



Procedures in Common Advocacy Situations

**Adapted from OVC TTAC: Sexual Assault Advocate and Service Provider Training - Module 10:
Procedures in Common Advocacy Situations**

Purpose

This module is intended to provide a more detailed look at procedures in common advocacy situations.

Lessons

1. Responding to a Sexual Assault Crisis Call
2. The Medical-Forensic Exam
3. Law Enforcement Statement Accompaniment
4. Courtroom Accompaniment

Learning Objectives

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

- Respond to a caller on a crisis line who is reporting a recent sexual assault in a trauma-informed way.
- Identify correct advocacy procedures during a medical-forensic exam.
- Create a list of “do’s and don’ts” for law enforcement statement accompaniment and courtroom accompaniment.
- Differentiate the roles of advocates, sexual assault nurse examiner (SANE)s, and other Sexual Assault Response Team (SART) members.

Participant Worksheets

Worksheet 10.1, Medical-Forensic Exam Case Study

1. Responding to a Sexual Assault Crisis Call

One of the most common situations advocates and victim service providers respond to is a crisis call reporting a recent sexual assault. Many victims call sexual assault crisis lines (and sometimes use text or online chats) before they seek medical attention or involve law enforcement. Though specific procedures will vary from center to center, the following should be generally addressed with any crisis caller seeking assistance following sexual assault.

- Identify immediate concerns. Assess the reason for the call to ensure they are contacting the appropriate agency.
- Establish safety. Ask if the victim is in a safe place to talk. Let the victim know they can call back at any time if they need to hang up for safety. If possible, check on the whereabouts of the person who harmed them. Take appropriate steps to establish safety.
- Briefly explain options available to the victim. Explain the role of the agency and any advocacy, medical, support, and legal services available to the victim. Explain to the victim they have a right to a medical-forensic exam if they would like one. Inform the victim they may immediately report the assault to law enforcement, or they may wait to do so. However, it's important to explain to the victim the sooner the medical-forensic exam is conducted, the greater the potential for evidence recovery, as well as the ability to provide immediate medical assistance to them. While the victim can certainly take more time to decide to get a medical-forensic exam and report to law enforcement, the delay may affect the collection of viable evidence. In some cases, the delay in reporting can be brought up as an issue in court.
- Arrange transportation. If the victim wants to have a medical-forensic exam, discuss transportation options. Victims may arrange their own transportation, or, in some cases, agencies can provide taxi or other transportation vouchers. Explain the victim may also be transported by ambulance or by law enforcement. Discuss their options.
- Discuss evidence. To obtain the best evidence, explain victims should avoid the urge to shower, bathe, douche, change clothes, eat, drink, or brush their teeth. Additionally, if they need to urinate and drugs or alcohol are involved, encourage the victim to hold the urge as long as possible. If it is not possible, ask the victim to collect the urine in a clean jar with a lid and bring it with them to the medical facility. If they express a need to take off any articles of clothing from the assault, encourage them to put them in separate brown paper bags and bring the bags with them to the medical facility. Let victims know the local guidelines for evidence collection (e.g., 72/96/120 hours after the assault, depending on local policy); however, remember to review with the victim that the sooner the exam is completed, the greater the potential for evidence recovery.
- Address practical issues. Discuss any practical issues the victim needs to address, such as childcare, caregiving, job, or other responsibilities. Then, as much as you are able, work with the victim to make a plan so they can obtain medical assistance.
- Arrange a time to meet. If you or an advocate from your agency will be meeting the victim at the medical facility, it is best to arrange a time to meet. If possible, the advocate should be there first. Discuss how to identify each other.

- Activate other first responders. Depending on the needs and wishes of the caller and procedures in their area, advocates may need to activate other first responders. Clear policies should be in place for the different scenarios the advocate may encounter.

2. The Medical-Forensic Exam

Sexual assault victims should receive a medical-forensic exam within a certain number of hours after the assault (Linden, 2011); time will vary depending upon local policy, but it is usually 72, 96, or 120 hours. The exam should be conducted as early as possible because the evidence is lost quickly. While DNA evidence has been collected 5–10 days after an assault, the likelihood of a successful collection diminishes significantly with time.

Many communities are moving away from the 72-hour timeline, expanding it to 96 hours or longer (Office on Violence Against Women, 2013). This timeframe is also important regarding receiving medication to prevent pregnancy and some STIs. Depending on the emergency contraception available, it can be provided for up to 5 days after unprotected sex, but the sooner it is given, the more effective it will be in preventing pregnancy.

HIV postexposure prophylaxis must be started within 72 hours of unprotected sexual contact, but it also is more effective the sooner it is started.

In some situations, a medical-forensic exam is appropriate more than 72, 96, or 120 hours after the assault (again, this may vary depending upon local policy). Examples include:

- Hostage situations. Victims who are held hostage are more likely to have injuries or forensic evidence on their bodies. This evidence can be collected and used for prosecution.
- Force resulting in injury (e.g., broken limbs, head injuries). The injuries should be treated, and those findings could be used as evidence.
- Ejaculation without cleanup. A medical-forensic exam also is appropriate after 72, 96, or 120 hours if there is ejaculation without cleanup. Again, the ejaculate can be collected and used as evidence.

We will conduct an activity examining a medical-forensic exam case study.

The SANE should be called to the exam facility automatically; victims should not be asked if they want the SANE called. An advocate or victim service provider should also be called to report to the facility.

A SANE is a specially trained medical provider who will provide crisis intervention and support and normalize the victim's response, just as you would.

The advocate and the SANE should reinforce each other. Having the support of two people in the exam facility can be invaluable for the victim.

However, a SANE should not be described as a victim advocate, and the advocate must be very aware of what an SANE does. The roles of a SANE and a victim advocate are very distinct.

While the advocate should be present when the SANE conducts the patient history of the assault (with patient consent), it's important the advocate not participate in the interview or take notes. The advocate's primary role is to support the victim. If the advocate has concerns or questions, they should be addressed after the SANE completes the patient history.

An advocate or victim service provider must NEVER be involved in any part of the medical examination or the evidence collection. However, with the victim's consent, the community-based advocate may be in the room during the examination (for emotional support only).

In hospitals with an active SANE program, the victim may need to wait in the exam facility. This may be due to the nurse being busy with other victims or because the SANE is on call and heading to the exam facility. In some SANE programs, the nurse works in the emergency or other department and may need to finish with other patients before they can perform the exam.

If there is no SANE program in that jurisdiction, or if the victim needs to travel a great distance to receive care, the wait can be even longer, and the victim may need to be transported to another facility.

If the victim is waiting for a SANE to arrive, explaining the SANE's role would be helpful. If the victim does not want to engage, that's fine. The SANE will review their role as well.

It is important to know where private space is available that the victim and advocate could use before the exam if they need to wait for the SANE.

If there are consistent delays and no reason is given, the advocate should report this to the agency's supervisor, who can speak to the medical facility or the SANE supervisor. The advocate should know which hospitals or medical facilities in their area have SANE programs and which do not. This can benefit the victim who calls the community-based sexual assault advocacy hotline because the advocate can assist with directing the victim to the appropriate facility.

It's not the advocate's role to "fix" any issues with the SART. The advocate should report any problems to their supervisor and allow the supervisor to address any systemic issues they may be seeing during the process.

3. Law Enforcement Statement Accompaniment

In addition to being a support to the victim during the initial police report, some jurisdictions may allow advocates to accompany the victim to the investigator's office at a later time when giving an official statement. There, the advocate will provide support and encouragement during what may be an intimidating experience. In addition, the advocate can help the victim understand why certain questions are asked.

If the advocate is invited to support the victim during the law enforcement interview, the advocate should not interject any information or talk during the process. The advocate is there for victim support only. They can assess the situation and ask the victim if a break is needed.

In many jurisdictions, community-based sexual assault advocates are not allowed into law enforcement interviews with the victim. Although it may seem discouraging, this is often done to protect the advocate and victim. As discussed in previous modules, the advocate's sole role is to support the victim unconditionally through the process. There have been instances where, if the community-based advocate was present during a police interview, the perpetrator's defense attorney called the advocate as a witness if the case went to court. Once this happens, the advocate can no longer discuss the case or support the victim. You may choose to explain this to the victim and opt to stay outside the interview room for support, breaks, etc.

The advocate functions formally as a member of the "response team," whether there is an official SART or a community response team, or informally as a member of separate, community-based victim service agencies. Remember the "team" includes the law enforcement officer or investigator. They may have different ways of discussing the case with the victim, and at times their approach may not be as trauma-informed as other parts of the response team. It should be understood this may be part of the investigative process. Law enforcement may use different language, but ultimately, they want to provide safety for the victim. Remember, you are not advocating for the victim against the police.

It is essential you have good working relationships with your police departments and sex crimes investigative units. Call the officer or detective taking the victim's statement to confirm the time and place, and let the officer or detective know you will accompany the victim. Ask if there is anything in particular you can do to prepare the victim.

It is important the advocate remind victims to tell the complete truth about what they recall, even if it is embarrassing or they were doing something they were told not to do. Although the victim may have been engaged in illegal activity, such as sex work, underage drinking, or illegal substance use, it's important to discuss all aspects of the assault. Acknowledge discussing these events with people they don't know may be uncomfortable but the advocate is there to support them through the process. Also, it's important to review with the victim that details about the event may likely come out in different ways and may be misconstrued by the perpetrator or defense attorneys. Stressing the importance of telling the investigator everything they can recall allows the victim to take back some control in a situation where their control has been taken away.

If the victim was engaging in other illegal activities at the time of the assault, it's important the advocate know whether the victim will be charged with illegal activities in connection with the sexual assault. In most jurisdictions, the sexual assault would be considered the more serious crime, making it the focus and allowing the advocate to reassure victims they can fully disclose without risk of being charged with a crime.

In smaller communities, the investigator conducting the interview may be the same police officer who took the victim's initial statement; however, in larger municipalities, it may be a detective or investigator from a specialized department.

The investigator will usually ask the victim to verbally go through the statement in specific detail, with the investigator asking additional questions for clarification. Recording varies from area to area; the entire process may be video or audio recorded. The statement will usually be transcribed, and the victim will review and sign the transcript. This becomes the official statement from the victim.

In many jurisdictions, an initial interview is done with just some basic information, and a more detailed interview is done after two sleep cycles. A victim interviewed shortly after an assault, or while still very stressed or traumatized, may not be able to retrieve everything that has been encoded into their brain. Two full sleep cycles may be necessary for the episodic memory circuitry to consolidate information encoded during a trauma such as sexual assault.

If the advocate is asked to come into the interview, they should not participate in the interview or interfere in any way. Even if they do not understand the rationale behind a line of questioning, they must not inquire about it during the statement.

For example, the advocate may hear the investigator ask, in an accusatory tone, why the victim was walking through a downtown area alone at 1:00 a.m. After the interview, the advocate can explain to the victim that accusation was not the intent; the investigator likely needed to know why the victim was in a particular area.

Once the statement is completed, the advocate can talk privately with the investigator and ask about their areas of concern. Let the investigator know the advocate is inquiring because they need to explain the process to the victim. If the advocate still feels uncomfortable after talking with the investigator, they should report the situation to their supervisor the next day.

After speaking with the investigator, the advocate should debrief with the victim and allow the victim to voice their feelings about the statement.

4. Courtroom Accompaniment

The advocate will typically offer to accompany the victim to any attorney appointments and to the courtroom. In some areas, a separate, specialized, system-based advocacy program may be available to do this.

Whatever the scenario, the goal is to familiarize victims with the process and the courtroom, including where they will sit and what they will be asked to do. If possible, have victims visit the empty courtroom or offer them a chance to watch a criminal case at trial. Explain to the victim, as a witness, they are not allowed in the courtroom during the entire trial. This can be difficult for the victim, as the trial is about what happened to them. Be sure to process this with the victim throughout the life of the case.

If there is a plea bargain in the case, it is also important to work with victims so they can express their opinions and ask questions. In a plea bargain or plea agreement, the assailant usually agrees to plead guilty to a lesser charge in return for a lighter sentence.

While the ultimate decision on moving forward with a trial or seeking a plea bargain rests with the prosecutor, many prosecutors will discuss their options with the victim before making the final decision.

To some victims, the advantage of a plea bargain is they do not have to testify in court, and they are certain of a conviction. Other victims may want to see the case go to trial as a part of their healing process.

In most areas, there are many more plea agreements than cases that go to trial. Most of these arrangements are accepted at the last minute—often the day the trial is scheduled to begin. This, too, can be very stressful for the victim, and it's important to support them through this time.

If the prosecutor decides not to charge the offender in a case, it may be as important to offer to go with the victim to the prosecutor's office to discuss the reasons as it would be to accompany the victim to trial.

If the assailant is found guilty by trial, the victim may want the advocate to support them at the sentencing. The advocate, and other victim support people (family, friends, other victim service providers, etc.), are there to provide support when the victim reads the victim impact statement if the judge allows statements to be read.

Victim impact statements allow victims to make prepared remarks to the judge indicating how the sexual assault has affected their lives. This impact is taken into consideration by the judge when determining the sentence. Victims often express a sense of empowerment after making such a statement.

We will conduct an activity exploring some of the "dos and don'ts" of law enforcement statement accompaniment or courtroom accompaniment.