What is Sexual Assault Advocacy?

Adapted from OVC TTAC: Sexual Assault Advocate and Service Provider Training - Module 2: What Is Sexual Assault Advocacy?

Purpose

This module is intended to help you understand your role and responsibilities as either a system-based or community-based advocate and the roles of others with whom you will work. The module also addresses the importance of maintaining confidentiality.

Lessons

1. Basic Tenets of Advocacy
2. Overview of Sexual Assault Response Teams and Forensic Nurse Examiners
3. Roles of the Advocate
4. Maintaining Confidentiality

Learning Objectives

By the end of this module, you will be able to:

- Describe the composition of a Sexual Assault Response Team (SART).
- Identify the major roles of an advocate.
- Make appropriate decisions about confidentiality based on state reporting laws.

Participant Worksheets

Worksheet 2.1, Confidentiality Scenarios

1. Basic Tenets of Advocacy

All victim service providers need to use the following practices.

Provide victims with information about their options.

One of the things advocacy does is provide victims with information about their options so they can make educated choices. Advocacy encourages victims to ultimately find their voice for themselves while giving them support when facing their trauma. If a victim chooses to have a forensic exam, the forensic nurse examiner (SANE) will also review the options and have the patient sign a consent for their choice.

Provide trauma-informed, person-centered services.

Advocacy should be trauma-informed and person-centered. Trauma-informed advocacy means a victim has access to advocacy services in an environment which is inclusive, welcoming, destigmatizing, and non-retraumatizing. Person-centered advocacy occurs when the advocate plans and provides services based on the individual's needs. Advocacy should address the immediate trauma, coping with the event, safety issues, risk of harm to self or others, and other presenting problems associated with the trauma.

Work with the victim to develop an action plan.

Crisis intervention and advocacy should focus on organizing information about the individual's assault to develop an action plan—which should include a safety plan—to connect the individual to appropriate supports. Supports may include longer-term resources for pre-existing life situations, such as an abusive relationship, use of substances, mental health, or financial troubles. These may affect recovery and are thus essential. It is important to know resources and referrals in the community so when the victim is ready, the advocate can make appropriate connections for counseling and other social supports.

Immediate action plans may need to be initiated at the time of contact with the victim if self-harm or suicidal ideations are assessed. Similar to survivors of child sexual abuse, adult survivors of recent sexual assault can also experience life-altering emotional, behavioral, cognitive, and somatic (i.e., relating to the body) changes (Obinna, 2001). In addition to the psychological and physical changes survivors experience, sexual assault can also lead to low self-esteem, depression, antisocial behavior, substance use, self-mutilation, and suicidal behaviors (Finn & Hughes, 2008). These reactions emerge as posttraumatic stress symptoms, exhibited by as many as 94 percent of recent sexual assault survivors immediately following an assault (Obinna, 2001; Ullman & Filipas, 2001).

Listen and believe.

Whatever the scenario, the overriding tenet of advocacy is to listen and believe. The healing power of this is extraordinary. Advocates are responsible for giving unconditional support while safeguarding the individual's right to be treated with respect and dignity, whatever the circumstance.

Unfortunately, an advocate may be the only person who believes a victim without question, comment, or blame. This makes the words "I believe you" and "it wasn't your fault" much more powerful. The rare case when a survivor is not factually forthcoming about their situation is unimportant. The survivor may have past trauma and may not be ready to tell the advocate everything, or they may be vague as a survival technique. Whatever the reason, remember, it is still an advocate's role to extend the healing power of unconditional belief.

Neither investigate nor judge.
Another fundamental principle of advocacy is to neither investigate nor judge. Following a trauma, the survivor may not know or remember everything that happened. In that situation, the survivor's account may not make sense to the advocate; however, asking probing questions to clarify the survivor's account can come across as investigatory. This can affect the advocate's relationship with the survivor. Leave the investigation to law enforcement. Try to refrain from note-keeping, for example. Keeping one's hands free nonverbally communicates to the survivor the advocate is not interested in "taking" anything (including a report or filling out forms) but rather is present as a trusted ally. Advocates are the only first responders with no pressing agenda but to provide for the safety and support of the victim.

Sexual Assault Response Team members can prevent the optics of victim-blaming by eliminating questions that sound like victim-blaming (e.g., "Why were you at that bar?"). Eliminating the "why" questions and rephrasing can help to diminish the victim's guilt.

Practice teamwork.
In addition to these basic tenets, you must keep the word "teamwork" in mind. As advocates, you will work with other professionals, from law enforcement officers to medical professionals, to meet the needs of sexual assault victims.

Victim Options
Because every victim is different in their response to a sexual assault, it would be impossible to compare the physical and mental outcomes in reported and non-reported sexual assaults.

Therefore, all victims should be offered the same level of care; however, the perceived consequences of sexual violence vary across cultures. In sociocentric societies, where shame is a more prevalent emotion, the result may be victims of sexual violence do not open up about their trauma and may not report it. This not only negatively affects the victim but also affects an understanding of the true nature of trauma.

Explain options to the victim (and refer to state laws regarding mandated reporting). The victim has the right to choose whether to report a sexual assault to law enforcement and whether a medical-forensic examination is conducted. An adult victim has the following choices:

- **No report to law enforcement and no medical-forensic examination.**
  In this case, the victim should be encouraged to have a medical examination (different from the medical□forensic examination). In this case, no forensic evidence will be collected.

- **No report to law enforcement but consents to a medical-forensic examination.** The victim has the right to consent to all or part of this examination.
- **Reports to law enforcement and consents to a medical-forensic examination.** The victim reports to law enforcement and consents to a medical-forensic examination.

2. Overview of Sexual Assault Response Teams & Sexual Assault Nurse Examiners

Sexual Assault Response Teams (SART)
No single agency can meet all the needs of a sexual assault survivor. Sexual assault services, medical professionals, law enforcement, and prosecutors recognize the benefits of collaborating in their work with sexual assault victims.

In addition to learning to work effectively with victims of sexual assault, advocates must learn to work with collaborative partners cooperatively and effectively.

Effective Model
In many communities, a group of individuals from different agencies who work with sexual assault victims is called a SART.

Demonstrated to be an effective model for providing better services to sexual assault victims, the SART concept includes crisis intervention, long-term counseling, investigation, evidence collection, and a more sensitive initial medical response to sexual assault victims (Ledray, 1999; Ledray et al., 2011).

An empirical review of the effectiveness of SARTs found these teams improve multidisciplinary relationships among responders; improve legal outcomes such as victim participation in the case, types of evidence collected, and the likelihood of arrest and charges; and render victims' help-seeking experiences less traumatic.

Compared to non-SANE/SART cases, SANE/SART cases are reported more quickly, have more evidence (DNA evidence in particular) available, and have more victim participation (Nugent Borakove et al., 2006).

While an SANE's role is to be a neutral examiner, the quality of the expanded SANE program was validated by an increased prosecutor preference for SANE testimony in criminal court (Reed, 2020).

SART Membership
SART membership varies depending on the community and the needs of a particular sexual assault survivor.

At a minimum, it should include:

- Sexual assault advocates.
- Medical personnel (including SANEs).
- Law enforcement.
- Prosecutors.
- Crime laboratory specialists.
- Other related personnel (e.g., a survivor of sexual assault, domestic violence victim
- advocates, representatives of the local First Nation or Tribal community, clergy, other social service agency personnel).

In some communities, a core group of SART members may respond together in the emergency department or simply work cooperatively to meet the needs of sexual assault survivors and their families/significant others.

Sexual Assault Nurse Examiner (SANE)

The medical professional who participates in a SART is often an SANE. Some states use the term sexual assault forensic examiner, sexual assault nurse examiner, or sexual assault medical forensic examiner in military cases. The terms are essentially interchangeable. For this training, we use the term SANE.

Note: A National Protocol for Sexual Assault Medical Forensic Examinations–Adult/ Adolescents, published by the U.S. Department of Justice Office on Violence Against Women (2013), states the term “patient” is used when discussing the role of the medical provider.

Specially Trained Medical Providers

SANEs are specially trained medical providers (depending on local policy, they may be registered nurses, nurse practitioners, or physician assistants) who provide 24-hour-a-day, first-response forensic and medical care and crisis intervention to specified emergency departments, medical clinics, community agencies, or independent SANE facilities. They are trained to the National

Standards for Sexual Assault Medical Forensic Examiners and the International Association of Forensic Nurses training guidelines.

SANEs are trained to understand the purpose of the exam process is to address the victim’s health care needs, taking into account the victim’s specific emotional needs as well as the importance of collecting forensic evidence properly so it can be used in legal proceedings.

Effective Model for Better Evidence Collection and Sensitive Medical Response

The SANE concept has been shown to be an effective model for providing better evidence collection and a more sensitive initial medical response to sexual assault victims (Ledray et al., 2011).

A review of medical, legal, and community outcomes of SANE programs found them to be effective in promoting the psychological recovery of survivors, providing comprehensive trauma-related medical care, documenting evidence accurately and completely, improving prosecution by providing better forensics and expert testimony, and creating community change by bringing multiple service providers together (Campbell et al., 2005).

Need for SANEs

Medical professionals developed the first SANE programs in the mid-1970s after recognizing the need for better care for sexual assault victims in the emergency department.

Previously, when sexual assault victims came to the emergency department for care, they often had to wait 4 to 12 hours in a busy public area, their wounds considered less serious than those of other trauma victims, as they competed unsuccessfully for staff time with the critically ill or injured (Holloway & Swan, 1993; Sandrick, 1996; Speck & Aiken, 1995).

Often, they were not allowed to eat, drink, or urinate while they waited for fear of destroying evidence (Thomas & Zachritz, 1993).

Doctors and nurses were often insufficiently trained to do medical-legal exams, and many also lacked the ability to provide expert witness testimony (Lynch, 1993).

Even trained staff often failed to complete enough exams to maintain any level of proficiency (Lenehan, 1991; Tobias, 1990; Yorker, 1996). When the victim's medical needs were met, emotional needs all too often got overlooked (Speck & Aiken, 1995), or even worse, the survivor was blamed for the sexual assault by the emergency department staff (Kiffe, 1996).

There are many published and anecdotal reports of physicians being reluctant to perform the exam. Many factors contributed to this reluctance, including their lack of training and experience in forensic evidence collection (Bell, 1995; Lynch, 1993; Speck & Aiken, 1995), the time consuming nature of the evidentiary exam in a busy emergency department with many other medically urgent patients (DiNitto, 1986; Frank, 1996), and the potential of being subpoenaed and taken away from the emergency department to be questioned by a sometimes hostile defense attorney while testifying in court (DiNitto, 1986; Frank, 1996; Speck & Aiken, 1995; Thomas & Zachritz, 1993).

As a result, documentation of evidence could be rushed, inadequate, or incomplete (Frank, 1996). Many physicians simply refused to do the exam (DiNitto, 1986).

SANE programs strengthened the interconnections between the legal and medical systems, which contributed to increased prosecution (Campbell, 2012). With the introduction of SANE programs, many of these issues were eliminated or reduced.

Advocates must work cooperatively with other members of a SART or, if there is no formal SART in their community, with other first responders. Strategies and considerations for working

effectively with SART members will be explored throughout this training. In addition, as you practice your skills throughout the training, your will be asked to define your role and the roles of other SART members.

Sexual assault services, advocacy, specialized training, and teamwork have greatly improved the quality of care for sexual assault victims. Advocates continue to provide a range of services to address the needs of victims and their families/significant others. The next section will examine in detail the various roles of the advocate.

3. Roles of the Advocate

Quality advocacy goes beyond simply providing services. Advocates must also spend time talking with victims to better understand who they are, their situation, and their needs. Talking, listening, and validating help an advocate form a connection to the victim as a person. By connecting with and understanding the victim, the advocate involves the victim in identifying the services they will eventually receive from the advocate—rather than the advocate making important decisions without input from the victim (End Violence Against Women International, 2021).

Advocates most commonly provide any or all of the following services:

- Crisis telephone line staffing or crisis texting, which involves giving victims of sexual assault immediate support and information about what to do after an assault. This function is usually housed in a community-based agency, like a rape crisis center.
- Medical-evidentiary exam response, during which an advocate's primary functions are to provide the victim with information about options, answer questions, provide support and crisis intervention, and advocate on the victim's behalf with the medical personnel providing care.
- Law enforcement statement accompaniment, which involves the advocate accompanying the sexual assault victim to an investigator's office to give an official statement of the assault.
- Courtroom accompaniment, which involves accompanying the victim to attorney appointments and courtroom proceedings.
- Family/significant other supportive counseling, which involves providing information and support to family members or significant others. This should only be done if the victim signs a consent to exchange information with the advocate. The advocate should NOT provide information to family or significant others otherwise.
- Encourage and help facilitate the SANE follow-up examination, if indicated.

There are two types of advocates: community-based advocates and system-based advocates.

Community-Based Advocates: According to the organization Victim Support Services, community-based advocates "work in an independent, usually nonprofit, organization. They provide comprehensive services to victims, regardless of whether they choose to report the crime and participate in the criminal justice process. Community-based advocates also provide services

before, during, and after a criminal case. Services are also available when there is no criminal case at all" (Victim Support Services, 2013).

Victims are generally referred to community-based advocates by rape crisis hotlines, hospitals, and law enforcement agencies; however, referrals also may come through prosecuting attorneys' offices, educational institutions, faith-based organizations, social service agencies, and victims' friends, relatives, or colleagues (National Sexual Violence Resource Center, n.d.).

System-Based Advocates: According to End Violence Against Women International, the primary focus of system-based advocacy programs "is typically on assisting victims in their role as witnesses to a crime…the victim's needs and interests are balanced to some extent with the interests of the criminal justice system."

When working with system-based advocates, it is important to remember they are working for justice in general and not solely for the victim's needs (Lonsway et al., 2021).

Community-based advocates serve victims regardless of whether they report to the criminal justice system; system-based advocates generally serve victims whose cases are in the criminal justice system.

System-based advocates cannot offer victims confidential services; community-based advocates generally can. For this reason, a system-based advocate should not be present during the SANE exam, whereas a community-based advocate can be present with patient consent. We will cover more information on confidentiality shortly.

Advocates may also provide walk-in crisis intervention; individual, ongoing supportive counseling; and support group facilitation; however, counseling roles are less common for volunteers because they require specialized training, which will not be addressed in depth in this training.

You can find more information about the roles of an advocate in the toolkit section of your Participant Manual.

4. Maintaining Confidentiality

The Importance of Maintaining Confidentiality

It is essential to maintain confidentiality because it is the victim's right. Confidentiality gives the victim more control and the ability to make informed decisions about who to tell, and it promotes the safety of disclosure.

All advocates are responsible for maintaining confidentiality, to the limits of the law, about each case with which they are involved.

Sexual assault may represent a loss of control over one's body and over the ability to function in other parts of one's life. Therefore, it is extremely important the victim be able to retain control

after the assault to the greatest extent possible. Deciding who will know about the sexual assault is an important part of regaining control. Maintaining confidentiality is one way to help the victim regain control over who does and does not know the sexual assault occurred.

The Limits of Confidentiality

Only when victims know the limits of confidentiality can they make a safe, educated choice about what to tell the advocate, SANE, or crisis counselor.

Sexual assault advocates in many states have gone to great lengths to get state legislation passed to ensure their conversations with sexual assault victims are completely confidential and they cannot be subpoenaed to testify even if the case goes to court.

Advocates must know the limits of confidentiality for sexual assault advocates in their state and communicate these limits to victims before the victims disclose information. Confidentiality is sometimes restricted based on organizational affiliation, position title, and other factors.

Confidentiality and the SANE's Unique Role

Because SANEs have a unique role as medical provider and forensic examiner, they expect everything the victim tells them could be admitted into evidence and used in court. HIPAA requires medical personnel to keep all health-related information confidential in other medical examinations; however, depending on the victim's reporting choice, the SANE may ask the victim to sign a release of information, giving them permission to release all of the information gathered during this particular medical-legal visit to law enforcement.

In some states and jurisdictions and the military, the victim has the choice to not report the assault to law enforcement and is still able to choose a forensic exam. The law enforcement agency will keep the evidence in the chain of custody but not investigate the crime until the victim consents to start the criminal investigation process. This is different in every state and circumstance, so every advocate should be aware of state laws to ensure they have accurate information.

The record of the visit and any physical evidence collected are important parts of the evidence that may be used in the investigation and prosecution of the reported sexual assault.

This release ONLY applies to health information collected on this particular visit. It DOES NOT apply to any other health records. The SANE is responsible for obtaining the consent and informing the victim about this lack of confidentiality.

Advantage of the SANE's Medical Role

An advantage of the SANE's medical role is the SANE can testify to things the victim says during the medical-forensic examination.

For example, if the victim tells the SANE information that establishes the sexual contact was forced, the SANE can testify to this in the courtroom as a medical exception to the hearsay rule, even if it was not an “excited utterance” (a statement made by a person in response to a startling or shocking event or condition).

We will conduct an activity exploring various confidentiality scenarios.

Maintaining confidentiality means:

- Not talking to the media about the case without the victim’s permission.
- Not using the victim’s name when discussing the case with coworkers.
- Not discussing cases with family, friends, or partners.
- Not talking about cases in a public place.
- Not using any case details, even anonymously, for training purposes.
- In a small community, it is too easy to breach client confidentiality unknowingly.