



## Collaboration is Key: Role of Victim Advocates in the Criminal Justice System

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Kimberly A. Lonsway, Ph.D.

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As so poignantly illustrated in the article by Detective Catherine Johnson and rape crisis advocate Megan Peterson, best practice is for all victims of sexual assault to be offered the option of accompaniment by an advocate during any medical or legal proceedings (such as a medical forensic examination or interview with police or prosecutors). The goal is to provide all victims with the information, support, and other forms of assistance they need. Of course, the victim must be the one to make the final decision regarding whether the advocate will be present.

In this issue of *SAR*, Charlene Whitman offers a review of the laws in six states that provide victims of sexual assault with a right to have an advocate (or personal representative) present during a medical forensic examination. In a future issue, we hope to provide a similar review of state laws extending that right through various stages of the criminal justice process.

For example, in California, state law gives victims of sexual assault the right to have an advocate present during any stage of the investigation and prosecution. An advocate cannot be excluded by law enforcement professionals or prosecutors, if the victim wants the advocate to be present. California law also gives victims the right to have an additional support person of their choosing present at all interviews and other investigative procedures, unless the law enforcement professional or prosecutor deems that the support person is (or is going to be) disruptive (California Penal Code, Sections 264.2 and 679.04). In those states where victims have a legal right to have an advocate present, this will clearly need to be explained to victims.

In other states, this right may not be protected in statute but spelled out in another document providing guidance to criminal justice and community professionals. To illustrate, the statewide standards of care in New Jersey dictate that “the victim has the right to have a rape care advocate present prior to and during any medical treatment, evidence, collection procedure, or law enforcement interview (New Jersey Office of the Attorney General, 2004, p. 3). In still others, state laws require victim advocates to sign a written waiver of confidentiality before they can accompany a sexual assault victim to a law enforcement interview.

Clearly, advocates and other community professionals must be aware of state and local procedures governing the presence of advocates during the exam or interview. Even when advocates are not present, they can remain on-site to provide information and emotional support to the victim – both before and after the exam or interview, if this is helpful for the victim.

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## General Role of the Advocate

When advocates or other support people are present during an exam or interview, however, their role must be *very clear* – both for themselves and the victim. Victim advocates, law enforcement professionals, and forensic examiners share the responsibility to ensure that this is clear. In fact, the best way to clarify the role of advocates during exams and interviews is to spell it out in a community-wide protocol for all of the agencies involved. This helps both advocates and other community professionals to establish clear mutual expectations.

For example, it must be very clear that advocates are there to provide emotional support to the victim during the examination or interview. Advocates are *not* there to ask or answer questions, interrupt the victim, comment on the victim's responses, or otherwise respond visibly (e.g., with facial expressions) to any victim responses during the exam or interview (*National Protocol*, 2004). Advocates – at least those in a community-based organization such as a rape crisis center – also should *not* take notes or write reports to document any part of the interview, exam, or investigation. Notes taken by an advocate should pertain only to the services provided.

## Does Advocacy Help?

While the research in this area is somewhat limited, the consistent conclusion is that advocacy services facilitate victim recovery and increase access to other services in the community response system. This includes the criminal justice system as well as other social services. For example, in one statewide study of rape crisis center services, Wasco et al. (2004) “found that survivors consistently rated advocates as supportive and informative” (Campbell, 2006, p. 32). In another study, Wasco, Campbell, Barnes, and Ahrens (1999) found that victims who worked with an advocate experienced less distress after contacting the legal and medical systems. “Taken together, the results of these studies suggest that rape victim advocates are beneficial” (Campbell, 2006, p. 32).

More specific evidence also addresses the question of exactly *how* advocates facilitate victim recovery. One way is by increasing their access to other services in the community response system. To illustrate, one study was conducted with victims of sexual assault who presented to the Emergency Department of local hospitals (Campbell & Bybee, 1997). Results indicated that victims who had the assistance of an advocate received medical services at higher rates than are typically documented in the research literature:

- 82% received a medical forensic exam
- 70% received information on pregnancy
- 38% were provided emergency contraception
- 67% received information on STDs, and

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- 79% on STD preventive antibiotic treatment (Campbell, 2006, p. 32).

Service rates were then directly compared between victims who worked with an advocate and those who did not (Campbell, 2006). For example, when an advocate was involved:

- Victims were more likely to have a police report taken (59% vs. 41%)
- The case was more likely to be investigated further (24% vs. 8%)
- Victims were more likely to receive information on STDs (72% vs. 36%) and HIV (47% vs. 24%), as well as prophylactic treatment for STDs (86% vs. 56%)
- Victims were more likely to be tested for pregnancy (42% vs. 22%) and receive emergency contraception to prevent pregnancy (33% vs. 14%)
- Medical professionals were less likely to refuse to conduct the examination because the assault occurred “too long ago” (24% vs. 36%). (Note: This is particularly significant because none were “too long ago” based on accepted standards; all of the sexual assaults in the study were reported within 96 hours.)
- Victims were less likely to be treated “impersonally or coldly” (36% vs. 69%)

Very few victims in this study were given information on community referrals (6% and 11% in the two sites). However, these rates were not different based on whether or not the victim worked with an advocate or not.

As a result of their contact with police and physicians, most of the sexual assault victims in this study experienced considerable distress (Campbell, 2006). However, some responses were seen less often among those victims who worked with an advocate (e.g., feeling bad about themselves, guilty, depressed, or reluctant to seek further help). In other words, victims who worked with an advocate were less likely than others to blame themselves for the sexual assault and less reluctant to seek further help from community response systems. They also received more services from community professionals and had better recovery outcomes.

The benefit of victim advocacy may even extend beyond the victim’s physical and psychological well-being to potentially improve criminal justice outcomes. To illustrate, research conducted by Dr. Rebecca Campbell and colleagues recently documented that sexual assault cases were more likely to proceed through the process of a law enforcement investigation and criminal prosecution in one jurisdiction after the implementation of a local Sexual Assault Nurse Examiner (SANE) program. The researchers then sought to explain *why* the SANE program had this longitudinal effect on case outcomes. Their findings revealed that two elements must come together for a case to have a chance for prosecution. First, there has to be a thorough, evidence-based investigation. Second, the victim has to be willing and able to participate in the criminal justice process.

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Perhaps not surprisingly, the research team found that victims were better able to participate if they received supportive services: "Our interviews with both survivors and police revealed that victims can give more detailed statements to law enforcement, remember more information, and can otherwise engage more fully with the investigation when they are not so traumatized and have adequate support" (p. 121). While this research focused specifically on the services provided by a SANE, it is reasonable to conclude that the findings also pertain to the support provided by an advocate. The research clearly suggests that increased prosecution rates are due to improved collaboration and communication among key stakeholders, as well as sufficient support being provided for victims (Campbell, Bybee, Ford, & Patterson, 2009).

## Conclusion

It is probably safe to assume that all of the professionals involved in responding to sexual assault cases want to see more perpetrators held accountable for their crimes. Yet we can only accomplish this when victims are able to successfully participate in the process of a law enforcement investigation and criminal prosecution. This, in turn, will only happen when victims are supported by friends, family members, advocates, and other professionals. In other words, to hold more offenders accountable *we must provide all victims of sexual violence (and their loved ones) with as much support as possible.*

Typically, the best way to provide such support for victims is to offer advocacy services as early and as often as needed. This may be the only way that some victims can draw together the emotional resources they need to participate in the investigation and prosecution of their sexual assault. Clearly, we will only achieve the goal of holding more perpetrators accountable if we work together so the criminal justice system functions effectively. This means we need to ensure that advocacy services are available for every victim, in every case, every time those services are wanted.

## For More Information

For more information on these and other topics related to the criminal justice and community response to sexual assault, please see the On-Line Training Institute (OLTI) developed by EAW International ([www.evawintl.org](http://www.evawintl.org)). Training modules include resources to provide concrete guidance for professionals, including model policies for implementing multidisciplinary collaboration and incorporating advocacy in the criminal justice response.

This article is an adapted excerpt from the OnLine Training Institute module entitled, *Effective Victim Advocacy in the Criminal Justice System: A Training Course For Victim Advocates* (2008, August), by Dr. Kimberly A. Lonsway and Sergeant Joanne Archambault (Ret.), with contributions by Aurelia Sands-Belle and Vickie Smith. It is available at [www.evawintl.org](http://www.evawintl.org).

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