

Sexual Assault - The Differences Between Civilian and Military Investigations

The passage of victims' rights statutes has been hailed as a game changer for victims of sexual assault, domestic violence, and stalking. Even with the advances in victims' rights, pursuing the investigation and prosecution of the offender may be painful for victims. Private matters may become public during the investigation or court proceedings. Defendants may seek to exploit a victim's history of abuse, collateral criminal conduct, or mental health issues to avoid accountability. Victims' rights can be used as a shield, protecting privacy and advancing a victim's legal interests. Unfortunately, attempts by victims to protect themselves by exercising their rights or hiring victim rights attorneys to represent them in criminal cases may impede the investigation and prosecution of the offender.

If responders are not prepared, a victim's decision to exercise her rights or hire an attorney can be used to attack the victim's credibility. Defense attorneys can try to show that the victim, not the defendant, is the one with something to hide, especially when the defendant appeared to cooperate with the police. They can elicit testimony that the victim refused to speak to the police or prosecutor without her attorney or followed her attorney's advice and refused to give police full access to her cellphone, email account, or medical records. Having the tools to deal with the issues that may arise when victims exercise their rights during an investigation or prosecution will level the playing field and enhance the ability to hold offenders accountable while protecting and supporting victims.

This presentation will provide participants with multidisciplinary strategies that will allow responders to collaborate to prevent challenges that may arise from implementing increased victim protection. This session is designed to be beneficial for investigators, attorneys, medical personnel, victim advocates, and other professionals who respond to gender-based crimes of violence.

As a result of this presentation, participants will be better able to:

- Identify the challenges that may arise during the investigation or prosecution when victims choose to exercise their rights or hire an attorney.
- Discuss multidisciplinary strategies for preventing challenges and enhancing the ability of victims to exercise their rights.
- Examine techniques that can be used to increase the ability of victims to exercise their rights while minimizing the impact on an investigation.
- Explore strategies that prosecutors can use in court to minimize the impact of the exercise of victims' rights on the ability to hold an offender accountable.