

HELPING SEXUAL ASSAULT VICTIMS NAVIGATE THE CRIMINAL JUSTICE SYSTEM: *EFFECTIVE USE OF A MULTIDISCIPLINARY APPROACH*

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LEGAL **MOMENTUM**

The Women's Legal Defense and Education Fund

- What disciplines are represented?
- Who has worked with a victim of sexual assault?
- How many of the advocates feel confident in their knowledge of the criminal justice system?
- How many of the advocates feel they have played an important role in the criminal justice process on behalf of a sexual assault victim/client?
- How many of the law enforcement/prosecutors feel they have a relationship with community advocates?
- How many participants are members of a SART?

Sexual Assault in America



18% (20 million) U.S. women have been raped in their lifetime*



Only 16% of rapes are reported to law enforcement*

*Source: Dean Kilpatrick et al., DRUG FACILITATED, INCAPACITATED AND FORCIBLE RAPE: A NATIONAL STUDY (2007)

What comes to mind...

VICTIM-CENTERED APPROACH

Victim-Centered Approach



Why should the criminal justice system be victim-centered?



“[J]ustice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.”

-Justice Benjamin Cardozo,
Snyder v. Massachusetts 291 U.S. 97 (1934)

Impact of Sexual Assault



What rights do sexual assault victims have?

**State Crime
Victims
Constitutional
Amendments**

Texas

Virginia

Wisconsin

Alaska

California

Colorado

Alabama

Utah

Washington

Arizona

Florida

Tennessee

**South
Carolina**

Connecticut

Illinois

Idaho

Oregon

**Rhode
Island**

Ohio

Indiana

Kansas

Oklahoma

Nevada

Montana

Louisiana

**North
Carolina**

**New
Mexico**

Nebraska

Michigan

Maryland

**New
Jersey**

Missouri

Mississippi

Colorado State Constitution

Article II, Section 16a

“Any person who is a victim of a criminal act ... shall have the right to be heard, when relevant, informed and present at all critical stages of the criminal justice process.”

“Critical Stages”

- Filing of charges/decision not to file charges
- Preliminary hearing
- *Bond reduction/modification hearing*
- Arraignment hearing
- Motions hearing
- *Subpoena for victim’s mental health, medical, education or victim compensation records*
- *Disposition of charges*
- Trial
- *Sentencing*
- Appellate review/decision
- Post-conviction DNA testing/related proceedings
- *Sentence reconsideration*
- Filing by probation for perpetrators’ failure to report or location unknown
- Change of venue, transfer of probation supervision
- Request for release from probation prior to sentence expiration
- Request for release from community corrections prior to sentence expiration
- Court hearing re: attack on conviction
- Parole application hearing
- Parole, release, discharge from imprisonment
- Parole revocation hearing
- Transfer/placement of perpetrator in non-secure facility
- Transfer, release, escape of perpetrator from state hospital
- Petition to terminate sex offender registration
- *Petition for expungement of juvenile offender records*
- Execution of offender in capital case

Florida State Constitution

Article I, Section 16(b)

“Victims of crime...are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.”

It Takes a Village...

Coming together to achieve
justice and protect victims' rights

Victim Advocates

- Help victims decide whether to navigate the criminal justice system
- Can help keep victim informed of stages and scheduling
- Can link resources needed
- Can be an expert witness
- A friendly face in the courtroom
- Can help victim formulate thoughts/feelings about plea negotiations, victim impact statements
- Identify civil legal needs

Sexual Assault Nurse/Forensic Examiners (SANE/SAFE)

- Often the victim's first contact with the criminal justice process
- Are not an arm of the law
- Can be an expert witness
- Can help law enforcement/prosecution/defense evaluate evidence

Psychologists/Social Workers

- Can be an expert witness
- Can help law enforcement/prosecution communicate effectively with victim
- Can help law enforcement/prosecution evaluate evidence
- Can help prepare victim for upcoming stages of criminal justice process

A starting point...

Memorandum of Understanding (MOU)


Samples available from

- ▣ Department of Justice, Office for Victims of Crime
- ▣ White House Task Force to Protect Students from Sexual Assault

Privacy

Confidentiality and Privilege

- Owned by the client/patient/victim
- Each professional's obligation is different
- Must address sharing of information and limitations of such in partnerships AND with each client/patient/victim
- Know the implications of disclosure and advise your client/patient/victim accordingly



What does a
multidisciplinary criminal
justice process look like?

Child Advocacy Centers

- Multidisciplinary Teams
 - ▣ Case planning and reviews

- Goals:
 - ▣ Reduce number of interviews
 - ▣ Make a more comfortable environment
 - ▣ Meet all of victim's needs

- Successes

Sexual Assault Response Teams (SART)

- Multidisciplinary
- Implementation that reflects community
- Positive impact on team members and victims/survivors

DOJ Guidance re: Gender-Bias in Policing*

Can a multidisciplinary approach prevent gender-bias from permeating policing sexual assault?

*Department of Justice (December 2015), *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* <https://www.justice.gov/ovw/identifying-and-preventing-gender-bias>.

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