreme Court. The federal court system has its own set of rules and procedures, and cases heard in federal court are generally addressing issues related to federal law. Victims and survivors may interact with federal court if the crime that was perpetrated against them involved crossing state lines (i.e., a trafficking victim being kidnapped and moved from one state to another) or involved federal offenses (i.e., distributing child pornography on a website.) The information in this manual regarding criminal and civil court processes is focused on California state courts.

COMMON LEGAL TERMS

- **ANSWER:** A document filed with the court by a defendant responding to charges filed against them (in a criminal case) or the complaint filed against them (in a civil case). This document will contain factual and legal arguments.
- **ARBITRATION:** A process to try to avoid trial where a neutral third party, usually a retired judge or lawyer, listens to a brief version of a case and then gives a decision. If the parties agree ahead of time to "binding" arbitration, that decision is the final decision. If not, either side can reject the decision and go to a trial instead.
- **ARRAIGNMENT:** The first time the defendant appears in court. The judge tells the defendant what the charges are and what constitutional rights they have, and informs the defendant about the right to have a free court-appointed lawyer. The defendant may enter a plea (guilty, not guilty, or no contest) at this time.
- **BEYOND A REASONABLE DOUBT:** The legal standard used in criminal trials; the prosecution must show and the jury must believe, beyond a reasonable doubt, that the defendant in the case committed the crime or crimes being charged in order to convict that defendant.
- **BURDEN OF PROOF:** The responsibility to prove a disputed issue. For example, in a criminal trial we assume the defendant is innocent until proven guilty, so the prosecution has the burden of proof, meaning they must prove the defendant's guilt.
- **CHARGES:** A term that refers to the list of criminal violations being alleged against a defendant in a criminal case.
- **CIVIL CASE:** A lawsuit where one person is asking for damages or other orders against another because of that person's actions. Damages are usually money; other orders include that the other person stop doing a certain action. Defendants in civil cases are not "charged" with a crime and are not put in prison or jail before, during, or after the case. If they lose the case, they are found "liable," not "guilty."

- **COMPLAINT:** A document filed with the court by a plaintiff who wants to start a lawsuit against another person or persons. This document states the facts of the case, what laws were violated, and the damages or result the plaintiff wants.
- **CRIMINAL CASE:** A case brought against one or more defendants by the "People of the State of California" for breaking a state criminal law. In these cases, a defendant who loses is found "guilty" of a crime and can be put in jail or prison as a punishment.
- **DAMAGES:** The money a plaintiff gets if they win a civil lawsuit. This money can be "compensatory," or intended to compensate for out-of-pocket losses like medical expenses and lost wages, or to make up for pain and suffering or emotional harm; or "punitive," which is meant to punish the defendant for acts which are "malice, fraud or oppression."
- **DEFENDANT:** The person accused of doing something wrong in either a criminal or civil case. Someone does not become a defendant until criminal charges have been filed or a civil lawsuit has been started against them.
- **DEPOSITION:** A method of getting information from either party or witnesses in a civil case by having the person come to a specific place at a specific time to answer questions asked by the lawyer for the party who scheduled the deposition. Questions are answered under penalty of perjury, just as if the person was testifying in court, and the entire process is documented by a court reporter who provides a transcript to the attorneys. Things said in a deposition can later be used at trial for various reasons.
- **DISCOVERY:** A general term referring to the process of obtaining documents and information in a case before that case moves to a trial. The discovery process can include depositions, requests for documents, written questions, and other items.
- **DISTRICT ATTORNEY:** An attorney employed by the county who is responsible for bringing lawsuits, including criminal cases, against individuals who commit crimes that harm "the People of the State of California." This is the person or office that decides which individuals are charged with crimes and which crimes they are charged with in a given case. The District Attorney's office in each county typically includes many attorneys who all work on their own cases as reports of crime are forwarded to them by law enforcement agencies in their county.
- **IN PRO PER/IN PRO SE:** Latin phrases referring to a person who is representing themselves in court, without a lawyer.
- **INTERROGATORIES:** Written questions asked in the discovery process; answers are in writing and are made under penalty of perjury.
- **JUDGMENT:** The final outcome at the trial court level in a civil case.
- **MEDIATION:** An alternative to trial in civil cases where the parties hire a neutral third party, usually a retired judge or attorney, to help them try to settle their case before a trial. Mediators cannot force either party to accept their recommendations.
- **PERPETRATOR:** The person who committed a crime or bad act against another; this term applies regardless of whether the person was investigated, arrested, or charged with the crime.
- **PLAINTIFF:** The party or entity starting a civil court case against the defendant and claiming harm was done to them.
- **PLEA:** The response from a defendant in criminal case to charges made against them. Pleas can be "guilty," "not guilty," or "nolo contendere" which means "no contest" and is what a defendant says to accept a conviction without admitting guilt.
- **PLEA BARGAIN OR PLEA DEAL:** An offer made by the District Attorney or the defendant's attorney to resolve a criminal case without a trial. The offers can include reduced charges by removing one or more of the listed crimes, or charging a less-serious version of the crime; offers can also include reduced

punishments in exchange for something from the defendant, like cooperation as a witness in a case against a different defendant or participation in community service, counseling, or other intervention programs.

- **PREPONDERANCE OF THE EVIDENCE:** The legal standard used in civil trials; the jury must find that it is “more likely than not” that the plaintiff’s claims are true to decide that the plaintiff wins and that the defendant is liable.
- **PRESS CHARGES:** A term referring to the action the District Attorney takes to pursue criminal legal action against a defendant for breaking criminal laws. Commonly mistaken for something a victim can do – victims and police do not “press charges” in a criminal case, only the District Attorney can decide which crimes are charged in court.
- **PRIVILEGED COMMUNICATIONS:** Any form of communication (written, verbal, electronic) between certain people that the law recognizes as protected from being disclosed to other people. Privileged relationships are defined by law; they include attorney-client, doctor-patient, priest-parishioner, counsel-or-client (including sexual assault counselors), and sometimes between spouses.
- **PUBLIC DEFENDER:** An attorney employed by the county who provides legal representation for individuals charged with crimes who cannot afford their own lawyer. Public defenders are assigned to defendants at their arraignment and represent the defendant throughout their criminal case.
- **STATUTE OF LIMITATIONS:** The period of time defined in the law when a case must be started. Once a statute of limitations has expired, a plaintiff cannot start a case against the defendant for the acts covered by the statute.
- **SUSPECT:** An individual that law enforcement is investigating as a potential party who committed a crime.

Rights of Victims & Survivors

Victims and survivors of violent crime, including sexual assault, each process their trauma differently. Many experience overwhelming shock and struggle with feeling that they have lost control of their life. It is important for you, as an advocate, to find ways to support victims as they seek to regain that control. Knowing the rights that victims and survivors possess and helping them understand and exercise those rights is key to their own process of empowerment.

In California, victims and survivors have both inherent human rights and specific rights identified in the law, including the California State Constitution. Additionally, both California and federal law provide special protections for victims who are minor children. It is important for you to become familiar with these rights, particularly those identified in the law, as victims and survivors must often specifically request the protection or relief identified. You will also want to be able to discuss the various impacts of a particular decision with the survivor, or that person’s guardian, so that they can make an informed decision about what to do. Additionally, you want to consider the age, life experience, cultural background and immigration status of the survivor. Survivors will have different perspectives on working with law enforcement, the court system, medical professionals and others involved in the process, depending on their age and prior experiences or background. Furthermore, some choices have different impacts for immigrants than they do for U.S. citizens. We have noted consideration points, below, but if you are not sure about how a specific decision may affect a particular survivor’s legal rights in the future, the best course of action is to help the survivor secure the advice of their own attorney.

INHERENT HUMAN RIGHTS OF VICTIMS AND SURVIVORS

- The right to decide whether to report a sexual assault to law enforcement. Consider: (1) Not reporting or delayed reporting often makes it far more difficult to successfully investigate and prosecute a sexual assault crime. (2) For immigrant victims, not reporting can significantly impact their ability to seek legal status, as some forms of relief require that the applicant to cooperate with and assist law enforcement in investigating and prosecuting the crime.
- The right to request an interview by a law enforcement officer of a specific gender (i.e., survivors who identify as female may request to be interviewed by a female officer.)
- The right to decline to participate in the prosecution process. Consider: (1) Declining to testify may mean the case will not move forward in prosecution and the defendant/person who sexually assaulted will not be punished. (2) For immigrant victims, declining to testify can significantly impact their ability to seek legal status, as some forms of relief require that the applicant to cooperate with and assist law enforcement in investigating and prosecuting the crime.
- The right to withdraw testimony against the defendant/person who sexually assaulted them. Consider: (1) Withdrawing testimony or recanting witness statements negatively impacts a victim's credibility in the eyes of law enforcement and the court, which may make it more challenging for the victim to obtain assistance in the future. (2) For immigrant victims, withdrawing or recanting testimony can significantly impact their ability to seek legal status, as some forms of relief require that the applicant to cooperate with and assist law enforcement in investigating and prosecuting the crime.
- The right to be treated in a considerate manner by law enforcement and prosecution personnel.
- The right to sue an individual or company for negligence if the sexual assault occurred in a place with unsafe conditions. Consider: The civil lawsuit options for survivors are complex and have very specific timelines tied to when the assault occurred. If you are working with a survivor interested in exploring these options your best course of action is to help them secure the advice of their own attorney as soon as possible.
- The right to contact and be contacted by law enforcement and prosecution personnel. Consider: Survivors may need to be assertive about contacting personnel themselves, or about letting personnel know they do not want to be contacted.
- The right to make reports to third parties, such as a Rape Crisis Center.
- The right to protection from prejudice based on your race, age, class, gender, sexual orientation, lifestyle or occupation. Consider: Survivors who experience prejudice will need to be assertive about combating this prejudice; advocates can be extremely helpful in this area.
- The right to be considered a victim and survivor regardless of the relationship with the defendant/person who sexually assaulted them. Consider: There may be significant cultural issues at play here – for example, if the survivor was married to the defendant they may not consider themselves a victim because they may not know or believe the assault was a crime.
- The right to have an attorney for the victim present during court proceedings. Consider: Victims will need to find, and often pay for, their own attorney; one is not automatically provided to them.
- The right to pursue civil court remedies against the defendant/person who sexually assaulted them, regardless of the criminal process. Consider: The civil lawsuit options for survivors are complex and have very specific timelines tied to when the assault occurred. If you are working with a survivor interested in exploring these options your best course of action is to help them secure the advice of their own attorney as soon as possible.

RIGHTS OF VICTIMS & SURVIVORS DEFINED BY LAW

Victims' Bill of Rights (aka "Marsy's Law") – California Constitution, article I, section 28, contains the following specific rights for victims & survivors:

- To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process. Consider: victims who experience intimidation, harassment or abuse will need to report their experiences to authorities; advocates can help here.
- To be reasonably protected from the defendant and persons acting on behalf of the defendant.
- To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant. Consider: The bail system in California will change in October 2019 and will no longer be a cash-bail system. See further discussion below.
- To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law. Consider: The survivor may need to affirmatively participate in the legal process to protect their privacy rights to certain records or documents.
- To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
- To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
- To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
- To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
- To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings. Consider: The term "speedy trial" is relative; the criminal process can still feel agonizingly long for survivors.
- To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant. Consider: The survivor may need to affirmatively participate in the legal process to provide this information.
- To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
- To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
- To restitution.
- To the prompt return of property when no longer needed as evidence.
- To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the person who sexually assaults, and to be notified, upon request, of the parole or other release of the person who sexually assaulted.

- To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made. Consider: The survivor may need to affirmatively participate in the legal process to provide this information.

Q: Question for discussion: What do you think are some of the rights that may be extremely important for survivors, yet not commonly known? Ask experienced advocates for examples of how informing a survivor of their rights has affected the outcome of a case.

OTHER RIGHTS & PROTECTIONS UNDER THE LAW FOR VICTIMS AS WITNESSES:

- Sexual assault victims cannot be arrested for contempt of court for refusing to testify in the prosecution of a sexual assault case. CA Civ. Proc. Code § 1219. Consider: (1) Declining to testify may mean the case cannot move forward in prosecution, particularly if the case rests largely on the testimony of the victim. (2) For immigrant victims, declining to testify can significantly impact their ability to seek legal status, as some forms of relief require that the applicant cooperate with and assist law enforcement in investigating and prosecuting the crime.
- Sexual assault victims can select up to two support persons to accompany them to the preliminary hearing and/or trial. Only one person can be a witness in the case; only one person can accompany the victim to the witness stand but the other may remain in the courtroom during the victim's testimony. CA Pen. Code § 868.5.
- Sexual assault victims may request an order from the court keeping their name and identity confidential in all records and during all court proceedings; the court must find that such an order is reasonably necessary to protect the victim and will not unduly prejudice either side of the case. CA Pen. Code § 293.5. Consider: The victim must affirmatively make this request.
- The sexual assault crimes of rape, spousal rape, gang rape, sodomy, lewd and lascivious acts, continuous sexual abuse, oral copulation and sexual penetration can be reported to law enforcement and criminally prosecuted at any time, regardless of how much time has passed since the incident. CA Pen. Code § 779. Consider: The right to report and prosecute these crimes is very different from the practical aspects of investigating and prosecuting; advocates should discuss realistic expectations about outcomes with survivors based on the timing of their report. Additionally, civil remedies have very different timelines.
- Sexual assault victims have the right to have a sexual assault counselor and a support person present for any medical or physical examination. Upon report of a sexual assault, law enforcement must notify the local rape victim counseling center. CA Pen. Code § 264.2.
- Sexual assault victims are entitled to specific rights and information regarding the DNA results of forensic medical exams ("rape kits") upon request, including: being informed of whether DNA evidence was recovered, whether recovered DNA evidence was entered into the case evidence database, whether there was a match found, and notice of a law enforcement agency's intent to dispose of or destroy DNA evidence of an unsolved sexual assault. CA Pen. Code § 680.
- Sexual assault victims are not required to pay, directly or indirectly, for a forensic medical exam. Any sexual assault victim who seeks a forensic medical exam shall be provided with one. CA Pen. Code § 13823.95.
- Sexual assault victims cannot be forced to take a polygraph (lie-detector) test. CA Pen. Code § 637.4.
- Sexual assault victims cannot be forced to submit to a psychological or psychiatric exam to assess credibility. CA Pen. Code § 1112.
- Sexual assault victims have the right to be present at, and speak at, the sentencing hearing for their the defendant/person who sexually assaulted them. The court

must consider victim impact statements at sentencing and make a specific finding on the record regarding whether the defendant is a threat to public safety if granted probation. CA Pen. Code § 1191.1

- Sexual assault victims cannot be questioned in court about their sexual history with anyone other than the defendant for the purpose of proving consent to a specific act. CA Evid. Code § 1103(c)(1). Consider: There may be other reasons information about a victim's sexual history is allowed into court; advocates should be cautious about telling victims for certain that information will or will not be discussed.
- Evidence about a sexual assault victim's "state of dress" at the time of the assault cannot be brought into court for the purpose of proving consent unless the court specifically finds the evidence relevant and orders it allowed in the interest of justice. CA Evid. Code § 1103(c)(2). Consider: There may be other reasons information about a victim's clothing at the time of the assault is allowed into court; advocates should be cautious about telling victims for certain that information will or will not be discussed.
- If a defendant wants to introduce evidence of a victim's sexual conduct to challenge the credibility of the victim, the defendant must file a written motion with the court asking to be allowed to use the evidence, the judge must review the evidence away from the jury and make a ruling. CA Evid. Code § 782. Consider: This law creates a procedural safeguard to protect a victim's prior sexual history from being disclosed automatically to the jury.
- Sexual assault victims are entitled to keep their communications with a sexual assault counselor about all the information about the assault and all information about the victim's other sexual conduct or reputation before or after the assault protected and confidential as long as the communication happens (1) in the course of the counseling relationship and (2) privately. Communication includes written, verbal, email, etc. CA Evid. Code § 1035.4. Consider: Discuss the issues of privilege and confidentiality carefully with

victims and survivors you are supporting so that they understand how to avoid accidental disclosures of private information.

Q: How would you tell a survivor about ways to keep their communication private? Practice what you would say to the survivor.

- Privilege regarding communications with a sexual assault counselor may be claimed by (1) the victim, (2) the victim's guardian or conservator if one exists, (3) the victim's personal representative if the victim is deceased, or (4) the sexual assault counselor who received the communication unless the victim has authorized disclosure. CA Evid. Code §§ 1035.6; 1035.8. Consider: Discuss the issues of privilege and confidentiality carefully with victims and survivors you are supporting so that they understand how to avoid accidental disclosures of private information. A guardian or conservator refers to someone who has the authority to make legal decisions for the victim; parents are automatically guardians of their children unless the court has ordered a different person be a child's guardian. A personal representative of a deceased victim refers to the person appointed to administer the estate of the deceased victim.
- Victims have the right to a translator for court proceedings if needed. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq.
- Victims have the right to copies of police records and court records unless sealed or otherwise made confidential by law. For federal court records: Freedom of Information Act, 5 U.S.C. § 552 et seq.; For state court records: California Public Records Act of 2004, CA Govt. Code § 6250 et seq. Consider: Police reports and court records can be detailed and may be triggering to survivors; advocates should be prepared to support survivors who wish to review records.
- Victims have the right to have the defendant/person who sexually assaulted be tested for HIV and the results provided to the victim if

the defendant is charged with a sexual assault crime. If the defendant is not charged, the victim can request a warrant for HIV testing. CA H&S Code § 121055; CA Pen. Code § 1524.1.

- Victims and their immediate family can request that a registered sex offender being released on parole be ordered not to contact or communicate with the victim or their family members. CA Pen. Code § 3053.6.
- Victims can change their vehicle license plates with a small fee (less than \$20). CA. Veh. Code § 4467.
- Victims cannot be fired or retaliated against for taking time off of work to comply with a subpoena to testify or obtain a protective order that would help ensure the health, safety or welfare of the victim and/or their children. CA Lab. Code § 230. Consider: Victims must disclose that they are a sexual assault victim in order to take advantage of this law.
- Victims who work for an employer with 25 or more employees are entitled to unpaid, job-protected time off to seek medical care, counseling, obtain services from a rape crisis center, participate in safety planning, move, or take other action to protect against future violence. CA Lab. Code § 230.1. Consider: Victims must disclose that they are a sexual assault victim in order to take advantage of this law.
- Victims who have been at their job for long enough and meet certain other requirements may be entitled to up to 12 weeks of unpaid, job-protected leave from work, with benefits, under the California Family Rights Act and the federal Family Medical Leave Act. Consider: Victims who qualify for this type of leave do not have to disclose that they are a victim in order to take advantage of this law.
- Victims are entitled to use paid sick leave for treatment related to sexual assault, including counseling. CA Lab. Code § 246.5. Consider: Victims may also be entitled to California state disability or unemployment benefits. Eligibility is dependent on many factors and may have a different impact on immigrant victims than U.S. citizens.
- Survivors are entitled to seek “reasonable accommodations” at work for disabilities related to the sexual assault, including physical and mental/emotional disabilities (such as anxiety, post-traumatic stress disorder, or depression). These accommodations can include restructuring job duties and schedule, enhanced safety measures in the workplace, leaves of absence or other accommodations. Americans with Disabilities Act of 1990, 42 U.S.C. ch. 126 §§ 12101 et seq.; California Fair Employment and Housing Act, CA Govt. Code §§ 12900 et seq.

In addition to the rights listed above, state and federal laws provide further protections for victims and survivors who are minor children participating in the criminal justice process. Consider: Many of these protections must be affirmatively requested by the prosecution or ordered by the judge. As an advocate, you can help support a minor victim by talking with prosecution personnel about whether making requests for age-appropriate accommodations on behalf of the survivor you are supporting is appropriate.

- In federal court: Minors can testify via closed-circuit television (the minor is located outside of the courtroom and their testimony is broadcasted live into the courtroom) or by previously taken deposition; the court can seal or protect records with the minor’s name and identifying information; the judge can close the courtroom to the public for proceedings; the court can appoint a guardian ad litem for minor; and the minor can have a parent or parents present as support persons. 18 U.S.C. § 3509.
- In state court:
 - » The court can close any phase of the criminal proceedings to members of the public or exclude specific persons from the courtroom while a minor testifies. CA Pen. Code §§ 859.1; 868.7.
 - » For minors under the age of 15, the court can order their testimony at a preliminary hearing be video recorded and saved for use at trial if the court later finds that testifying at trial will be too traumatic for the minor. CA Pen. Code § 1346.

- » For minors under 13, the court can order their testimony be presented via closed-circuit television. CA Pen. Code § 1347.
- » The court can consider the needs of the minor and do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the minor resulting from participation in the court process. CA Pen. Code § 288(d). Consider: This could mean the court controls the pace of testimony and the kinds of questions asked, makes sure questions are developmentally appropriate for the minor, appoints an attorney for the minor, or takes other necessary steps. Advocates may be able to help prosecution personnel understand what accommodations are necessary or appropriate for a particular survivor.
- » The court can issue protective orders and prevent the defendant/person who sexually assaulted them or his or her family from obtaining the address or location of the minor. CA Pen. Code §§ 136.2; 136.3.
- » For minors under 11, the court can limit testimony to regular school hours, the judge can remove his or her robe during proceedings to make the minor feel more comfortable, and the court can set frequent and regular breaks for the minor during testimony. CA Pen. Code § 868.6.
- » A minor can consent to hospital, medical or surgical care regarding sexual assault without the consent of a parent or guardian. CA Pen. Code § 13823.11.

RESOURCE

Court interpreters are vital for those with limited English or who use American Sign Language (ASL). For information on court interpreters, including tips for working with interpreters, see the following resource, which is available in a variety of languages:

Court Interpreters
California Courts – The Judicial Branch of California
<https://www.courts.ca.gov/selfhelp-interpreter.htm>

Confidentiality and Privilege

The concepts of confidentiality and privilege are important to your work as a sexual assault advocate (referred to as a “sexual assault counselor” in the law). Once you have completed the state-certified sexual assault advocate training, you have a responsibility, both ethically and defined by the law, to protect the private, confidential information of the victims and survivors you serve. The California Evidence Code defines a “confidential communication between the sexual assault counselor and the victim” as information transmitted between the counselor and victim in the course of their counselor/victim relationship and by a means which the victim believes no one else will receive the information except for someone necessary to the services being provided (for example, a translator or interpreter.) CA Evid. Code § 1035.4. This means written or verbal communications, including emails, and includes even the name of a victim or survivor. You must keep all communications that fall into this definition private and confidential unless the survivor authorizes you to share the information or a judge orders you to release it. There are limited exceptions for those people who are sexual assault counselors and are also mandated reporters of suspected child abuse as defined in the Penal Code. (Please note that in California, advocates are not explicitly listed as mandatory reporters of abuse; for special circumstances, see the section on Mandated Reporting Procedures and Agency Policy in Chapter 11.)

Privilege, in the legal context, refers to a legal right defined by law to keep this information private. The law defines several different types of “privileged” relationships, including doctor-patient, attorney-client, priest and penitent, and counselor-client. The privilege is a right held by the victim – it is theirs to maintain or waive (i.e., give up) as they choose. Therefore, the victim can refuse to disclose information shared with a sexual assault counselor and can prevent the counselor from disclosing as well. As a counselor, if you are asked to provide information you received from a victim in confidence, you must assert the privilege on behalf of the victim unless the victim authorizes you to disclose the information (CA Evid. Code § 1036). Unless you have the informed written consent of the victim, you can only disclose privileged, confidential information if you are ordered to do so by a court. It is the burden, or responsibility, of the person trying to get the information to show either that it is not a confidential communication or why it is necessary to force the disclosure by court order.

Criminal Sexual Assault Cases

Most sexual assault survivors who come into contact with the legal system regarding their assault will interact with the criminal court system rather than the civil court system. Typically the survivor reports the assault to law enforcement and from there the criminal process happens largely outside the control of the survivor. Law enforcement decides whether, and to what extent, to investigate the report, depending on the circumstances. The District Attorney decides whether to charge the defendant/person who sexually assaulted with a crime, and which crimes to charge. The District Attorney also decides whether to offer or accept a plea bargain or deal in a case. The judge and jury decide whether to convict the defendant and how the defendant will be sentenced. Survivors can be involved in nearly every step of this process, and in many instances their input must be considered if given, but ultimately they do not decide the course or outcome of a criminal case.

By comparison, civil cases related to a survivor’s sexual assault are very much controlled by the survivor. The survivor (usually with the help of an

attorney) chooses whether to pursue a civil lawsuit, what to claim in injuries and damages, and how to handle the case as it progresses. Since victims choose whether they pursue a civil lawsuit related to their assault, they are not likely to come into contact with that process unless they actively seek it out themselves.

The remainder of this section focuses on the criminal court process; the section immediately following this will address in greater detail the civil court process. Knowledge of this process will help you as an advocate support survivors who are navigating the criminal court system and often have questions or are confused about what is happening, why things happen (or do not happen), why things take so long, and what to expect. It will also help you support survivors who choose to participate actively in this process, because they will have to tell in great detail the story of what happened to them and they will be asked to repeat it many, many times. The criminal court system is not flexible enough to accommodate the “good days” and “bad days” survivors often experience in their healing process – so they may be asked to talk about their assault on a “bad day” and you can help them prepare for this possibility.

INVESTIGATION

The investigation process begins when law enforcement is first notified of a potential sexual assault (for more information, see Chapter 9). Law enforcement can learn of an assault in several ways; for example, the survivor may contact police directly, a witness or bystander may call police, or the survivor may seek medical attention and the hospital or clinic may call law enforcement. Even if law enforcement is contacted by someone other than the survivor, the survivor can choose not to make a report. The survivor can also choose whether to complete a forensic medical exam (what used to be called a “rape kit”).

Survivors have the right to an exam without making a report to law enforcement. However, as noted earlier in this section, it is important to discuss with a survivor the pros and cons of not completing a forensic medical exam or of not reporting or delaying reporting. Delay can substantially impact

the future outcome of an investigation or criminal case. Physical evidence in a sexual assault is lost or destroyed very quickly, and it becomes more difficult to find witnesses or other evidence such as security camera footage as time passes. Typically, a forensic medical exam must be performed within five days of the incident to gather physical evidence. Bathing or washing clothing can impact this timeline as well. From a forensic perspective, exams done closest to the time of the assault are the most likely to yield physical evidence if it exists. As an advocate, you can help survivors understand that they can choose to complete an exam without reporting or doing anything further, which would preserve their options if they decide to report or pursue a criminal case in the future.

The criminal investigation process goes far beyond a first report to law enforcement and completing a forensic medical exam. Once law enforcement opens an investigation, the case may be assigned to one or more detectives who work on gathering information, evidence, witness statements and anything else that can help explain the facts and circumstances surrounding the assault. This process can take many months – sometimes years – and survivors will have varying experiences with the law enforcement personnel assigned to their case. Survivors may be contacted several times by investigators, or their contact with law enforcement may be very limited. As an advocate, you can support survivors through this process by understanding how involved they would like to be and supporting them to make that known to law enforcement. If a survivor does not want to be contacted, you can help them feel confident in making that clear to investigators. In contrast, if survivors do want to participate in the investigation process, helping them navigate and feel comfortable with the process of contacting and sharing information with investigators can be incredibly healing for the survivor, as it helps them feel like they have some control over the process.

Sexual assaults are typically investigated by the law enforcement agency with jurisdiction over the physical location where the assault occurred. Jurisdiction refers to the power to, and responsibility for, ensuring laws are followed and crimes

are investigated in a specific geographic area. If a survivor reports to a different law enforcement agency, the agency that takes the report will forward it to the agency responsible for the area where the assault occurred for further investigation. This is not uncommon if survivors are assaulted away from their home, or near a border of two or more jurisdictions. Occasionally, if the assault was committed by someone who has committed assaults in other jurisdictions, there may be unified investigation with one jurisdiction identified as the “lead agency.” When this is the case, a survivor may work with law enforcement personnel from a jurisdiction other than where their assault occurred. This network of law enforcement agencies can be confusing and daunting, so it is important as an advocate to understand the law enforcement agencies in your surrounding area to help survivors identify who may be investigating their assault once a report is made.

Once the law enforcement agency responsible for the investigation completes their work of gathering information and evidence, they will forward the case to the Office of the District Attorney (“DA”) in the county where the assault occurred for review. The DA assesses the case, including reading all the reports by law enforcement and reviewing the evidence collected in the investigation. The DA can choose one of three options: (1) refer the case back to law enforcement for further investigation; (2) take the case and file charges against a specific, identified suspect; or (3) decline to file any charges or pursue the case further. If a suspect has been arrested and is in police custody, they can only be held for 48 hours and then either the DA must file charges against the suspect or they must be released from custody. Releasing a suspect does not mean the DA cannot charge the suspect in the future; however, it can be difficult for survivors to understand why the defendant/person who sexually assaulted in their case would be released. This could be for any number of reasons, but often it is because law enforcement has not had time to gather enough evidence and witnesses for the DA to decide with confidence that the case can be proven in court.

As you can tell, the investigation process is slow, detailed, and often unpredictable; it will be hard to give survivors any sense of how long things will take or what outcomes to expect. This is incredibly difficult for a survivor who is looking for closure and to move on from an assault. Sexual assault cases are particularly challenging to investigate and prosecute because often there are no witnesses other than the survivor and the person who sexually assaulted, and if the survivor did not know the person who assaulted them or cannot recall enough details about the assault to identify the person who assaulted them the investigation could take much longer.

An important part of supporting survivors through this process is helping them understand the unpredictability and setting realistic expectations. It is also vital to help them understand the relationship they have to the criminal case; in sexual assault cases the survivor is a witness to the crime – often the only witness to the actual assault. Survivor participation as a witness (including giving testimony in court) can be essential to a case moving forward, but make sure you are clear with the survivors you support that the ultimate decision about whether to pursue a case and what charges to file is made by the DA. Survivors, law enforcement, and other advocates cannot force the DA to take a specific case or charge a specific crime. This can be difficult for survivors to understand, because they often believe that a case must move forward if they say they want to “press charges” against the person who sexually assaulted them. The reality is, only the DA can press charges and move a case forward beyond the investigation stage.

Q: How would you support a survivor who is disappointed or angry that the DA is declining to move the case forward?

Court Process

DA FILES CHARGES

If the DA reviews a case referred by law enforcement and determines there is enough evidence to successfully prosecute the case against an identifiable suspect, the case moves into the court process. For suspects who are not in police custody, a warrant is issued for their arrest and the rest of the criminal justice process is on hold until the suspect is arrested. Once a suspect is in police custody, the DA officially files charges against the suspect and they are brought before a judge quickly (typically within a few days of arrest) for an arraignment hearing.

Prior to this point, survivors should be assigned a victim-witness advocate through the DA's office. These advocates (sometimes called “system-based advocates”) help survivors understand and navigate the criminal court process, and often assist the DA in communicating with survivors about a case. You should remember, however, that these advocates are employees of the DA's office and do not have the same obligation as a community-based sexual assault advocate to keep information given to them by a survivor confidential. It is best to assume, and to help survivors understand, that any information shared with the DA's victim-witness advocate may be relayed to the DA on the case.

Survivors should know that victim-witness advocates work for the District Attorney's office and may share information with the DA

ARRAIGNMENT AND BAIL

Survivors have a right to be present at the arraignment if they choose and can have a support person with them. At the arraignment hearing, the charges filed against the suspect are read aloud by the judge in open court, unless the suspect waives that right. If so, the survivor can request a copy of the court document listing all of the charges entered against the suspect. Once the charges have been made, the suspect is then referred to

as the defendant in the criminal case. The judge will ask the defendant if they want to enter a plea for each charge filed against them. Defendants can choose to plead “guilty,” “not guilty,” or “no contest.” Alternatively, defendants can choose to enter no plea at that time and ask to enter one later, usually after they have consulted with a lawyer. This is also the court appearance where defendants are assigned to a public defender if they cannot afford an attorney on their own. Finally, the arraignment may also include discussion of setting a bond (and bail) for the defendant.

Currently, the bail bond system is based on money payments – the court sets a dollar amount, called a bond, that the defendant must post (pay) with the court in order to be released from jail while their case is pending. The bond is intended to make sure that defendants come back to court for all hearings and trials, and if they do not, the bond money is forfeited and can be used to find the defendant.

Bonds are typically several thousand dollars, which many defendants do not have readily available, so they pay a bail bond company to post the bond on their behalf and the defendant (or their family) pay the bail bond company a portion (usually 10%) as good faith money. If the defendant misses hearings or does anything to forfeit the bond with the court, the bail bond company will try to recover the full amount from the defendant. Notably, the bail bond system in California will change in October 2019 and the state will no longer use a monetary process. Instead, the bail process will be based on an assessment of the danger the defendant poses and the likelihood they will return for all later court appearances if released from jail while their case is pending.

PRELIMINARY HEARING

After the arraignment, the next court appearance is called a preliminary hearing. This is a hearing with the judge only, where the DA must present a preview of the case against the defendant in order to show the judge that there is enough evidence to justify having a trial. The preliminary hearing is supposed to happen within a few weeks of the arraignment. However, it can be continued several

times (sometimes over many months) while the DA and the defense attorney continue to gather information and evidence to build their case or defenses through the discovery process, which includes interviewing witnesses, getting copies of documents, and reviewing physical, video, and audio evidence. The defendant does not have to present any evidence or testimony at this stage of the process.

Survivors can be present at the preliminary hearing, and often are needed in order to give testimony to the judge. This is typically the first place where the survivor will testify in court, but it may not be the last. As always, survivors have the right not to testify, but as we discussed above, that may mean the case is dismissed at this stage of the process and the defendant is allowed to go free. Testimony refers to statements given to the judge, under oath to tell the truth, and guided by a lawyer’s questions. If the DA is successful in showing the judge there is enough evidence to justify a trial, the case continues forward to a trial setting hearing.

Survivors have the right not to testify at the preliminary hearing, but the case may be dismissed if their testimony is needed to proceed.

TRIAL SETTING HEARING

At the trial setting hearing, the DA and the defense attorney work with the judge to select a date (or dates) for trial of the case. The defendant is entitled to a “speedy” trial and a jury trial by law. However, as practical matter, trials are typically set around when the court, attorneys, and witnesses are available. Additionally, defendants can choose to waive their right to a jury trial and have a bench trial instead, which is a trial heard and decided only by the judge. Once a trial date is set, it can be continued (moved to a new date) by agreement of the DA and the defense attorney or by order of the court if there is a good reason to change the date.

WITNESS SUBPOENAS

Between the time of the trial setting hearing and the actual trial date, the DA and the defense attorney might each issue subpoenas to witnesses they want to testify at the trial. A subpoena is a document signed by the attorney that has the force of a court order; it compels (or requires) the person who receives it to appear at court on the date and time specified in the subpoena, or any continuation of that date.

Generally, if a witness does not come to court as directed by a subpoena, the court can find that witness in contempt and can punish them with jail time, a fine or both. An exception to this is for a witness who is also the victim in a sexual assault or domestic violence case. In those instances, the survivor can refuse to testify despite being issued a subpoena, and the court cannot put them in jail for contempt. The law is less clear about whether the court could still fine the survivor, but practically speaking courts typically do not, likely because this goes against the spirit of all the laws in the state protecting victims.

If a sexual assault victim refuses to testify despite being issued a subpoena, the court cannot put them in jail for contempt.

LEADING UP TO THE TRIAL

On the day that the trial is set, the lawyers, the defendant and all the witnesses come to court ready to start the trial. Depending on the county, however, trial may not start that day. Many counties use something called a “master calendar” process where all trials set for a specific day start in one courtroom and are assigned out to different judges and courtrooms as they become available. If there are not enough courtrooms available, some cases may have to come back the next day, or the following, and so on, for up to 10 days. Eventually, within that 10 days, the case will be assigned to a courtroom and a judge who will conduct the trial.

Once the case is assigned to a courtroom, there are still several steps before trial actually starts. The DA and the defense attorney can both make “motions in limine” which refer to preliminary requests to the judge, away from the jury, about whether certain evidence or testimony will be allowed in the actual trial. The judge must make rulings about each of these requests so that the attorneys know what they can, and cannot, offer as proof at the trial. Victims can be present for the motions in limine unless the court orders the proceeding closed for good cause.

Survivors should know that a trial may not start for several days after the set trial date.

After this, the jury selection process, known as voir dire (pronounced “vwah deer”) begins. The jury will ultimately include 12 main jurors and two alternates, who are present for the entire trial in case something happens to one of the main jurors and they cannot continue serving on the jury. The voir dire process is intended to allow the attorneys to select a jury of 12 people who represent the defendant’s “peers” in the community and who can hear and decide the case on its facts, free from prejudice or bias. It starts with 12 individuals and the lawyers asking questions of the entire group to help identify any such bias or prejudice. The attorneys can dismiss jurors based on their answers to the questions – as jurors are dismissed, new ones from a pool of potentials are brought in to replace them and the questioning continues.

Each attorney is allowed a set number of “peremptory challenges” to jurors, which means they can excuse the juror without having to explain why. In most criminal cases, each side is allowed 10 peremptory challenges (each side is allowed 20 in cases where punishment could be death or life in prison.) Additionally, each attorney is allowed an unlimited number of challenges “for cause,” which means they dismiss a juror but have to demonstrate that the juror meets one of the statutory requirements or has actual bias against the defendant or prosecution. Voir dire ends, and

the jury is set, when the attorneys arrive at a group of jurors they are either satisfied with or can no longer challenge. The judge then gives the jury any relevant ground rules for the case. Survivors can also be present for this process if they choose.

PLEA BARGAINS

At any point up until now, the defendant can try to negotiate a plea bargain – a settlement between the defendant and the DA to avoid a trial. The settlement may include reduced charges in exchange for a guilty or no contest plea, or a reduced sentence in exchange for cooperating in another case, or any other combination of things. Survivors are entitled to know about plea deals and have input on them before they are made, but the survivor will need to be vigilant and in close contact with their victim-witness advocate because deals are often struck quickly and at the last minute.

Survivors are entitled to know about plea deals and have input on them before they are made, but the survivor will need to be vigilant and in close contact with their victim-witness advocate because deals are often struck quickly and at the last minute.

If no plea deal is made, the trial begins. The DA presents their case first, starting with an opening statement which is essentially a recital to the jury of the facts and evidence that the DA intends to show in the case. The defense can also make an opening statement challenging these facts or telling the jury about evidence that will be presented to counter the DA's case. Next, the DA moves through all their witnesses, testimony and evidence, presenting the case and facts to the jury. This can take a few hours or several days, depending on the complexity of the case and the number of witnesses the DA wishes to call. It is the DA's "burden" or obligation to prove that the defendant committed the crimes they were charged with in the case. This is consistent with the principle in American criminal justice that a

defendant is "innocent until proven guilty."

This is another place where the DA will ask a survivor to testify and will walk the survivor through testimony that feels like what they gave at the preliminary hearing. It is important for survivors who testify to be as consistent as possible each time they tell the story; if their story varies, testimony they gave previously or reports they made to police can be used by the defense to question their reliability as a witness. Their testimony at trial will be guided by the questions the DA asks, but as an advocate you can help support the survivor by practicing giving testimony with them if they are able to do so.

As a counselor/advocate you can help support the survivor by practicing giving testimony with them if they are able to do so.

Victims can have a support person with them, including sitting next to them, while they are giving testimony. Besides the DA, the defense attorney is permitted to ask questions of all the witnesses called by the DA, including the victim. This process is called cross-examination and can be extremely difficult for survivors because it is the defense's opportunity to "poke holes" in the victim's story. The defense might ask difficult or insensitive questions or might ask them in a way that suggests the survivor is lying. As an advocate, you can help survivors prepare for this by talking about it and perhaps role-playing some questions so that the survivor can practice what it feels like and how they may respond.

Once the DA has presented all their evidence the defense attorney has an opportunity to present evidence and witnesses on behalf of the defendant. The defense is not required to present anything, because it is the DA's burden to prove the crimes. However, the defense typically does present their own witnesses and evidence to counter the case made by the DA. Defendants have the right to refuse to testify because they are not required to incriminate themselves.

Like the DA's portion of the case, the defense attorney will call witnesses and guide their testimony by asking questions. The DA has the right to cross-examine the defense's witnesses and try to "poke holes" in that testimony. Once all the testimony has been presented each side is permitted to make a closing argument, where the DA and the defense each make arguments to the jury about how to apply the law to the facts and evidence that they just heard. At the end of closing arguments, each side "rests" their case, meaning they submit it to the court and the jury for deliberations.

Once the case is submitted to the court, the judge provides the jury with instructions on the law and process for deliberations, as well as specific instructions on each issue that must be decided by the jury. In order to find a defendant guilty of a specific crime, a juror must be convinced "beyond a reasonable doubt" that the crime occurred and that the defendant on trial is the person who committed it. After instructions, jurors are then excused to a deliberation room where they can consider and discuss the evidence they heard. The jury elects a foreperson, who is responsible for making sure that the deliberation process is orderly, that issues are freely and openly discussed and that every juror has an opportunity to participate. The jury is permitted to take as much time as necessary reviewing exhibits and discussing the issues. Ultimately, the goal is for them to reach a verdict, or decision, about each of the issues in the case. In criminal cases, the verdict must be a unanimous vote of all 12 jurors to either find the defendant guilty or find them not guilty. If the jury cannot reach a unanimous decision, they must report this to the judge. This is referred to as a "hung jury" and the case is declared a "mistrial" – it may mean the case gets set for a new trial with a different jury and the process described above repeats itself.

If the jury reaches a unanimous verdict that the defendant is not guilty, the defendant is "acquitted" of the charge and the case is typically over. Alternatively, if the jury reaches a unanimous verdict that the defendant is guilty, the defendant is "convicted" of the crime and the case is then set for sentencing. Except for cases where the death

penalty is a possible punishment, the judge in the case decides the sentence a defendant will receive. Judges have "sentencing guidelines" set out in the law that they must follow, which give them a range of sentences they must impose for specific crimes and guidance on how to choose a sentence within the range based on the circumstances of the case.

Victims have a right to be present at sentencing hearings and to provide a victim impact statement to the court telling the judge how the crime has impacted their life. Survivors can read the statement themselves, have an advocate or family member read it for them, or ask the DA assigned to the case to read it. This is an important place for advocates to assist survivors because this process can be triggering, but it can also be an important step toward closure for some survivors.

Counselor/advocates can provide vital assistance to survivors during sentencing hearings, whether the survivor wants to read a victim impact statement or ask someone else to do this for them.

DEFENSES

Counselor/advocates can help survivors who are participating in the criminal justice process understand what defenses a defendant might try to raise in their case to convince the jury that they are not guilty. The two most common affirmative defenses in sexual assault cases are "consent" and "mistaken identity." In a consent defense, the defendant argues that the victim participated in and agreed to the sexual act in question. To assert this defense, the defendant must convince the jury that: (1) any reasonable person objectively would have believed that the victim was agreeing to the sexual act; and (2) the defendant actually and subjectively believed the victim was agreeing to the sexual act. When a jury considers this defense, they must look at the totality of the circumstances surrounding the sexual act. This includes evidence about things like a survivor's prior sexual history with the defendant, what they were doing, and who

else was around. A common issue here involves the use of alcohol or other mind-altering substances – the prosecution may argue that a victim was too intoxicated to legally consent to the act. However, to be successful, the prosecution must also show that the defendant knew or should have known that the victim was too intoxicated. Hearing evidence or testifying about the details surrounding their assault can be very difficult and triggering for survivors; this is a key time when support from an advocate can help so that the survivor can process this experience and the feelings of blame, shame, anger and frustration that often accompany it.

A consent defense involves discussion of the details about the sexual assault. This can be very difficult for survivors, and an advocate's support is valuable.

In the defense of mistaken identity, a defendant does not claim the crime did not occur, but rather that they are not the person who committed the crime. In cases where physical, forensic evidence has been collected, the prosecution may be able to use things like DNA evidence or other forensic evidence in the trial to show that the defendant is the one who committed the crime. Witness testimony can also help support making a positive identification, especially in cases where the survivor does not remember the incident well or cannot identify the person who sexually assaulted them because they are not someone the survivor knows.

In addition to the affirmative defenses described above, a defendant may try to convince the jury not to convict them by undermining or attacking the credibility or character of the victim. Defendants do this by trying to bring in evidence about what the victim was doing or wearing at the time of the assault, their lifestyle, their prior behavior, their past statements about the assault (especially if there are inconsistencies) and delays in reporting or seeking medical attention. This can be extremely difficult for survivors to experience because it will feel like they are being blamed for what occurred or that they are lying about the assault. As an advocate, you can support survivors

by talking through this possibility with them and helping them prepare for it if they are planning to testify or be present during the criminal trial.

OUTCOMES

As you can see, the criminal justice process is lengthy and there are many hurdles to a case moving forward. In the best cases, law enforcement can gather enough evidence for the DA and is able to locate the person who sexually assaulted them, the DA is able to prosecute the case successfully, the defendant is convicted, and the court issues an appropriate sentence. In this scenario, the victim is entitled to know about the sentence and can enroll in a victim notification system that will notify them before the defendant is released from prison. The survivor is also entitled to participate in any parole hearings if the defendant is considered for early release on parole before the end of their sentence. Sexual assault victims may also receive from the court a criminal protective order which may order that the defendant not contact the victim, stay away from them, and not harass them.

Unfortunately, most cases do not proceed this way, and at each step of the process there are fewer cases that move on to the next phase. Part of supporting survivors through the criminal justice process is helping them prepare for and cope with the reality that their case may not move forward, no matter how cooperative they are with law enforcement and the DA. If there is not enough evidence, or the person who sexually assaulted cannot be located, charges may never be filed by the DA. If the judge decides at a preliminary hearing that the evidence is not enough to justify a trial, the case may be dismissed. Possibly worse, the entire trial may happen, and the jury may not be convinced, beyond a reasonable doubt, that the defendant committed the assault, so the defendant is acquitted and released.

Part of supporting survivors through the criminal justice process is helping them prepare for and cope with the reality that their case may not move forward.

This uncertainty amplifies the emotional rollercoaster that victims and survivors already experience as they try to process and heal from the assault. It is also the reason many victims are hesitant about participating in the criminal process in the first place. Not surprisingly, many feel that there is no point in putting themselves through the stress and anxiety of the process for it to lead to essentially a dead end. You may also work with victims who go back and forth about their willingness or interest in participating in a criminal case. They will have days where they feel strong and empowered and want to seek justice, and other times when they feel exhausted and overwhelmed by the process. Support from a counselor/advocate is vital in these situations and you can help victims talk through how they are feeling, evaluate all the options and consider potential effects of their decisions. By doing this, you will create space for the survivors you support to make meaningful, fully informed choices about their case and their healing process.

Q: How can you ensure that you focus on survivors' choices to engage in the criminal justice process or avoid it, rather than your own opinions on the matter? What are your feelings about this issue? How can you separate your own feelings and reactions from your interaction with survivors?

Civil Sexual Assault Cases

Aside from the criminal justice system, survivors may be able to pursue their own legal claims in civil court. As noted throughout this chapter, civil legal claims have different deadlines and legal standards of proof than criminal prosecution. It is important to discuss generally the civil legal options with victims and survivors early, so that they have as much time as possible to pursue those options if they choose to do so. Ultimately, this area of law is complex and survivors should consult with an attorney of their choosing about the specifics in their case and which claims they can pursue. Below is a general overview of the types of claims. Remember that in civil lawsuits the

outcomes do not include jail or prison time – they include money damages or orders that one party do, or not do, a specific action.

TORTS

In civil law, the word “tort” refers to a wrongful act or infringement of a right that results in civil legal liability. The category of legal claims referred to as Torts include many things that overlap with similar criminal charges. For example, a person who punches another person may be guilty of the crime of battery, which is defined in the Penal Code and can be punished by imprisonment. That person can also be liable for the tort of battery, which is defined in the Civil Code and can be punished by a fine or money damages. Common tort claims in sexual assault cases include things like assault, battery, intentional infliction of emotional distress, and false imprisonment. There may be other applicable tort claims depending on the facts in a specific case. The money damages a victim is entitled to will vary based on each case but can include things like actual damages for medical costs, including mental health services, lost wages, property damage, and pain and suffering. They may also include punitive damages which are damages intended to punish the bad behavior or deter a person from doing the behavior again in the future.

RESTRAINING ORDERS

Sexual assault victims can also seek civil restraining orders against the person who sexually assaulted if they choose; these restraining orders may be either Civil Harassment Restraining Orders (CHRO) or Domestic Violence Restraining Orders (DVRO), depending on the relationship the victim had to the person who caused the harm/sexual assault. Both restraining orders follow the same procedure, discussed below, and both require the victim to actively seek these orders; they are not connected at all to the criminal justice process. To qualify for a DVRO, the person who sexually assaulted them and victim must be married (or divorced from each other), prior or current dating or intimate partners, parents of a shared child, or the person who sexually assaulted must be the parent, grandparent, sibling, child, or grandchild of the victim, or be currently married to one of

those family members. If the victim and person who sexually assaulted them have a relationship that falls into one of the categories above, the victim can seek a DVRO through the family court system. There is no statute of limitations to seek a DVRO, however practically speaking the court will consider the amount of time between the assault and when the victim seeks a restraining order when determining what orders to make. DVROs can contain orders on a variety of issues, including personal conduct, stay-away provisions, move-out, no-contact, orders to pay bills or expenses, orders for possession and control of personal property, animals and wireless accounts, orders for child support or spousal support, orders for attorney's fees, orders permitting the victim to record violations of the DVRO, and orders that the person who caused harm/sexually assaulted attend a batterer intervention program. In addition, for the time that the DVRO remains in place, the restrained person (i.e. the person who caused harm) cannot own or possess guns or ammunition.

If the victim and person who sexually assaulted do not have one of the relationships that qualifies the survivor for a DVRO, the survivor can petition the court for a CHRO. The orders available in a CHRO are limited to personal conduct, stay-away, no-contact, control of animals, attorney's fees, and orders that the restrained person cannot own or possess guns or ammunition. CHROs are typically filed in the general civil court, rather than in family court; however, depending on the county you are working in these may be the same place as smaller counties often only have a few judges who handles all cases.

Regardless of the type of restraining order a survivor seeks, both follow a similar timeline. The survivor files a request for the restraining orders (sometimes called a petition) and asks the court for all the orders they want or that are applicable in their case. Survivors must affirmatively request the orders they want in their first filing or the court cannot grant them. They must also include any other persons they would like protected by the order, such as children or household members. The Request also includes a description of the abuse or harassment that occurred. This may be

difficult for survivors, but Requests are most likely to end successfully in a granted restraining order if they are detailed and organized. Survivors often over-generalize about what occurred and the judges reviewing the Request cannot determine from the paperwork whether what happened justifies a restraining order being issued. If you are helping a survivor through this process, you can assist them with organizing their thoughts and telling their story, but be careful to avoid giving legal advice unless you are a licensed attorney.

Once the survivor has completed the Request, it is submitted to the court for review by a judge. The judge determines whether there is enough information in the Request to issue a temporary restraining order (TRO), and which specific orders will be in the TRO. If a TRO is issued, it lasts from the day it is issued by the court until the first court hearing date, which is typically about three weeks after the Request was filed. Even if the judge does not issue a TRO, the Request is still set for a hearing so that the survivor can talk to the judge about what orders they want and why those orders are necessary.

Before the hearing, the survivor must arrange to have the person who sexually assaulted them to be personally served with copies of the Request, TRO, and notice of the hearing date. The victim does not complete service themselves – they must find someone over 18 who is not a protected person under the Request to deliver the papers personally to the person who sexually assaulted. Personal service is peaceful, face-to-face contact and cannot be through a closed door or window. For DVROs, the local sheriff in the county where the person who sexually assaulted is located must serve for free by federal law, but you will need to research the procedure to request service for each specific county. For CHROs, the victim can request that the court order the sheriff to serve for free, but it is not guaranteed.

Once the Request, TRO, and notice of hearing have been served, the survivor must make sure that a Proof of Personal Service form is filed with the court notifying the judge that personal service was completed. The defendant/person who assaulted can file a Response to the Request if they choose;

if they do, they must give a copy to the victim before the hearing. At the hearing, the survivor should be prepared to talk about what occurred and to answer questions the judge might have. It is important to help survivors understand and prepare for the fact that different judges have different experience with sexual assault cases, and that it is the judge's job to assess the facts, so they should be prepared for questions that may seem direct or insensitive. The defendant/person who sexually assaults has the right to attend the hearing and speak to the judge as well, so survivors should be prepared to see the defendant and hear whatever version of the story the defendant provides to the court. Furthermore, survivors should be prepared for the hearing to be continued (i.e., delayed) one or more times, as defendants can request continuances to get an attorney or for other reasons. Typically, the TRO gets extended to the new hearing dates, so it remains in place even if the hearing is continued.

When the initial hearing does go forward, the judge will ask questions and hear statements from the parties. This hearing is brief, usually only about 10 to 15 minutes, and is not the time when witnesses are called or evidence presented, other than what was in the Request and Response. At this point the judge has three options: (1) grant a restraining order after hearing for up to five years; (2) deny the restraining order entirely; or (3) set the matter for a trial on a date when the judge has more time to hear witness testimony and evidence. If the case is set for trial, the survivor can bring witnesses and other documents to court that day to help provide the judge with more information and facts to support the Request. Survivors should consider consulting an attorney familiar with restraining orders if they are set for a trial and should do so as quickly as possible to give the attorney time to understand the case and prepare.

Ultimately, if a restraining order is issued after the hearing or trial, the judge will provide the survivor with a new copy of the orders including when they expire. Survivors should make copies of their orders to have in important places, including their car, work, children's schools and home. They should also, if possible, store an electronic copy

on their computer and cell phone. The length of the orders and the specific orders are at the discretion of the judge. The maximum length for the first request is five years; however, if a survivor believes they will need protection for longer they can request to renew the restraining order. They must make this request before the existing one expires, otherwise they will have to start from the beginning. Renewals can be permanent (i.e. lifetime) if the court believes that is appropriate.

Role of Advocate in the Process

SUPPORTING THE SURVIVOR

Your primary role as a counselor/advocate is to provide emotional and practical support to the survivors who are seeking services from you. This will look very different across all the people you work with, so it is vital that you approach each case individually. You will need to take time and energy to learn about each survivor and build rapport with them. Some survivors may open up to you quickly, while others may be very hesitant to share anything about themselves. Survivors will come to you from all kinds of backgrounds, experiences, races, ethnicities, genders, sexual orientations, cultures, educational levels, and lifestyles. As an advocate, you will need to be mindful of your own biases and assumptions about people who are different from you. By doing this, you ensure that you are approaching each survivor with an open mind and a willingness to help them with their unique situation.

Counselor/advocates must also be able to "meet survivors where they are," which means you must understand that each survivor is the expert in their own experience. Your role is to give them information and options and help them process and carry out their own decisions. Your role is not to make decisions for them or try to convince them to do, or not do, something. Counselor/advocates can unintentionally push survivors away because they are so focused on "helping" that they forget to listen to the survivor and really hear what kind of help they are seeking. Listening closely and then guiding survivors to the resources and options available for them is a very effective way to support people in their empowerment.

Just as each survivor is unique, so too are the types of support they will need. Providing emotional support to someone depends on building an emotional connection. This comes most naturally if the survivor feels that you are there to help, you are nonjudgmental, and that you truly listen to and hear what they are saying rather than simply trying to “problem-solve.” Some survivors will want and need emotional support, while others will look to you for more tangible support in the form of information about resources and assistance obtaining those resources. Emotional support may mean accompanying a survivor to a court hearing, law enforcement interview, or medical exam; or it may mean being available for a phone call on a difficult day or to talk through the pros and cons of a decision. More tangible types of support may be assisting a survivor with an application for public benefits, helping them learn more about a restraining order, accompanying them to get copies of records, or helping them navigate communication with the multiple people involved in their case. In the end, the most important goal is that the support and assistance you provide be client-centered and trauma-informed. If you can stay focused on the survivor and aware of the unique challenges they face, you will be able to provide meaningful support that will have a lasting impact.

WORKING WITH REPRESENTATIVES FROM OTHER SUPPORT SYSTEMS

One portion of your work as an advocate will include interacting with representatives from other support systems. This might include medical personnel, representatives from social services agencies assisting the survivor, law enforcement, religious or spiritual support persons, or friends and family members of the survivor. Coordinating and building a good relationship with other people providing support to a survivor helps ensure they are receiving consistent, comprehensive assistance. However, you should always be sure you discuss these connections with the survivor first. They should be aware of, and agree to, any communication you have with others about their case and should provide you with written, informed consent to do so. Also, remember that

what survivors tell you in confidence is privileged and confidential information – some of the other support persons assisting a survivor may not have that same protected relationship or the survivor may not have shared details with them. Tread cautiously.

It is not uncommon for bilingual advocates to find themselves in a position where they are expected to interpret for the survivor, whether this is in an interview or in the courtroom setting. This compromises the role of the counselor/advocate and you are doing the survivor a disservice by interpreting, even if your motive is to help. When you function as an interpreter, you break the boundary of confidentiality. You may accidentally disclose private information and it puts you in conflict with your sole responsibility, which is to support the survivor, because you may be functioning on behalf of the state. You can be more helpful by advocating for appropriate interpretation services, helping to monitor the efficacy of the interpreters provided, and checking that the survivor is comfortable with the particular interpreter (for example, the survivor may know the interpreter).

WORKING WITH VICTIM/WITNESS ADVOCATES AND VICTIM'S COMPENSATION PROGRAM

In your work as an advocate, you may work regularly with representatives from either the Victim/Witness Program through the DA's office or the Victim's Compensation Program. Although these organizations sound similar, they are independent programs with different services and goals. The Victim/Witness Program is through the DA's office in each county and consists of staff who are assigned to victims who are witnesses in a criminal case once the DA begins investigating the case. These advocates are intended to help victims navigate the criminal justice process. However, these advocates are employees of the DA's office and because of that they do not have a privileged relationship with the victim. Survivors, and you, should assume that any information passed along to the Victim/Witness advocate will be shared with the DA and possibly with the attorney for the defendant. You must balance having a good working relationship with the Victim/Witness

advocate and still maintaining the confidentiality you have with the survivor you are supporting. This can be challenging, but it is important to protect survivors' privacy and support them to share their story on their terms.

The California Victim's Compensation Program (CalVCP) is a statewide public assistance program for victims of crime administered through the California Victims Compensation and Government Claims Board. This is a program that is designed to help victims of all crimes, including sexual assault, with financial needs for things like medical and dental bills, moving expenses, wage/income loss, job retraining and counseling costs. The program can pay several thousands of dollars per victim when necessary, based on the facts and circumstances of the case. As an advocate you may help victims research the benefits applicable to them and complete their application for CalVCP benefits and submit expense reimbursement requests. You may also work with CalVCP staff to help a survivor understand what additional information or documents must be provided to help process their application or request for reimbursement. Similar to the Victim/Witness advocates at the DA's office, the CalVCP staff do not have a privileged or confidential relationship with victims or survivors so you must be careful about the information you share when working with them. It is also a good idea to discuss this with the survivors you are

supporting so that they are making an informed decision if they choose to share information with CalVCP or a Victim/Witness advocate.

Summary

Helping survivors navigate the complexities of the court system can be extremely challenging for advocates. Each player in the system has an important role, but your role as a community-based counselor/advocate is unique: to offer survivors sufficient information and support to make their own decisions under very difficult circumstances, and to help ensure that survivors are treated with respect at every step along the way. Your knowledge and compassion can make a huge difference during this high-stress process, both in working with survivors directly and in coordinating with other professionals to smooth the path for survivors.

In this chapter, you have learned about the different types of courts and legal cases, the terminology that can seem baffling to those who are unfamiliar with the courts, and the various aspects of criminal and civil cases involving sexual violence. As you gain experience, you will be able to join with others at your agency to identify any gaps in service or areas where systems need to be more trauma-informed.



CHAPTER 11

AGENCY PROCEDURES

Introduction

This chapter will provide information you need as an advocate to understand the procedural, regulatory, and organizational requirements and practices your Rape Crisis Center (RCC) must follow in working with sexual assault survivors in California. The work done by advocates is impacted by the policies and regulations both inside and outside of the RCC. The services provided by California RCCs, and therefore your work as an advocate, are regulated by the Service Standards for the Operations of RCCs, state and federal laws, funding parameters, and your individual agency's philosophy and internal policies and procedures as established by the Board of Directors. We will examine each of these elements, so you can develop a broader picture of why your agency asks you to do various tasks. We also highlight practical strategies for maintaining a high standard of confidentiality to protect the survivors you serve.

Service Standards

The service standards for individual RCCs vary depending on their particular funding sources. State Penal Code (PC) 13837 sets forth many of the regulations and standards under which RCCs and their advocates operate, though much of what makes those regulations enforceable is their connection to funding through the state Rape Crisis Program.

The goal of the Rape Crisis Program is to “reduce the level of trauma experienced by sexual assault survivors through provision of comprehensive and supportive services, to improve coordination of multidisciplinary response systems, and to expand public awareness concerning sexual assault and its impact” (CAL OES, 2016). For agencies receiving state Rape Crisis Program funding from the California Office of Emergency Services (CAL OES), the State Advisory Committee on Sexual Assault Victim Services created Service Standards that are in compliance with PC Section 13837 and the various funding streams through which the RCC

Program is supported, which are discussed later in this unit. Though each funding source represents a variety of goals and requirements from state and federal funds, the Service Standards created by the State Advisory Committee clearly establish a comprehensive, minimum level of services that must be provided by the RCC to receive funding. Agencies providing sexual assault services may provide additional services to survivors but must, at minimum, include:

- First Contact/Crisis Intervention Services
 - » 24/7 crisis telephone line
 - » Normal business hours for the agency
- Follow-up Services
 - » Ongoing contact with survivors after initial contact
- Individual Counseling Services
 - » One-on-one advocacy and support
- Group Counseling Services
 - » Facilitated support groups for survivors, either at the agency or by referral
- Accompaniment Services
 - » Being physically present with the survivor during meetings or appointments
 - » Accompaniment to hospitals, law enforcement agencies, district attorney's offices, court proceedings, and other locations depending on survivors' needs
- Advocacy Services
 - » Intervening with agencies or individuals on behalf of sexual assault survivors
- Information and Referral Services
 - » Providing information and referral to survivors and the public
 - » Maintaining up-to-date referral resource information of services survivors may need
- Community Education Programs
 - » Planned programs to educate the

community on topics such as sexual assault, RCC services and operations, and volunteer opportunities

- » Culturally and ethnically relevant community education materials

In addition to the minimum standards, best practices for the delivery of RCC services include:

- practical support such as navigating a complex criminal justice system and meeting basic needs;
- emotional support such as accompanying a survivor during a forensic exam, using motivational interviewing to support the survivor in making decisions about next steps, or using crisis intervention techniques to increase coping skills; and
- other types of support including referrals to necessary outside services such as immigration support, victim witness programs, or culturally-specific services.

The Service Standards include services that are likely to be provided by more than one staff person. Agencies may divide the responsibility of providing those services across two or more roles, such as advocates and therapists or volunteers and staff. Given the possibility for agency-specific variation in meeting those Service Standards, review the Service Standards for the Operations of Rape Crisis Centers document and then ensure that you are clear on the expectations for your role as advocate within your agency.

In addition to setting Service Standards for the type of services provided, the State Advisory Committee also set forth training requirements for all staff and volunteer advocates working with survivors at their organization as well as specific requirements for documenting compliance with training requirements. These requirements include an initial 40-Hour Sexual Assault Counselor Training that must be completed prior to any interaction with sexual assault victims and 8 hours of continuing education on a yearly basis. Advocates' annual continuing education must include human relations training, which addresses the needs of communities who have experienced oppression

and discrimination based on their personal identity including ethnicity, language, gender identity, immigration status, ability, homelessness, and other intersections of personal identity.

RESOURCE

California Service Standards for Rape Crisis Centers

<http://www.valor.us/2009/08/11/california-sexual-assault-training-standards/>

Agency Philosophy

The overall purpose of RCCs is to be a support for survivors and communities responding to sexual violence. This common purpose does not mean that all RCCs are the same. RCCs can differ in worldview, perspective, and healing approaches, and their organization culture will reflect and shape these values in its staff, board, volunteers, services, traditions, actions, etc. Within the diversity of RCCs, every agency is expected to meet a minimum set of Service Standards. This ensures a minimum standard of quality service to communities state-wide, whether rural or urban, part of a hospital or university program, a dual agency, or stand alone RCC. In general, RCCs share a commitment to all or most of the following:

- Believing survivors and advocating on their behalf within systems and among individual providers.
- Providing individualized services that are culturally competent and promote dignity and respect.
- Providing trauma-informed care that is both survivor-centered and survivor-led, knowing that survivors are the experts on their own lives.
- Understanding that all forms of oppression and all forms of violence are linked, requiring us to work with a social justice lens to end all forms of violence and oppression.
- A commitment to using most recent best practices and research in the field.

It is up to individual agencies to provide training

and mentoring to all those working on behalf of the RCC, including volunteers, staff, and board members, in order to ensure the entire organization embodies the agency philosophy and demonstrates it in their work with survivors, community partners, and coworkers. For example, some organizations that view their work in a political context may attract more social justice oriented staff, while a faith-based agency may not provide pro-choice related service options and referrals. Additionally, everyone affiliated with the RCC should familiarize themselves with the mission, vision, and values of the agency they serve to ensure their ability to uphold those tenets as representatives of the agency. Using the previous examples, some advocates may feel that the RCC is too radical in its politics, or may personally be pro-choice: in these instances, an advocate may be able to compartmentalize their own beliefs and continue to support the RCC and advance its philosophy in their work with survivors. It is important for advocates to become informed on the philosophical foundation of their agency to ensure that their own personal beliefs are compatible with those of the agency, or that they are able to support the philosophy and mission of that agency despite any personally philosophical differences. Advocates can gather this information through conversations with staff and by reading through the agency documents such as the Mission, Vision, Values, History, and/or Strategic Plans.

Q: Does the agency philosophy match with your personal philosophy? Are there any pieces that conflict for you? If so, can they come into alignment?

Bishop, Elizabeth, *Develop Your Personal Philosophy in Four Steps*, 2016 <https://www.socialworkhelper.com/2016/11/23/develop-personal-philosophy-four-steps/>

CALCASA, *Learning Our Legacy*, 2001 <http://www.valor.us/media/learning-our-legacy-part-1/>. and <http://www.valor.us/media/learning-our-legacy-part-2/>

Agency Limitations: When Referrals are Appropriate

While RCCs strive to provide core and comprehensive services, no RCC can meet all needs of all survivors. Some situations, such as in cases of co-occurring/dual diagnoses or status issues (i.e. homelessness, immigration, etc.) may be beyond the scope of your RCC's capacity. Having well established partners who are able to provide appropriate services in these situations is invaluable. Know your RCC's specific guidelines (including policies and procedures) on how and when referrals are provided in these situations. Ultimately, the role of the advocate dictates that you do your due diligence to meet the client where they are, provide the most appropriate referrals you can when the situation requires it, and continue to support the survivor within the appropriate boundaries of community based advocacy.

As addressed in Chapter 6, referral categories should include law enforcement; district and city attorneys; medical providers; mental health facilities; social services; child protective services; other rape crisis centers; domestic violence centers; child sexual abuse treatment programs; victim witness programs; group counseling services; and licensed therapists with knowledge and experience in the area of sexual assault. Agencies are expected to maintain current and accurate information both internal to the organization and external referral agencies. In the event you encounter an outdated referral that any information should be communicated to your supervisor or someone else at your RCC.

Funding Sources

The state Rape Crisis Center (RCC) program is just one source of funding available to agencies providing services to survivors of sexual assault. In fact, the RCC program itself is an umbrella that brings together several state and federal funds under one funding program. RCC funding combines the following funding streams:

- Violence Against Women Act (VAWA): VAWA was first passed in 1994 with the intent to end violence against women. The legislation has

expanded and changed in the years since and includes provisions related to funding of victim services, training and service standards, and prevention programs for U.S. states and territories. VAWA has several streams of funding for rape crisis and prevention services.

- **State Penalty Assessment:** these are funds based on penalties levied against persons convicted of state crimes. These funds can only be used to provide sexual assault specific services, including 24-hour crisis lines, follow-up counseling services, in-person counseling services, accompaniment services, advocacy services, information and referral services, and community education programs.
- **State General Fund:** these funds can also be used to provide bed-night services for sexual assault victims, as well as to pay for administrative expenses that support that service.
- **Victims of Crime Act (VOCA) Victim Assistance Formula Grant Program:** this federal funding program is authorized by the Victims of Crime Act of 1984 with the purpose of providing financial assistance to states to support eligible crime victim assistance programs that: 1) respond to the emotional and physical needs of victims of crime; 2) help primary and secondary victims of crime to stabilize their lives after a victimization; 3) help victims of crime understand and participate in the criminal justice system; and 4) provide victims of crime with a measure of safety and security. Crime victim is defined as any person who has suffered physical, sexual, financial, or emotional harm as a result of the commission of a crime.
- **Sexual Assault Services Formula Grant Program (SASP):** SASP on a state level is a funding source that is connected on a federal level to a historic piece of legislation, the Violence Against Women Act (VAWA) of 1994 and its subsequent reauthorizations. VAWA is administered on a federal level by the Office on Violence Against Women (OVW), which created SASP as “the first federal funding stream solely dedicated to the provision of direct intervention and related assistance for victims of sexual assault.” SASP grant funding

is not intended to be stand-alone funding, but rather to provide states and territories with supplemental funding to support rape crisis centers and other nonprofit, nongovernmental organizations or tribal programs that offer services, direct intervention, and related assistance to victims of sexual assault.

In addition to the above cited funding, many RCCs also receive funding from local and county government, private foundations, and private donations and fundraisers. In general, this funding makes it possible for services to be provided free of charge to the community. Advocates will not need to know specifics about the various funding; however, certain funding streams dictate limitations or directions of advocacy. To find out more, please discuss with your agency’s crisis intervention staff.

RESOURCES

Twenty Years of the Violence Against Women Act: Dispatches from the Field, Office on Violence Against Women, Department of Justice, 2016:
<https://www.justice.gov/ovw/file/866576/download>

California Evidence and Penal Codes Regarding Survivor Rights

You have learned about the rights of survivors throughout this manual. For more information and specific laws, see Chapters 9 and 10. Survivors are never required to submit to an examination and/or participate in a criminal investigation. In general survivor rights are outlined by specific penal codes including a more recent addition that requires law enforcement to provide a handout with explicit information about the rights of survivors. These include the right to:

- have a victim advocate or support person of your choosing present during an exam or investigative interview;
- seek a civil protective or emergency protective order; and
- seek financial assistance through victim compensation.

Your RCC program has specific processes in place for ensuring these survivor rights are maintained in the course of your advocacy. Please be sure to follow agency procedure when addressing any of these concerns.

RESOURCE

You can access a template that outlines survivors' rights and has a place for your RCC's contact information at <http://www.valor.us/publications/your-rights-card-template-your-rights-as-a-survivor-of-sexual-assault/>

Consent for Services

Obtaining informed consent for services sets the stage for your work with survivors. There are different considerations for adults and minors. Understanding the services, approach, and limitations of working with minors is an important part of your preparation as an advocate. What is particularly pertinent to your work as an advocate is being aware of the laws regarding consent and privacy related to children and teens. For example, minors can consent to medical care related to "diagnosis or treatment of a sexual assault and the collection of evidence" but only if they are 12 years of age or older. Your agency may not even provide services to child victims under the age of 12 or may do so in collaboration with an entity, such as a children's hospital, that can provide specialized care for child victims.

Your training will include learning about your agency's policies and procedures for obtaining and documenting consent for services for both minors and adults, including adults who may have circumstances that prohibit their consenting on their own behalf. It is important that you clarify any questions or concerns you may have about who is entitled to consent to services, how that should be recorded, whether your agency requires written consent and if so under what conditions, and what information you must provide before a survivor gives consent for services. In general, a person cannot give informed consent unless they have been told about the nature of the services

available, their rights, confidentiality, and exceptions to confidentiality. Follow your agency's policies and procedures carefully.

Q: How can you handle obtaining informed consent in a situation where a survivor is very emotionally upset?

Confidentiality and Recordkeeping

AGENCY CONFIDENTIALITY POLICIES

Because confidentiality is the cornerstone of building trust with survivors, your agency will have detailed policies on how to keep interactions with and records for survivors confidential. As you learn and follow these policies, there are some things you can do to ensure you do not inadvertently compromise a survivor's rights.

Confidentiality about verbal communication is as important as careful handling of records and documents. Be mindful and aware of what you say, to whom you are saying it, and where you are when you talk about clients. Keep your necessary conversations with colleagues and supervisors to places where you can't be overheard. Learn about vicarious trauma and stress management so you are not tempted to tell friends or family more than you should about your day at work. Be aware, when working with other service providers, that you may only reveal information that has been specifically released by the survivor, no matter how insignificant your conversation may seem.

Practice giving a clear, concise explanation about what information is and is not confidential. You will want to provide this explanation at the very onset of your work with a survivor, so that they can make the decision about what to share before they speak with you.

RESOURCE

Strengthening Sexual Assault Victims'
Right to Privacy

Office for Victims of Crimes

[https://www.ncjrs.gov/pdffiles1/
Digitization/226501NCJRS.pdf](https://www.ncjrs.gov/pdffiles1/Digitization/226501NCJRS.pdf)

This online guide provides information about confidentiality and specific practical tips to help advocates and agencies uphold survivors' privacy.

CLIENT-COUNSELOR PRIVILEGE

The communication between "clients" (survivors) and "counselors" (advocates and RCC staff and volunteers) is privileged and confidential. In the statute the term "privileged" is defined as:

A victim of a sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor, as long as the privilege is claimed by either the victim, a guardian or conservator of the victim, the personal representative of the victim if the victim is deceased, or the sexual assault counselor to whom the communication was made (CAL. EVID. CODE § 1035.8)

Protections for that communication are set forth in the California Evidence Code and can be reviewed in further detail in sections 1035 and 1036 (California Sexual Assault Counselor-Victim Privilege, 1965, amended 2006). Though there are limits to the protections provided by the evidence code, as described in the Confidentiality of Records and Subpoenas section above, there are also important considerations for counselors/advocates regarding those protections.

In order for communication between a counselor/advocate and a client/survivor to be privileged, a person must meet the requirements of a "Sexual Assault Victim Counselor" defined in the evidence code. For the purposes of this manual, counselors must be working in an official capacity (paid or not) where services are provided to sexual assault

survivors. That counselor must also be trained through a training program that at minimum meets the 40-hour training requirements set forth by Penal Code Section 13837 and supervised by an individual who also meets the same training requirements. Not only must a counselor receive initial training to meet the requirements per the Evidence Code, but they must complete ongoing training to maintain their status as a Sexual Assault Victim Counselor. Without meeting that initial and ongoing training requirement, individuals cannot consider their communication with victims to be privileged and confidential.

Communication with survivors is protected under the evidence code so long as the information that is exchanged is not shared with a third party unless the victim is aware of the counselor doing so and/or that communication is for the purpose of providing services to the victim, such as a discussion with a supervisor regarding appropriate referrals for a victim. Other limitations to advocate-survivor confidentiality include situations where the survivor is a risk to themselves or others (i.e. threatening suicide or homicide); when they have disclosed abuse of minors or vulnerable adults for those agencies where the advocate is expected to function as a mandated reporter; and/or when the survivor has signed a waiver giving the advocate permission to disclose anything in their communications with another provider. Finally, privileged communication rests with the certification of the RCC, not the individual advocate. This means, that if an advocate breaches survivor confidentiality they jeopardize the integrity of the RCC and put the agency at risk. Furthermore, an individual working independently of an established RCC does not have the client/counselor privilege of confidentiality.

Ultimately, confidentiality is for the protection of the survivor and, as such, they hold the right to refuse the privilege of that confidentiality should they determine it benefits them to do so. The counselor should not determine for the victim if or when that confidentiality protection is waived.

CLIENT DATA DOCUMENTATION

Maintaining some records of client interactions is both necessary and complex for agencies working with sexual assault survivors. The necessity comes not only from a desire to ensure program funding service requirements are met, but also to enhance seamless service provision. Even if the caseload of an advocate is small, which is unfortunately rarely the case, keeping track of all interactions with and needs of a survivor over the course of months or even years would be unreasonable to do with mental notes alone. In many agencies, advocates may also work in teams where other advocates or a supervisor might need to have communication with a survivor they do not typically work with.

The documentation of client interactions, needs, and services often takes the form of case notes, via paper form, electronic records, or both. The standards for case notes and service documentation will vary per organization, but there are legal and privacy considerations all agencies must take into account in establishing their standards for case notes and similar client data documentation. Agencies must set standards for record-keeping that balance their need for compliance (regulatory, funding, etc), with case notes needed to ensure that survivors receive quality continuity of care between healing and referral entities.

A best practice for advocates at all Rape Crisis Centers is to limit client documentation to only the information needed, focusing on facts and omitting opinions. This allows the advocate to remain objective in working with survivors and also prevents them from documenting opinions or conjectures that could harm the survivor if they were revealed in a court proceeding. This means documenting items like what referrals were requested and what services were provided, but NOT recording items like how a survivor/client looked during an interaction or how you think they felt on a particular day. Below are two simple examples of appropriate and inappropriate case notes for a contact between an advocate and a survivor to help give you an idea of appropriate content for case notes.

CASE NOTE 1:

Met with Casey on 6/8/18 at the Center. Casey was running late and arrived flustered and shaky. She repeatedly asked the same question regarding the process for the upcoming detective interview. I tried to put her at ease and offered to set up a counseling appointment for her prior to the interview so that she could get some things off her chest and feel calmer going into her interview. Casey refused the counseling referral but said she would be on time to the detective interview and would do what she "needed to" to be ready.

CASE NOTE 2:

Held scheduled 9am appointment with Miriam at the Main office on 5/18/18 from 9:10-10am. Reviewed the outcome of the last hearing. Set up a follow-up appointment with our legal services staff for 5/30/18 at 10am. Discussed current needs and concerns. Offered her group counseling and housing services referrals. Based on client response, provided her with phone number to Rachel's House Housing Services.

Q: Can you tell which case note is appropriate and which is not? Can you describe why and identify the specific elements of the case note that are too subjective?

CONFIDENTIALITY FOR RECORDS AND SUBPOENAS

It should come as no surprise to know that in the past, a victim's prior sexual history and lifestyle have been used to discredit victims in criminal court cases. Instances where the survivor had willingly consumed alcohol or drugs, or had previously consented to sex were used to cast doubt on cases which are already very difficult to win. As such, survivors would conceal information only to have it come out later, thereby further damaging their credibility. But not disclosing this information can contribute to a survivor's guilt and self-blame, and impede their healing process.

It is vital that advocates understand that one of the most important mechanisms to building trust with survivors is in maintaining confidentiality. The communication between you as the advocate (referred to as “counselor” in the penal and evidence codes) and survivor/clients (referred to as “victims” in penal and evidence codes) is privileged and deemed confidential per the California Evidence Code 1035, described in the Client Counselor Privilege section below. Knowing that this communication is has protections and is largely kept confidential allows the survivor to feel safe in speaking to freely to discuss anything including behaviors that may render the victim lacking in credibility.

There are limits to the protection of counselor-victim communication that should give any agency providing services to sexual assault victims pause in determining the nature of records maintained regarding their clients. There are three categories of protections for privilege and confidentiality: absolute, semi-absolute, and qualified. California has categorized the protection of counselor-victim communication as being qualified, which means disclosure of counselor-victim communication is evaluated on a case-by-case basis for legal proceedings or academic adjudication proceedings. That determination is assessed by determining whether the “probative value outweighs the effect on the victim, the treatment relationship, and the treatment of services if the disclosure is compelled” (California Evidence Code Section 1035.4).

Though legal counsel for both the defendant and the victim are given the opportunity to make their case for or against the disclosure of that content in the privacy of court chambers, you must be mindful of the possibility that information will be revealed. Therefore, your notes should stick to that which is easily documented and objectively observable (such as arrivals, referrals, and appointments). It is important for you to be clear regarding your agency’s policies on record-keeping and to have conversations about appropriate record-keeping with your supervisor early and often.

In addition to discussions about agency policy on client data documentation, it is important to inquire (if the information is not already provided) about the resources and strategies available to your RCC

for dealing with subpoenas. Some agencies have internal legal staff, some do not. Some agencies utilize their legal staff to address subpoenas, some employ outside legal counsel in these matters. All RCCs should have a clear protocol and process for staff and volunteers to follow when presented with a subpoena. Reviewing the resources, strategies, and protocols involved in responding to subpoenas before staff are presented with one protects advocates and survivors from costly missteps.

RELEASES OF INFORMATION

In some situations, the survivor may want you to communicate with other individuals or agencies. The survivor must give specific informed consent before you can release any information at all. Your agency will have a form, a policy, and procedures for releasing information. Best practice is to have a thorough conversation with the survivor before they give permission to release any information, so they are aware of the possible outcomes of such a release.

Programs receiving VAWA funds must follow VAWA guidelines for releases, which are rooted in the principle of preserving survivor confidentiality and autonomy. VAWA guidelines specify the following:

Releases must be written, informed, reasonably time limited, and signed by the victim or, if appropriate, a parent or guardian. Grantees and subgrantees may not use a blanket release and must specify the scope and limited circumstances of any disclosure. At a minimum, grantees and subgrantees must:

- » Discuss with the victim why the information might be shared, who would have access to the information, and what information could be shared under the release;
- » Reach agreement with the victim about what information would be shared and with whom; and
- » Record the agreement about the scope of the release.

The release must specify the duration for which the information may be shared (U.S. Department of Justice, 2017, pp. 5-6).

Forms must include the duration of the release,

which should be as short as possible to accomplish its purpose. Your supervisor will help you to learn how to handle releases in the best way to protect the survivor's interests.

RESOURCES

National Network to End Domestic Violence Client Limited Release of Information Template (English)
<https://nnedv.org/mdocs-posts/client-limited-release-of-information-form-english/>

Client Limited Release of Information Template (Spanish)
<https://nnedv.org/mdocs-posts/client-limited-release-of-information-form-spanish/>

FAQ on Confidentiality Releases
<https://nnedv.org/mdocs-posts/faq-on-confidentiality-releases/>

Q: Why is it so important to be very specific about what information may be released on behalf of a survivor? What might happen if the release is too general?

Mandated Reporting Procedures and Agency Policy

Information about mandated reporting is provided throughout this manual, but it is repeated here because it is important to your work. See Chapter 3 for training resources.

In California, counselors/advocates are not explicitly listed as mandatory reporters of child abuse and neglect nor named mandatory reporters of vulnerable adult abuse. In general advocates are not mandated to report child and vulnerable adult abuse unless they are specifically serving these populations or have reporting requirements due to their profession/licenses (e.g., LCSW, psychologist, clinical therapist). Furthermore, reporting child abuse or vulnerable adult abuse when not required could be a violation of VAWA confidentiality provisions.

Any counselor/advocate serving solely in a volunteer capacity at a Rape Crisis Center is not a mandated reporter, regardless of whether or not they are mandated reporters in their employment outside of the Rape Crisis Center.

A counselor/advocate who is not in a profession that mandates reporting of child abuse and whose advocacy caseload and services do not include minors is not a mandated reporter.

If a counselor/advocate's duties require "direct contact and supervision of children," they are mandated reporters.

There may be other circumstances in which reporting is mandated, such as serving as a presenter of a child abuse prevention program in a school.

The most important points for an a counselor/advocate to know are:

- You should become thoroughly acquainted with your own agency's policies and procedures on mandated reporting;
- You should talk to your supervisor about mandated reporting and clarify any questions you may have prior to working with survivors;
- You should consult with your supervisor about any situation in which you think you may need to make a report of suspected abuse to the authorities; and
- You should discuss your duties to report to clients/survivors on the onset of your contact with them and should remind them of the mandatory reporting requirements you have as time goes on.

There are separate requirements for mandated reporting of abuse and neglect committed against elder adults (65 years and older) and dependent adults (those between the ages of 18 and 64 with physical or mental limitations that restrict their ability to carry out normal activities or protect their rights). Consult your agency's policies.

If your agency determines that you are a mandated reporter, it is important that you receive appropriate training and stay up to date on reporting requirements.

Support for Survivors and VALOR is in no way providing legal advice to counselor/advocates or Rape Crisis Centers about mandatory reporting. The information in this guide is for educational purposes only.

Volunteer Documentation of Time, Service, and Training

Volunteers providing services to sexual assault survivors must abide by the same training and supervision requirements as paid staff. Volunteers should also be trained and supervised on issues regarding client data documentation, as explained in the Client Data Documentation section. Without meeting the initial/ongoing training and client data documentation requirements, volunteers working with survivors expose themselves and the RCC to legal and funding risk and put the safety and wellbeing of survivors at risk. Proper training, supervision, and client data documentation is as important for volunteers working with sexual assault survivors as it is for paid staff in the RCC. Volunteers must also be very careful to document the hours that they work so the agency may comply with funding requirements.

Addressing Problems

Each RCC will have their own particular policies and procedures for dealing with problematic interactions with survivors, systems, and community partners. The types of situations that may arise are numerous but may include:

- Crank calls or chronic callers
- Inappropriate behavior from collaborative partners such as law enforcement
- Having your counselor-client privilege questioned
- Being asked to translate for a survivor
- Risks to the safety of the survivor or advocate

While each agency has its own processes for handling problematic situations, they will not be able to cover every precise situation you may encounter from a policy standpoint. However, role-playing real scenarios can be very helpful to reduce the anxiety you may feel in such situations. Whether or not a detailed policy exists, you should consider the following in determining when and how to respond to problematic situations when role-playing and/or when actually working with survivors:

- Is there a risk to safety?
- Are the survivor's rights infringed upon?
- Is there a way to address the situation privately, NOT in the presence of the survivor, to avoid adding discomfort to them in their state of trauma?

If there is a concern about any of the questions above, an appropriate course of action may be to address the situation immediately. If not, it is more likely documenting the situation and reporting it to a supervisor will be a more appropriate course of action. Key strategies to use in these situations also include maintaining a professional demeanor, prioritizing the well-being of the survivor, documenting the interaction, and following up with a supervisor.

Even with such training, it is normal for counselor/advocates to feel uncomfortable in any of these situations. In addition to role playing, it may be helpful for situations where these problems occur to be shared in team meetings so that you can learn from one another and hear from your supervisor specifics on how the situation should be handled. The more practice you have in dealing with these problems, the greater confidence you will have when confronted with these issues in your work. Agencies should ensure advocates are aware of and understand any existing procedures and protocols on how to deal with these situations prior to beginning their work with survivors.

Agency Policy if Advocate is Excluded from an Exam or Interview

Survivors have the right to have you present for a forensic exam or law enforcement interview; that right is laid out in the California Penal Code and is protected by law, not determined by individual officers. One of your primary responsibilities as an advocate is to protect the rights of survivors you work with. As such, you should be confident in and persistent in reinforcing the survivor's right to have you present for the exam or interview, if they have expressed their desire to have you present.

It is best practice to review your agency's policy and procedures for how to respond should you be excluded from a forensic exam or law enforcement interview. Prepare for such a situation by asking questions of your supervisor to be clear on both your agency's policies and the legal matters involved in survivors' rights and your role as an advocate. Much like the proper preparation for other problems described in the Addressing Problems section, good preparation should include practicing what you will say in such a situation. You can also prepare by carrying a handout with you with the penal code so that you can refer to it if necessary. Should the situation arise, make sure you document and report the incident, including the time, date, and officer or medical examiner involved. Regardless of the outcome, proper documentation is important not only to resolving that particular incident but also to preventing it from happening in the future.

- Practice with a colleague or friend what you will say in the following scenarios:
 - » You have identified yourself as an advocate at a law enforcement interview and explained your role, but the officer still says you will not be allowed in the interview.
 - » Another provider working with the survivor calls you and asks for information about the survivor and how they were feeling the last time you saw them. They are very nice and seem very sincere in their concern about the survivor's well-being.

Summary

There are many policies, procedures, and best practices that are commonly used at RCCs across California. However, each RCC has its own specific way of carrying these out in their work to support survivors and respond to community needs. The training and documentation RCCs require is vital to funding compliance and maintaining privileged communication with survivors. Consequently, it is important that you are clear on the administrative and training requirements of your position. An agency's philosophy in serving survivors is important to understand as you begin your work. Think about how it squares with your own values and the reasons you are motivated to work as a counselor/advocate.

In addition to your initial training, you will find it useful to review agency policies and procedures on an ongoing basis as you encounter new situations. Ask questions if you are not sure of the appropriate course of action or if you have any concerns.

References

California Sexual Assault Counselor-Victim Privilege, [Cal. Evidence Code . §§ 1035-1036.2](#) (1965, amended 2006).

Cal OES. (2016). Service Standards for the Operation of Rape Crisis Centers. Retrieved from <http://www.valor.us/2009/08/11/california-sexual-assault-training-standards/>

U.S. Department of Justice, Office on Violence Against Women. (2017). Frequently asked questions on the VAWA Confidentiality Provision (34 U.S.C. § 12291(b)(2)). Retrieved from <https://www.justice.gov/ovw/page/file/1006896/download>



CONCLUSION

MOVING TOWARD THE FUTURE

Becoming a Counselor/Advocate

As the field of sexual assault advocacy moves toward the future, we once again acknowledge the past, especially all the activists (including survivors) who have shaped our work and our understanding. As we navigate shifts in our culture and our services, learning about the history of the rape crisis movement and the roots of our values is more important than ever.

While this manual provides a wealth of practical information, we hope it has also broadened and deepened your knowledge about sexual violence and its connection to harmful beliefs about gender, oppressive actions and viewpoints, and our society's challenges in supporting and assisting survivors. You have learned that sexual violence affects people of all ages and genders, from all communities and walks of life, inside of and outside of relationships.

Survivors are often amazingly strong and resilient, despite facing significant barriers to healing and recovery. Sexual violence has been shrouded in secrecy, and disclosures have often been met with disbelief. Rape Crisis Centers play an important role in making sexual violence visible and helping other professionals provide a positive and skilled response when survivors seek help.

The topics discussed in this manual will become more meaningful to you as you gain experience in advocacy. Knowledge is an essential foundation to our work, and as you observe and receive feedback from your colleagues and supervisors, what you have learned will come to life. Because working with people in crisis can be so challenging, the more preparation and information you have, the more easily you will be able to access the strategies and practices you are mastering.

There are several stages in the learning process when we enter a new field of work:

- **WE DON'T KNOW WHAT WE DON'T KNOW.** This is the stage before we start our work; we are so unfamiliar with the field that it is hard to even ask questions and we are not sure exactly what is involved.
- **WE RECOGNIZE WHAT WE DON'T KNOW.** We begin to learn about our new duties, and we realize that there is a great deal to learn. This stage can feel overwhelming, because we now have dozens of questions and can see how much information we need to digest. We are clearly out of our comfort zone, and we encourage ourselves to understand new perspectives along with the content of the work.
- **WE BEGIN TO DO THE WORK, BUT WE FEEL LIKE WE DON'T KNOW WHAT WE ARE DOING.** This can be the most challenging phase, because it is normal to feel confused and unsure when you are starting out. Of course, it is vital to have good supervision and supportive coworkers, along with clear information about how things are done in your agency. Even with the best preparation and support, we have to be gentle with ourselves as we make mistakes in order to become more skillful.
- **WE FEEL COMPETENT AND ENGAGED IN OUR WORK.** We always remain humble and open to new learning, but eventually we incorporate the basics into our daily practices and know that we can do the job. This is not a smooth process; we all have days when things don't go as planned and we feel less competent than usual. Overall, however, in this stage we embrace our identity as advocates and know we are a valuable part of a working team.

Q: Where do you think you are on this continuum? How is this similar to or different from other experiences you have had in taking on new challenges?

What You Have Learned

You've begun the learning process by reading this advocacy manual and participating in the training offered by your Rape Crisis Center. We began by presenting an overview of the entire topic of sexual assault, including how the movement to help sexual assault survivors has progressed over the years. You learned that sexual violence flourishes in secrecy and in an environment that does not respect human dignity and autonomy. Survivors and communities that face other types of oppression are disproportionately affected by sexual violence and may have restricted access to resources for support and healing. Most sexual assaults are perpetrated by someone the survivor knows, and survivors may be victimized multiple times during their lives. All too often, children and teens are vulnerable to sexual abuse. We are learning more about sex trafficking and commercial sexual exploitation of children and teens and beginning to respond more effectively to these crimes.

As a counselor/advocate, you will be helping survivors through some of the most difficult times in their lives. This manual provides some of the practical tools and information you will need to meet the needs of those you are assisting. We described the process of crisis intervention, with a focus on survivor-centered and trauma-informed responses both in crisis situations and in longer-term assistance provided to survivors. Because Rape Crisis Centers cannot provide every service an individual may need, we described how to make effective referrals and how to coordinate with services providers in other disciplines to create a network of supportive services that help survivors in all facets of their lives.

You have learned that community-based sexual assault counselor/advocates have a special and vital role in this network of services. Your connection with survivors is based in a confidential relationship that is protected by law and policy. Your guiding principle is to uphold survivors' rights to make their own decisions about their lives and actions. To accomplish this end, you are learning skills of active listening, helping people identify and prioritize their options, and presenting any resources that may be available. You have gained

an understanding of how trauma may affect an individual's thinking, perceptions, and reactions, enabling you to help survivors understand their own experiences while also promoting a more informed response from other professionals who interact with survivors.

You will be working with people as they undergo forensic medical exams in the aftermath of sexual assault, as well as supporting them in regaining their physical and mental wellbeing as they move toward recovery from sexual violence. We offered detailed information about how medical, legal, and criminal justice procedures work, and your role in helping survivors navigate these complex systems and others (such as military or campus disciplinary processes). The material in this manual is specifically based on California law and procedures. Since laws and other requirements change over time, it will be important to rely on your program for updates in the future.

Because each Rape Crisis Center serves a unique community, this manual and your training both highlight the importance of knowing your own program's policies, procedures, and usual practices. Rape Crisis Centers in California work within a legal and funding framework that carries certain requirements for accountability as well.

As You Move Forward

Each day you work as a counselor/advocate, you will learn something. You may find yourself returning to the information in this manual as specific situations arise. You have access to ongoing training that can support your professional development and enhance your expertise. Your own curiosity and willingness to explore topics by reading, discussion, webinars, and in-person training will help you build on everything you are learning at this time.

Initial training and the material in a manual offer just a glimpse of the rich array of knowledge you will gain from supervised experience, working as part of a team, and most of all, listening to survivors. We honor your willingness to invest yourself in this work, which is extremely rewarding but rarely easy. You are making a positive difference for survivors and for your community.



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