

LOOKING BACK MOVING FORWARD

- A Guidebook For
Communities Responding
To Sexual Assault



National
Victim Center

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and
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Dear Colleague:

On behalf of the project staff of *Looking Back, Moving Forward*, I would like to thank you for your commitment to improving the treatment of and services for sexual assault victims throughout the criminal justice system and within the community. Over the past decade, we have seen some progress toward improving the communities' response to sexual assault through cooperative, interagency programs and services. It is the goal of this project's co-sponsors -- the National Victim Center, American Prosecutors Research Institute, and Police Foundation -- to expand these efforts by providing communities with the information and guidelines necessary to create a comprehensive, interagency and community response plan that enhances the treatment of sexual assault victims, and encourages greater reporting of these serious criminal assaults.

The co-sponsors are grateful to the U.S. Department of Justice, Office for Victims of Crime and Bureau of Justice Assistance, whose support has made the creation of this *Guidebook* and technical assistance to improve communities' response to sexual assault possible. Special thanks is extended to the project's Grant Monitor, Melanie Smith, from the Office for Victims of Crime, for her ingenuous support and keen guidance in all areas of this project.

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Finally, we would like to dedicate this *Guidebook* to the hundreds of thousands of victims -- male or female, young or old -- who are sexually assaulted each year. We are confident that the information in this book, along with the technical assistance available from project staff, will help you examine and enhance services for these victims in your community.

Again, thank you for your commitment to improving services for sexual assault victims. If you would like additional information or assistance, please do not hesitate to call me.

Sincerely,



Anita B. Boles
Assistant Executive Director
and Project Director

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PROJECT STAFF

Anita Boles

National Victim Center
Project Director, Editor and Contributing
Author

John Patterson

Project Consultant
Primary Author and Technical Advisor

Patricia Toth

American Prosecutors Research Institute
Contributing Editor and Technical Advisor

Sue Marx

American Prosecutors Research Institute
Project Staff

Maria Cardiellos

Police Foundation
Project Staff

Linda Edwards

Police Foundation
Project Staff

CONTRIBUTING AUTHORS AND TECHNICAL ADVISORS

Anne Seymour

National Victim Center
Contributing Author - Corrections

Diane Alexander

National Victim Center
Contributing Author - HIV/AIDS

Helen Connelly

Consultant
Technical Advisor

Jill Baxter

Consultant
Researcher and Technical Advisor

ADDITIONAL ACKNOWLEDGEMENTS

Gary Markham

National Victim Center
Researcher and References

Susan Smith Howley

National Victim Center
Legislative Research

Judy Barkus

National Victim Center
Administrative Assistance

Lauren Barrow

National Victim Center
Administrative Assistance

Special thanks to:

Melanie Smith, OVC Grant Monitor; **Seth Dawson**, Snohomish County Prosecutor, National Advisory Council Chair, and Snohomish County Sexual Assault Interagency Council Chair; and **Jennifer Spalding**, Park Graphics for graphic design and layout.

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NATIONAL ADVISORY COUNCIL

LAW ENFORCEMENT COMMITTEE:

James Scutt, Committee Chair

Nat'l Law Enforcement Officers Memorial
Foundation
McLean, VA

Donald Baldwin
National Law Enforcement Council
Washington, D.C.

Linda S. Finney
Minnesota Bureau of Criminal Apprehension
St. Paul, MN

Martha Goddard
Galveston, TX

Johnny L. Hughes
Maryland State Police Headquarters
Pikesville, MD

Gary Melvin
Delaware State Police
Dover, DE

Stephen R. Olszewski, L.C.S.W.
Villa Maria
Timonium, MD

Terry Thomas
Florida Department of Law Enforcement
Tallahassee, FL

PROSECUTION COMMITTEE:

Seth Dawson, J.D., Committee Chair
Prosecuting Attorney, Snohomish County
Everett, WA

Deborah J. Daniels, J.D.
U.S. Court House, Southern District of
Indiana
Indianapolis, IN

Howard A. Davidson, J.D.
ABA Center on Children & the Law
Washington, D.C.

Arthur C. Eads, J.D.
District Attorney, 27th Judicial District
Belton, TX

Anne Hyland, J.D.
Ramsey County Attorney's Office, Juvenile
and Family Violence Division
St. Paul, MN

Rebecca J. Roe, J.D.
King County Prosecutor's Office, Special
Assault Unit
Seattle, WA

VICTIM SERVICES COMMITTEE:

Renata Cirri, Committee Chair
Community Action Against Rape
Las Vegas, NV

Gail Abarbanel, MSW
Santa Monica Rape Treatment Center
Santa Monica, CA

Linda Braswell
Mothers Against Drunk Driving
Irving, TX

Paul Freeman
AG's Office, Bureau of Victim Services
Tallahassee, FL

Margaret Levine
Commission on Accreditation for Law
Enforcement Agencies
Fairfax, VA

Janice Rench
Resources for Women Consulting Services
Cleveland Heights, OH

RESEARCH COMMITTEE:

Dean G. Kilpatrick, Ph.D., Committee Chair
Crime Victims Research and Treatment
Center, Medical University of South Carolina
Charleston, SC

Lucy Berliner, MSW
Harborview Medical Center
Seattle, WA

Deborah P. Kelly, J.D., Ph.D.
Dickstein, Shapiro & Morin
Washington, D.C.

Judith Rowland, J.D.
California Center on Victimology
San Diego, CA

MEDICAL COMMITTEE:

*Jamie Ferrell, R.N., B.S.N., C.E.N.,
Committee Chair*
NW Texas Hospital Sexual Assault Nurse
Examiners Program
Amarillo, TX

Martin A. Finkel, D.O.
Center for Children's Support, University of
Medicine and Dentistry of New Jersey
Stratford, NJ

Carol R. Harman, R.N., C.S., D.N. Sc.
Boston, MA

Suzanne M. Sgroi, M.D.
New England Clinical Associates
West Hartford, CT

SPECIAL VICTIM POPULATION COMMITTEE:

Jacqueline Williams, Ph.D., Committee Chair
King's County District Attorney's Office,
Crime Victims Counseling Unit
Brooklyn, NY

Ernest E. Allen
Nat'l Center for Missing & Exploited Children
Arlington, VA

Frank Barnaba
The Paul and Lisa Program, Inc.
Westbrook, CT

Evelyn Tomaszewski
Springfield, VA

Jan Emmerich
United States Attorney's Office,
Victim/Witness Program
Phoenix, AZ

Anna T. Laszlo
The Circle, Inc.
McLean, VA

Toshio Tatara, Ph.D.
Nat'l Aging Resource Center on Elder Abuse
Washington, D.C.

Harvey Yellin
Office of the District Attorney, Victim/Witness
Assistance Program
Valdosta, GA

LOOKING BACK -- MOVING FORWARD

A Guidebook for Communities Responding to Sexual Assault

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**National
Victim Center**

**CHAPTER I:
LOOKING BACK -- MOVING FORWARD**

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CHAPTER I:

LOOKING BACK -- MOVING FORWARD

INTRODUCTION

The theme *Looking Back, Moving Forward* is appropriate for this guidebook. *Looking Back* recognizes the progress of the past two decades in the response to sexual assault cases by law enforcement agents, prosecutors and emergency medical care providers. *Looking Back* also speaks to the development of rape crisis centers and other victim services that concentrate on meeting the needs of the victim.

Moving Forward emphasizes the progress toward merging the *case* focus of the criminal justice system with the *victim* focus of victim service providers. This unification is achieved through the creation of a community *Sexual Assault Interagency Council* which includes representatives of law enforcement agencies, prosecution, the medical community and victim services -- and may include representatives from other agencies or organizations concerned about sexual assault. The Interagency Council functions under a set of multi-agency/multi-disciplinary guidelines, or *protocol*, which establish the roles for each participating agency.

Moving Forward also points to this underlying thesis: the system that addresses sexual assault in the community must be *victim-centered*, expanding the role of the victim from that of an important witness to an active participant in case-related decision making. This sentiment was embodied in the 1992 report from the U.S. Attorney General, *Combating Violent Crime: 24 Recommendations to Strengthen Criminal Justice*. The report states:

To be both effective and humane, a criminal justice system must respond to the needs of victims of crime at all stages of the criminal justice process. From the time law enforcement officers arrive at the scene of a crime, through apprehension of a suspect, the trial, sentencing, appeals and punishment, victims are profoundly affected, and their perspective deserves consideration. It is

incumbent upon all criminal justice professionals to think of the victim and to evaluate how their decisions affect the victim and the victim's family.¹

LOOKING BACK -- A HISTORICAL PERSPECTIVE

In its *Final Report*, the President's Task Force on Victims of Crime presented a composite story of a 50-year old rape victim. Her story was derived from the testimony of many other victims of rape and other crimes. The story illustrates the problems experienced by crime victims ten years ago and earlier -- and, conceivably, even by some victims today. Here are some of the excerpts from that story:

You are asleep one night when suddenly you awaken to find a man standing over you with a knife at your throat. As you start to scream, he beats and cuts you. He then rapes you. . . He smashes furniture and windows in a display of senseless violence. His rampage ended, he rips out the telephone line, threatens you again, and disappears into the night. . .

The police ask questions, take notes, dust for fingerprints, make photographs. When you tell them you were raped, they take you to the hospital. Bleeding from cuts, your front teeth knocked out, bruised and in pain, you are told your wounds are superficial, that rape itself is not considered an injury. Awaiting treatment, you sit alone for hours, suffering the stares of curious passersby. When your turn comes for examination, the intern seems irritated because he has been called out to treat you. While he treats you, he says that he hates to get involved in rape cases because he doesn't like going to court. He asks if you "knew the man you had sex with."

The nurse says she wouldn't be out alone at this time of night. It seems pointless to explain that the attacker broke into your house and had a knife. An officer says you must go through this process, then the hospital sends you a bill for the examination that the investigators insisted upon. . .

Finally, you get home somehow, in a cab you paid for and wearing a hospital gown because they took your clothes as evidence. Everything the attacker touched seems soiled. You're afraid to be in your house alone. . .

You didn't realize when you gave the police your name and address that it would be given to the press and to the defendant through police reports. . . You haven't yet absorbed what's happened to you when you get calls from insurance companies and firms that sell security devices. But these calls pale in comparison to the threats that come from the defendant and his friends.

You're astonished to discover that your attacker has been arrested, yet while in custody, he has free and unmonitored access to a phone. He can threaten you from jail. The judge orders him not to annoy you, but when the calls are brought to his attention, the judge does nothing.

At least you can be assured that the man who attacked you is in custody, or so you think. No one tells you when he is released on his promise to come to court. No one ever asks you if you've been threatened. The judge is never told that the defendant said he'd kill you if you told or he'd get even if he went to jail. . .

You learn only by accident that he's at large; this discovery comes when you turn a corner and confront him. He knows where you live. He's been there. Besides, your name and address were in the paper and in the reports he's seen. Now nowhere is safe. . .

You try to return to normal. You don't want to talk about what happened, so you decide not to tell your co-workers about the attack. A few days go by and the police unexpectedly come to your place of work. They show their badges to the receptionist and ask to see you. They want you to look at some photographs, but they don't explain that to your co-workers. You try to explain that you're the victim, not the accused.

The phone rings and the police want you to come to a line-up. It may be 1:00 a.m. or in the middle of your work day, but you have to go; the suspect and his lawyer are waiting. It will not be the last time you are forced to conform your life to their convenience. You appear at the police station and the line-up begins. The suspect's lawyer sits next to you, but he does not watch the stage; he stares at you. . .

You receive a subpoena for a preliminary hearing. No one tells you what it will involve, how long it will take, or how you should prepare. You assume that this will be the only time you will have to appear. But you are only beginning your initiation in a system that will grind away at you for months, disrupt your life, affect your emotional stability, and certainly cost you money; it may cost you your job, and, for the duration, will prevent you from putting the crime behind you and reconstructing your life. . .

It's the day of the hearing. You've never been to court before, never spoken in public. You're very nervous. You rush to arrive at 8:00 a.m. to talk with a prosecutor you've never met. You wait in a hallway with a number of other witnesses. It's now 8:45. Court starts at 9:00. No one has spoken to you. Finally, a man sticks his head out a door, calls your name and asks, "Are you the one who was raped?" You're aware of the stares as you stand and suddenly realize that this is the prosecutor, the person you expect will represent your interests. . .

The prosecutor tells you to sit on the bench outside the courtroom. Suddenly you see the man who raped you coming down the hall. No one has told you he would

be here. He's with three friends. He points you out. They all laugh and jostle you a little as they pass. . .

You sit on the bench for an hour, then two. You don't see the prosecutor, he has disappeared into the courtroom. Finally, at noon he comes out and says, "Oh, you're still here? We continued that case to next month."

You repeat this process many times before you actually testify at the preliminary hearing... The preliminary hearing was an event for which your [sic] were totally unprepared... One of the first questions you are asked is where you live. You finally moved after your attack; you've seen the defendant and his friends, and you're terrified of having them know where you now live. When you explain that you'd be happy to give your old address, the judge says he'll dismiss the case or hold you in contempt of court if you don't answer the question. The prosecutor says nothing. During your testimony, you are also compelled to say where you work, how you get there, and what your schedule is. . .

Now the case is scheduled for trial. Again there are delays. . . You tell your story in detail to five different prosecutors before the case is tried. . . Continuances are granted because the courts are filled, one of the lawyers is on another case, the judge has a meeting to attend or an early tennis match. . . When you ask if the next date could be set a week later so you can attend a family gathering out of state, you are told that the defendant has the right to a speedy trial. You stay home from the reunion and the case is continued. . .

No one tells you anything about the progress of the case. You want to be involved, consulted, and informed, but prosecutors often plea bargain without consulting victims... At the trial... your character is an open subject of discussion and innuendo. The defense is allowed to question you on incidents going back to your childhood. The jury is never told that the defendant has two prior convictions for the same offense and has been to prison three time for other crimes. You sought help from a counselor to deal with the shattering effect of this crime on your life. You told him about your intimate fears and feelings. Now he has been called by the defense and his notes and records have been subpoenaed...

The verdict is guilty... You expect the sentence to reflect how terrible the crime was. You ask the prosecutor how this decision is reached, and are told that [the defendant] is interviewed at length by a probation officer. He gives his side of the story, which may be blatantly false in light of the proven facts. . . The officer will often speak to the defendant's relatives and friends. Some judges will send the defendant to a facility where a complete psychiatric and sociological work-up is prepared. You're amazed that no one will ask you about the crime or the effect it had on you and your family. . . At the sentencing, the judge hears from the defendant, his lawyer, his mother, his minister, his friends. You learn by chance what day the hearing was. When you do attend, the defense attorney says you're vengeful and it's apparent that you overreacted to being raped. . . because you

chose to come and see the sentencing. You ask permission to address the judge and are told that you are not allowed to do so.²

The Victim as a Witness

The preceding composite represents the typical experiences of sexual assault victims in the past as they confronted the traditional criminal justice system. Josephine Gittler, in a *Pepperdine Law Review* article, explains the experience as follows: "The role of the victim is that of a witness, not a party. This limitation of the victim's role is an outgrowth of the characterization of harm resulting from the crime and the purpose of criminal prosecution."³ Gittler continues:

Crime is regarded as an offense against the state. The damage to the individual victim is incidental and its redress is no longer regarded as a function of the criminal justice process. . . The criminal justice system is not for his benefit but for the community's. Its purposes are to deter crime, rehabilitate criminals, punish criminals, and do justice, but not to restore victims to their wholeness or vindicate them.⁴

This picture began to change in the late 1960s and into the 1970s with efforts to improve the treatment of victims and other witnesses testifying in criminal cases. Crime victims were still treated like witnesses; they were just treated better. American University professor Deborah Kelly described the victim assistance process this way:

Programs have been developed to educate witnesses to their role in the criminal justice process, reduce their confusion, and thereby minimize the prosecutor's problems with witness noncooperation. The theory was that if the state helped victims, victims would, in turn, help the police to apprehend and the prosecutors to convict offenders.⁵

At best, such programs were incomplete; they addressed administrative inconvenience but did not expand opportunities for victim participation.⁶

Growth of the Victims' Movement

At the same time that prosecutor-based victim/witness assistance programs were developing, grass roots victim advocacy organizations were established with the purpose of obtaining *equity* through law. Rape crisis centers, strongly influenced by the feminist and civil rights movements, multiplied and by 1979, "could be found in at least one community of every state

in the United States, in Puerto Rico, in the District of Columbia, and in every province of Canada."⁷ Today rape crisis centers are found in hundreds of communities throughout the United States. Despite the resulting diversity, the core services of rape crisis centers remain the same:

- Community education to change prevailing attitudes about rape and rape victims;
- Social activism for legal and institutional reform; and
- Crisis response and victim advocacy services.⁸

Multi-Disciplinary Concepts

In the late 1970s, *multi-disciplinary* teams to address the problems of child abuse were beginning to develop. Multi-disciplinary, in most cases, also refers to *multi-agency*. Just as such teams bring together the *disciplines* of law enforcement, law, social work, education and medicine, they also bring together agencies such as police departments, prosecutors' offices, child protective services, hospital emergency rooms and rape crisis centers.

The rationale for multi-disciplinary teams is based on the concept that developing such a team eliminates duplication of efforts by other agencies involved, and treats child victims better; consequently, the *system* operates better. In jurisdictions where the interagency approach is already used, more cases are approved for prosecution and more child sexual abuse offenders are convicted.⁹

In the late 1970s, the concept of a multi-disciplinary approach for addressing other sexual assaults was also conceived.¹⁰ Some agencies involved in the investigation, evidence collection and prosecution of sexual assault cases recognized that they could be more effective if they worked together and coordinated their efforts.

Both child abuse and adult sexual assault multi-disciplinary programs improved victim treatment; still, they did not redefine the role of the victim from that of a witness to that of an informed, active participant who influences decisions concerning his or her abuse or sexual assault case. For this reason, these programs may be characterized as *system-centered* -- they articulated their

goals in terms of system performance, measured by the number of arrests, indictments, convictions, etc.

MOVING FORWARD -- THE NEXT STEP

Just as the traditional concerns of criminal justice agencies about arrests and convictions are valid, so too are sexual assault victims' concerns about involvement in decisions affecting how their victimization is dealt with in the criminal justice system. Criminal justice personnel and victims need to see concepts -- such as arrest, conviction and victim involvement -- as mutually supportive. The sexual assault victim has an interest in the assailant's arrest, conviction and sentencing. The criminal justice system needs victim cooperation in order to build a tighter case and to convict the accused assailant.

Victims' Rights Legislation

The victim from the composite case in the *Final Report* of the President's Task Force on Victims of Crime would encounter a substantially different situation today. Legislation enacted in many states has expanded legal protection afforded to victims. For example, victims must be *notified* of:

- Courts schedule changes in 34 states;
- Final disposition in 34 states;
- Parole in 31 states;
- Pardons in 27 states;
- Work release in 31 states;
- Prison release in 39 states; and
- Escape in 22 states.¹¹

Several states also require *consultation with* victims at certain decision points. For example, 24 states require that victims be consulted during plea negotiations. (A requirement upheld in *People v. Stringham*, 206 Cal. App. 3rd. 184 [1988] when a guilty plea was determined to have

been properly vacated by the sentencing judge when he found that the victim's survivor had not been permitted to comment on the plea.¹²⁾

Forty-eight states require or allow written victim impact statements at sentencing, with 24 states explicitly permitting a victim's statement of opinion about the sentence. In addition to these protections afforded to all crime victims, there are specific protections for victims of sexual assault in the 46 states that have enacted *rape shield* and *privacy protection* laws.¹³ In general, these laws prohibit the disclosure of victims' identities. These laws also shield victims from disclosure of their counseling and prior medical records, as well as inquiries into their past sexual conduct.

Victim-Centered System Development

Victims' rights legislation has challenged criminal justice professionals to rethink their conceptualization of the victim as "just a witness." These statutory requirements have also caused some criminal justice agencies to develop their own victim/witness assistance programs; agencies realize that it requires different skills to work as victim advocates than those possessed by most police officers, investigators and prosecutors.

The ideal system has the following characteristics:

- The need of sexual assault victims to assume control over their own lives is recognized and supported;
- Cases are vigorously investigated;
- Offenders are apprehended and aggressively prosecuted in a timely fashion;
- Victims are kept informed at each stage of the proceedings; and
- Victims are given an opportunity to express a preference for what they would like to see happen.

By this definition, the ideal system is both *multi-disciplinary* and *multi-agency*. It is multi-disciplinary because the skills necessary for investigation are different from the qualifications for prosecution or victim advocacy. It is multi-agency because these disciplines are usually found in different agencies. Victim service providers bridge the gaps among various agencies and disciplines, provide a variety of services related to victim assistance and advocacy, monitor

compliance with victims' rights legislation, and serve as a liaison between crime victims and criminal justice agencies.

The difference between past and future multi-disciplinary/multi-agency criminal justice systems is the *explicit goal* of expanded victim participation in case decisions. Victim participation in decision making not only benefits the victim,¹⁴ it may also help the criminal justice system perform better.¹⁵ For these reasons, the system of the future will be *victim-centered*. The Interagency Council exemplifies the victim-centered orientation.

The Community Sexual Assault Interagency Council

The four primary disciplines involved in sexual assault cases -- law enforcement, medicine, prosecution and victim services -- are the primary disciplines represented on the community *Sexual Assault Interagency Council*, a multi-disciplinary/multi-agency, victim-centered group responsible for the following:

- Assessing the community's needs as related to sexual assault;
- Developing consensus concerning each agency's respective roles in responding to the identified needs;
- Formulating protocol reflecting the consensus;
- Negotiating interagency agreements, and formalizing the cooperative relationships and responsibilities embodied in the written protocol;
- Conducting training and technical assistance for agencies' personnel involved with sexual assault victims; and
- Monitoring, evaluating and adjusting the protocol which govern the interactions of the Interagency Council with sexual assault victims.

VICTIM-CENTERED SYSTEM OVERVIEW

Victim-Centered System -- Responsibility Matrix segments are used in the discussion of the victim-centered, multi-disciplinary/multi-agency sexual assault response system. The *Victim-Centered System -- Responsibility Matrix* (see Appendix A) is a planning tool used by the

Interagency Council to identify levels of responsibilities attributed to community agencies that work with sexual assault victims. Its use as a planning tool is described in *Chapter IV: Interagency Council Protocol Development*. It serves, in this chapter, as an example -- not as a model -- for discussion of the agencies' roles. Responsibility levels are denoted by a P, S or L:

- **P** - denotes a *primary* level of responsibility, meaning that the agency with a *P* in the agency column has the original, or principal responsibility.

Law enforcement, for example, as first responder, is assigned the primary responsibility for determining if the assailant is nearby, thereby receiving a *P* in the law enforcement column for that item. If it is a shared responsibility such as the initial interview, the *Ps* are given subscripts denoting the sequence of that responsibility, *i.e.*, *P₁* in the prosecutor's column indicates principal responsibility for developing an interview strategy to minimize the number of interviews; *P₂* gives law enforcement a primary responsibility shared only with the prosecutor.

- **S** - denotes a backup or *secondary* responsibility when it appears in an agency's column.

The victim service provider, for example, has a *secondary* responsibility for keeping a sexual assault victim informed of all pre-trial motions and hearings; the *primary* responsibility is the prosecutor's. The assignment of primary and secondary responsibilities for keeping the sexual assault victim informed about the status of the case minimizes the possibility that the needs of the victim for such information might be overlooked.

- **L** - denotes a communications responsibility or *linkage* between the agency in whose column it appears and other members of the Interagency Council.

The following sections provide a brief overview of a multi-disciplinary/multi-agency victim-centered system for addressing sexual assault. The system portrayed herein may be different than those in operation in many communities in America. It is the responsibility of each Interagency Council to analyze the system as it functions in their jurisdiction.

The Sexual Assault and Report*

When a person is sexually assaulted, often that person is thrust into circumstances with which he or she is poorly prepared to cope. Decisions must be made without a full understanding of the consequences. The first decision is obvious -- whether to report the crime.

As documented in a 1992 research report *Rape in America: A Report to the Nation*:

- Eighty-four percent of the rape victims never file a report;
- Four percent wait more than 24-hours before reporting; and
- Twelve percent report within 24-hours of the rape.¹⁶

A serious threat to public safety is posed because the vast majority of rapes go unreported in this country. There is clear evidence that most rapists repeat their crime. In fact, a study conducted by Dr. Gene Abel and his colleagues found that the average number of different victims per rapist was seven.¹⁷ One of the biggest challenges for the Interagency Council is to encourage reporting of sexual assaults by promoting sensitive treatment of these victims throughout the criminal justice system. The problem of unreported rapes should be discussed by the Interagency Council, and protocol should address this important issue.

If the victim decides to report the sexual assault, there are four primary agencies which generally are called upon for assistance: the police department; the emergency room at a hospital; the rape crisis center or hotline, if the community has one; and the prosecutor's office. These four agencies are also the core agencies for the Interagency Council.

Responses by several agencies are essential, irrespective of the avenue selected by the victim to report the crime. These responses include:

- Providing for the physical safety of the sexual assault victim;
- Ascertaining the existence of injuries and need for medical care;
- Offering crisis counseling;
- Collecting evidence; and

* The system described in this chapter emphasizes services for adult sexual assault victims. Community Sexual Assault Interagency Councils may serve child and/or adult sexual assault victims.

- Responding to criminal law violations.

Whenever possible, service providers should consult with sexual assault victims about each of these responses, inform them about the consequences of each course of action and, to the extent possible, allow the victims to determine their own course of action.

The *Victim-Centered System -- Responsibility Matrix* on the next page shows the interaction of the community agencies which receive reports of sexual assaults, and the roles of first responder to the scene -- the assumption is that the police department will be the primary responder. Secondary roles and communications linkages are also represented in the *Responsibility Matrix*. Again, the matrices are intended as examples of a system, not as a model to be followed in every community. The Interagency Council will designate the appropriate roles to participating agencies, develop the protocol, and create the interagency agreements that define these roles.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Receive Victim Report of Sexual Assault												
911/police department	L	P		L			S					
24 hour hotline	P	L		L								
Hospital emergency room	L	L		P								
Prosecutor's office	L	L	P	L								
First Responder												
Determine need for emergency medical care		P		L								
Arrange transportation to/from hospital	L	S		P								
Advise victim of evidence preservation steps	L	P		S								
Determine if assailant is still nearby		P										
Determine if victim wants crisis counseling	S	P		L	S							
Ascertain that a sexual assault occurred		P										
Determine if victim wants victim assistance	L	P										

Medical Examination -- Evidence Collection

One of the primary components of a sexual assault response system is emergency medical care. This component is discussed in greater detail in *Chapter VIII: Medical Responsibilities of the Interagency Council*. The following *Victim-Centered System -- Responsibility Matrix* identifies some of the salient medical concerns to be addressed by the Interagency Council.

Any medical procedure, including the collection of forensic evidence, must be authorized by the sexual assault victim. Medical personnel should explain the purpose of the procedures and fully describe them *before* administering them so that minimum discomfort is experienced by the victim. Some evidence collection procedures may not be necessary immediately after the assault and can be postponed until, and if, they prove to be necessary, *e.g.*, plucking of pubic hair.¹⁸

Evidence collection procedures performed properly by medical personnel can affect the success of subsequent legal proceedings. Therefore, law enforcement and prosecution should review these procedures. Medical personnel involved in evidence collection procedures must become familiar with legal concepts, such as *chain of custody*.

In addition to the *system* concerns for the collection and preservation of evidence, there are also a number of *victim* concerns about possible injuries, sexually transmitted diseases (STD), pregnancy, and infection with HIV/AIDS. The medical protocol for the Interagency Council should assign responsibility to ensure that the victim is informed about the potential for STDs or pregnancy, and that the option of prophylactic or preventative treatment is provided. Provisions for HIV testing and explaining issues related to HIV/AIDS should also be included in the protocol.

If the examination reveals a need for follow-up medical treatment, the medical component of the Interagency Council is in the best position to make the necessary referrals. Medical caregivers and victim service providers share responsibility for making referrals for follow-up psychological treatment.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Medical Intake												
Determine extent of any injuries requiring medical attention				P								
Inform victim about evidence collection procedures and receive victim authorization	S			P								
Determine if victim wants advocate support during examination	P ₂			P ₁								
Forensic Examination												
Collect and preserve evidence in accord with established protocol	S	P ₂	L	P ₁								
Ensure that no victim has to leave the hospital wearing a hospital gown	S			P								
Minimize victim discomfort	S			P								
Medical Concerns Related to Sexual Assault												
Pregnancy	S			P								
Sexually Transmitted Diseases (STD)	S			P								
HIV/AIDS	S			P								
Administer pregnancy prevention treatment with victim's consent	L			P								
Administer prophylactic treatment for STD with victim's consent	L			P								
With victim's consent, obtain blood sample for HIV baseline status	S			P								
Referral for further medical care	S		L	P								
Referral for psychological counseling	P ₁			P ₂		L						

Crime Victims' Compensation

A common concern of sexual assault victims is payment for medical care. In most jurisdictions, the state pays for the collection of evidence and forensic examination. Health insurance is another payment option, and for victims not covered by health insurance, state Crime Victims' Compensation funds may pay for medical and psychological treatment related to the sexual assault. Each state establishes its own compensation eligibility criteria. The protocol developed by the Interagency Council should identify the agency responsible for informing victims about victims' compensation. The *Responsibility Matrix* below, identifies issues related to compensation that the Interagency Council needs to address.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Crime Victims' Compensation												
Inform victim about eligibility for Crime Victims' Compensation	P	L		S	S							
Assist victim to fill out application for Crime Victims' Compensation	P			L		L						

Initial Interview

One of the most important components of a sexual assault investigation is the initial interview. Law enforcement and prosecution officials use this interview to determine the circumstances of the assault and if a law has been broken. The considerations in conducting the initial interview are discussed in *Chapter V: Victim-Centered Approaches to Law Enforcement* and *Chapter VI: Prosecution as a Component of Victim-Centered Case Management*. In general, agencies needing information from the initial interview should develop an interview strategy designed to

minimize the number of interviews with the victim. Members of the Interagency Council may share information from this interview, giving due regard to the confidentiality rights of the victim.

The initial interview is also important to the sexual assault victim. It provides an opportunity to gain information about the legal process and possible courses of action. At the conclusion of the initial interview, the victim should indicate if he or she wants to go further in the investigation and prosecution of the case. It may be that the victim wants to consult with a victim advocate, family member or private attorney prior to making this decision. Of course, the nature of the crime may be such that the law enforcement agency or prosecutor continues the investigation, with or without victim acquiescence. Conversely, prosecution may not be possible, even if the victim feels strongly that it should be. In cases where there is disagreement between the prosecutor and the victim, the prosecutor needs to explain the reasons behind the decision whether or not to prosecute. When a sexual assault case cannot be prosecuted, the victim may want to consider civil remedies.¹⁹

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Initial Interview												
Determine interview information needed	L	P ₁	P ₂									
Develop strategy to avoid many interviews	L	P ₂	P ₁									
Ask victim preference of interviewer gender	L	P										
Determine if victim requires interpreter	S	P										
Provide comfortable setting for the interview	S	P	P	S								
Determine if victim wants to file a complaint and move toward prosecution	S	P	S									

Investigation

A primary concern of victims relative to investigations is having access to information about case progress. The longer investigations take, the greater a sexual assault victim's need for reassurances that the case has not "slipped through the cracks." In addition, victims may have concerns about their personal safety as long as their assailants have not been arrested and jailed.

As the experience of this chapter's composite victim demonstrates, resuming the normal functions of living is difficult, if not impossible, when the investigation interferes with victims' employment, sleep and personal life. The Interagency Council should consider ways in which the investigative process can accommodate victims' needs. Strategies should include:

- Setting appointments for victim involvement;
- Seeking victims' authorization for making contacts at their places of employment; and
- Interceding with victims' employers if the investigation causes excessive absences (only with victims' consent).

During the investigation, law enforcement investigators and victim service providers can work together to meet sexual assault victims' needs and to facilitate the investigation of cases. This teamwork permits investigators to concentrate on developing cases while victim service providers keep victims informed, and helps facilitate victim involvement. This teamwork is described in *Chapter V: Victim-Centered Approaches to Law Enforcement* and *Chapter VII: Victim Service Providers on the Interagency Council*.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Investigation												
Keep victim informed of the case status	S	P										
Address victim's concerns of safety and possibility that assailant will return	S	P										
Accommodate victim's needs during investigatory processes in which victim participation is required	S	P										

Arrest

The arrest of the assailant is an important milestone in the investigation of a sexual assault case. Dependent upon the nature of the case, the arrest may signify increased security to the victim or may evoke mixed emotions, as in the case of an inter-familial sexual assault. Whatever the circumstances of the arrest, victims need to be immediately informed when suspects have been arrested.

The sexual assault victim may want to attend the bail hearing to voice concerns about the accused assailant's incarceration or release, however, unless identification has already been made, the victim's presence could compromise the case. If the victim is not permitted to attend this hearing, the rationale for that decision should be fully explained. Victim service providers may be able to relay the victim's concerns to the court, and prosecutors should request conditions of release that explicitly order defendants not to have any contact with their victims.

Identification of the assailant at a police line-up may trigger fear, pain or emotional stress for the sexual assault victim -- even in cases where the assailant can not see the victim. Since it

may not be possible to avoid the line-up, law enforcement officers and prosecutors should consider methods of accommodation that will reduce the victim's emotional discomfort. These methods of accommodation are discussed fully in *Chapter VI: Prosecution as a Component of Victim-Centered Case Management*.

The Interagency Council protocol should designate responsibility for keeping sexual assault victims informed about the detention status of their accused assailants. In addition, the protocol should specify the steps that a victim should take if contacted by the assailant.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Arrest												
Notification of victim after arrest has been made	S	P										
Keep victim advised about detention status of assailant	S	S	P									
Determine willingness of victim to identify assailant in a police line-up	S	P	L									
Consider using photographs for ID rather than line-up	L	P	S									

Arraignment/Initial Appearance

Each state has different procedures for informing defendants of the crimes with which they are being charged, and for establishing conditions of release or detention. Protocol should assign responsibility for informing sexual assault victims of the time and place for this proceeding. If conditions of release become an issue, the victims, or the advocates acting on the victims' behalf, should be permitted to inform the court of their concerns. Prosecutors should request

protective orders on behalf of victims. Eight states currently have statutory provisions that allow victims the opportunity to express their concerns to the court about the offender's dangerousness, prior to conditions of release being set.*

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Arraignment/Initial Appearance												
Notify victim of time and place of the hearing	S	L	P									
Discuss desired conditions of release with victim prior to bail hearing	S	L	P									
Request that any release on bail or ROR include protection orders for victim.	S	L	P									

Pre-Trial

The pre-trial phase of sexual assault cases is often the most frustrating for victims. It is during the pre-trial phase that delays, motions and other administrative and postponement tactics are initiated by the defense. Prosecutors and victim advocates should explain that the defense may use these tactics in the hope that frustration will cause victims to withdraw from the case.

* Victims have, or may have a right to speak at bail hearings in the following states: AZ, CO, MO, NY, SC, SD, WA and WV.

Victims have, or may have, a right to speak at hearings regarding pretrial intervention/diversion programs in the following states: FL, MN, MS, OR and SC (written).

Some studies have demonstrated that victim involvement in pre-trial proceedings can result in fewer administrative delays and continuances being given. Judges seem to be less disposed to grant defense motions to delay cases when the victims are present.²⁰

In addition to pre-trial motions and pleadings, this is a time when prosecutors must prepare victims for trial. Victims need to know that the defense attorney may try to elicit testimony about very private parts of their lives, and that judges may permit this kind of questioning. If, as is the case in 46 states and the Federal government, there are rape shield laws in effect, sexual assault victims need to know the specific protections those laws provide. In addition, victims need to know the types of questions that prosecutors will ask and that some of these will touch on sensitive areas; painful details of the sexual assault will need to be recounted in court.

During the pre-trial phase, prosecutors or victim service providers should keep victims fully informed of all scheduled proceedings related to their cases. The Interagency Council should create ways to avoid trips for hearings that may be canceled. Allowing sexual assault victims to be "on-call" or perhaps providing *beepers* to victims so that they can be paged if a scheduled hearing is changed, would help relieve the intrusion of the case.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Pre-Trial												
Inform victim of pre-trial hearings/motions	S		P									
Include victim participation in all hearings in which the assailant has a right to be present	S		P									
Object to continuances unless in the victim's interest	S		P									
Consider the needs of the victim in scheduling proceedings, i.e., request continuances or recesses for religious holidays or health needs of victim	S		P									

Plea Negotiations

A frequent source of conflict between sexual assault victims and prosecutors is the negotiated plea agreement, sometimes improperly referred to as a *plea bargain*. Victims often express concern that their rights are being "bargained" away. Certainly the terminology *plea bargain* implies that the assailant is "getting off easy" when, in reality, the prosecutor may have a weak case that possibly would not result in a guilty verdict from a jury. The usual source of victim-prosecutor conflict over plea negotiations is a lack of knowledge on the part of the victim and a lack of communication on the part of the prosecutor.²¹

When sexual assault victims are informed of the optional courses of action and probable results of pursuing each alternative, and are given an opportunity to express their opinions, they will usually -- although possibly reluctantly -- concur with the prosecutors' decisions. Victims may accept a less than maximum sentence if other plausible outcomes are not as advantageous.

Victims may also want to confer with a victim advocate, family member or private attorney prior to concurring with the prosecutor.

Prosecutors can make plea negotiations more palatable for sexual assault victims by discussing ways in which victims' needs may be accommodated through plea arrangements. For example, the plea arrangement may call for restitution for medical and psychological care; it may require the defendant to move away from the community and restrain the defendant from any contact with the victim. A major advantage of plea negotiations for some victims is the elimination of the need to testify. By discussing these options with victims and their victim advocates, prosecutors can help reassure the victims that their needs are being considered in formulating the plea arrangement.

Finally, eleven states have legislation that permit crime victims to object, on the court record, to a negotiated plea agreement.* Even in states that do not guarantee this right to victims, creation of a victim-centered system would utilize this practice.

* As of 1991, the states are Arizona, Connecticut, Florida, Indiana, Minnesota, Missouri, New York, Ohio, Rhode Island, South Dakota and West Virginia.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Plea Negotiations												
Inform victim of reasons to consider a negotiated plea	S		P									
Describe optional courses of action other than plea negotiations	S		P									
Determine what courses of action the victim wants to take	S		P									
Consider the needs of the victim in accepting a plea, <i>i.e.</i> , restitution, protection, emotional security	S		P									
If victim objects to plea negotiation and decision is made to accept, provide victim opportunity to put objections on the record	S		P					P				

Trial

The *Constitution of the United States of America* ensures the right of all defendants to confront their accusers. For sexual assault victims, these confrontations may be more traumatic than those experienced by other types of crime victims. Sexual assault impacts a victim in the most personal ways and is often accompanied by threats of retaliation for reporting and prosecuting the crime. Although confrontation is a constitutional right of the defendant, it should be limited to the courtroom and subject to controls which address some of the emotional security concerns of victims. For example, victims should be able to be in the courtroom -- at their discretion -- absent any salient legal reason for barring them. Throughout the trial, sexual assault victims should be accompanied by victim service providers, close friends or family members. While waiting to testify, victims should have access to an area, physically separate from the defendant and other defense witnesses.

Research has shown that keeping victims informed about all court schedules -- times and places -- is critical to the successful prosecution of cases. Kelly, citing a study by Cannavale regarding witness cooperation, points out that "many prosecutors labeled as uncooperative, witnesses who only lacked information about when to show up and what to do."²²

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Trial												
Provide separate areas for victim and defense witnesses	L		P					S				
Provide court accompaniment for victim	P		L					S				
Provide same access to courtroom as afforded to defendant	L		S					P				
Keep victim informed about court schedules: dates, times and places	S		P									

Sentencing

To ensure that a complete picture of the defendant is included for the court prior to handing down the sentence, sexual assault victims should be given the opportunity to prepare and submit a written Victim Impact Statement (VIS) as part of the pre-sentence investigation. Victim service providers may assist in preparing the VIS. In addition, victims should have the option to present testimony at sentencing hearings. All states except Arkansas make provisions to receive VIS information from sexual assault victims at the time of sentencing. In Arkansas, victims should be given the option to write a letter to the judge explaining the impact of the crime on themselves and their families. As discussed in the section on plea negotiations, the needs of the victims should be considered at sentencing.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Sentencing												
Ensure opportunity for Victim Impact Statement as a part of sentence considerations	S		P ₂						P ₁			
Provide opportunity for victim statement at sentencing hearing	S		S					P				
Include victim needs as part of sentence, i.e., restitution, protection, emotional security	S		S					P				

Probation/Community Corrections/Parole

Whenever assailants are at large in the community, sexual assault victims have valid concerns about their personal safety. For this reason, assailants sentenced to probation, participating in a number of community corrections programs, or released on parole, should be restricted in their contact with the victim. Victims need to have precise instructions for reporting any contact by assailants; and assailants should be subject to arrest and revocation proceedings for initiating contact with any prior victims. Victim service providers may be appropriate contacts to monitor the assailants' status and keep victims informed. Victim service providers may also provide emotional support at times when victims feel threatened by the pending return of an assailant to the community. Any victim and community should be able to expect that conditions by which an assailant is permitted to remain at large will be vigorously enforced by criminal justice agencies.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	O T H E R
	S E R V I C E S				S E R V I C E	H E A L T H			P A R O L E	I N S T		
Probation/Community Corrections/Parole												
Keep victim informed about the assailant's status	S								P			
Restrict assailant's contact with the victim	L	S							P			
Rigorously enforce the probation/parole conditions	L	S	L						P			

Incarceration

Imprisonment of assailants in sexual assault cases has the advantage of creating a personal sense of safety for victims, but the stark reality remains: *the average time convicted rapists serve behind bars is less than three years.*²³ Most rapists and perpetrators of sex crimes do, indeed, remain in or re-enter the community.

Currently, over half of the states provide crime victims with notification about changes in offenders' status, including: early release; work release; furloughs; parole; escapes; clemency; re-incarceration due to revocation of parole; transfers to less secure facilities; change of classifications; or death.²⁴ The Interagency Council should contact its state Department of Corrections to determine what types of notification victims can receive relevant to their assailants' status, and what requirements there are for enrolling in the victim notification program. Most agencies require that victims submit written requests for notification, and also inform the agency of any changes of address. These procedures should be included in the Interagency Council's protocol.

Crime victims are permitted to attend parole release hearings in 29 states; 28 states allow victims to testify at such hearings. Sexual assault victims should be informed of their rights, and how they can have input prior to or at parole hearings. The paroling authority in each state can clarify this information.

Most states that allow victim input at parole, allow it in several ways: oral statements (also know as *victim allocution*); written statements (also known as *Victim Impact Statements*); audiotaped statements; and videotaped statements. Victim service providers should ensure that sexual assault victims' impact statements taken or given *prior to sentencing* are included in convicted offenders' prison and/or parole files, and updated prior to any release hearings.

Only six states routinely notify victims of parole violation hearings;²⁵ however, many paroling authorities will extend this important service to sexual assault victims upon request. Again, victim service providers should determine if such notification is applicable to their clients, and if they desire this service, and then make sure it occurs when applicable.

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M S E R V I C E S	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L S E R V I C E	M E N T A L H E A L T H	S C H O O L S	C O U R T S	P R O B A T I O N P A R O L E	C O R R E C T I O N S I N S T	O T H E R	O T H E R
Incarceration												
Notify victim about changes in offender status	L									P		
Notify victim of scheduled parole hearings	L									P		
Provide opportunity for victim testimony at parole hearings	S								P			
Notify victim of release and status of release, i.e., parole, discharge, etc..	S									P		

THE PATH TO THE FUTURE

In this chapter, the past *system-centered* approach to sexual assault cases was discussed as well as the emergence of a *victim-centered* system with a multi-disciplinary/multi-agency Interagency Council. The discussion of the victim-centered system points out that, today, such a system does not exist. Sexual assault victims -- as is true of most crime victims -- have yet to achieve equity in our criminal justice system. Excellent progress, however, is being made toward the development of a victim-centered system. The remainder of this guidebook addresses participant selection to serve on the Interagency Council, and presents the steps necessary to create the protocol for guiding the victim-centered, community Sexual Assault Interagency Council.

NOTES

1. U.S. Department of Justice, Office of the Attorney General, 1992, p. 49.
2. United States, 1982, p. 3-11.
3. Gittler, 1984, p. 121.
4. Ibid., citing MacDonald.
5. Kelly, 1984, p. 16.
6. Ibid.
7. Koss and Harvey, 1991, p. 122.
8. Ibid., p. 153.
9. Boerma, 1985, entire report.
10. Rodabaugh and Austin, 1981; and Carrow, 1980.
11. Young, The State of the Law in Victim Rights, 1992, p. 39.
12. Ibid., p. 40.
13. Ibid.
14. Koss and Harvey, 1991, p. 133.
15. Heintz and Kerstetter, p. 349.
16. National Victim Center and Crime Victims Research and Treatment Center, 1992, various pages.
17. Abel, G. et al, 1987, p. 17.
18. Goddard, p. 22.
19. See National Victim Center and Carrington, F.
20. Heintz and Kerstetter.
21. Heintz and Kerstetter.
22. Kelly, 1984, p. 16.
23. Perkins & Gilliard, p. 43.
24. National Victim Center, 1991, various pages.
25. Ibid., p. 16.



**National
Victim Center**

**CHAPTER II:
EXAMINING CRITICAL CONCEPTS --
SEXUAL ASSAULT AND PROTOCOL**

CHAPTER II: EXAMINING CRITICAL CONCEPTS -- SEXUAL ASSAULT AND PROTOCOL

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CHAPTER II:

EXAMINING CRITICAL CONCEPTS -- SEXUAL ASSAULT AND PROTOCOL

INTRODUCTION

Community Sexual Assault Interagency Councils, by definition, consist of representatives from a variety of disciplines -- each with its own terminology. Because the same words do not always have the same meaning for all of the disciplines represented on Interagency Councils, definitions must be established by each Interagency Council for use in its jurisdiction.

The two critical concepts discussed in this chapter -- *sexual assault* and *protocol* -- are examples of terms that have different meanings to different disciplines. *Sexual assault*, for example, might be limited to a strictly legal definition by law enforcement officers and prosecutors, but could have broader meanings for victim service providers or medical personnel. *Protocol*, on the other hand, is a term that is more familiar to clinical rather than to legal disciplines.

As presented in this chapter, the concept of *sexual assault* to be addressed by the Interagency Council extends beyond the legal definitions embodied in statutory definitions to a variety of sex offenses. One reason for this is that some states' laws do not use the term "sexual assault." Even in states where the term "sexual assault" is used in laws, Interagency Councils should consider addressing additional sex crimes in its protocol and expand upon strict legal definitions.

Protocol is another concept that needs to be clearly defined by Interagency Councils. Since it is not a term common to all disciplines, the concept must be thoroughly understood by all members of the Interagency Council before they embark upon the protocol development process.

The development of this guidebook was preceded by a national search to obtain copies of effective, relevant protocol. Medical professionals, law enforcement agents, prosecutors and

victim service providers from across the country were asked to contribute to this extensive resource collection effort. The purpose of this search was to obtain the broadest collection of existing protocol relating to the sensitive treatment of sexual assault victims.

Over 200 documents were received in response to the search. Although the criteria for submission were specific, the materials varied in their scope and nature -- from a 500-page detailed description of the procedures for handling sexual assault cases to a two-page agency brochure. From the diversity of the materials received, it was apparent that the respondents have differing perceptions -- and some confusion -- about what protocol is.

Representatives on Interagency Councils must understand both of these concepts in order to create *protocol* which adequately respond to the problem of *sexual assault* in their communities. The following sections discuss these concepts as used in this guidebook.

SEXUAL ASSAULT

This guidebook presents the thesis that "sexual assault" encompasses a wide variety of sex offenses. This conceptualization of sexual assault goes beyond common statutory definitions where it is most often used to indicate "forcible rape" type offenses -- the most serious and personally intrusive sexual offense. The study *Rape In America: A Report to the Nation* defined "rape" as "an event that occurred without the woman's consent, involved the use of force or threat of force, and involved the penetration of the victim's vagina, mouth, or rectum."¹ Almost all states include these elements -- consent, force and penetration -- in their definition of forcible rape. Limiting the definition of sexual assault to being synonymous with rape reflects a narrow focus that will not adequately meet the needs of victims of other sex-related crimes which are also assaultive in nature.

The key issue for the Interagency Council is to create a definition for sexual assault which acknowledges both the needs of victims as well as the legal requirements of the jurisdiction. Traditional definitions of crime identify *proscribed* behaviors which, when committed, lead to *prescribed* sentences. The emphasis is on the *act* and on the *offender*, a *systems-centered* response. The Interagency Council cannot change this aspect of criminal law; however, it can also link what happens to the *victim* with appropriate *victim-centered* responses by the criminal justice system and victim service programs. In order to accomplish this goal, the Interagency

Council needs to define sexual assault in terms of specific, sex-related, criminal acts perpetrated against victims.

A broader definition for sexual assault will also reflect the values and attitudes of the community about populations that are at higher risk of becoming victims of sex-related crimes. A recent case involving male high school students who kept score of their sexual conquests -- consensual or not -- demonstrates that communities are often ambivalent in their treatment of sexual assault victims and their attitudes about what constitutes sexual assault.

As depicted by various media,* members of the *Spur Posse*, a club made up of male high school students, "kept score" of the number of sexual encounters they had. According to media accounts, some of the sexual partners were less than willing; one girl was only ten years old. The reactions in the community ranged from outrage to blaming the girls for being "sluts." Law enforcement agencies are investigating to determine if any crimes had been committed, but no charges have been made. The media has given very little attention to any services that are being offered to the young women who may have been victimized by the club members.

The interview process used for the study *Rape in America* found that many women (and arguably many men) do not associate the term "rape" with forced, sexual intercourse by someone they know, and yet, this is perhaps the most common form of sexual assault.² Increased public awareness of illegal sexual behavior will result in desirable changes in the victims response (with increased reporting) and in discouraging potential offenders from committing the offense. The definition used by the Interagency Council can serve as an instrument to educate the public.

Elements of "Sexual Assault" Definition

The Interagency Council should begin to define sexual assault according to provisions in the laws of its jurisdiction. However, the definition used does not need to be synonymous with "forcible rape." The recommendation that the Interagency Council's definition for "sexual assault" be broadened beyond rape offenses reflects the movement to reform rape laws that began in the early 1960s, with many states adopting reformed criminal statutes based upon the American Law

* Members of the *Spur Posse*, their parents, and their victims appeared on ABC's *Nightline*, ABC's *Regis and Kathy Lee*, NBC's *Inside Edition*, and other television talk shows, (Spring 1993).

Institute's *Model Penal Code*. These early reforms were superseded by the more progressive reforms extending from the mid-1970s to the present.

In an article in the *Women's Rights Law Reporter*, sociologists Patricia Searles and Ronald J. Berger indicate that reforms in rape legislation have had five goals:

1. Increasing the reporting of rape and enhancing prosecution and conviction in rape cases;
2. Improving the treatment of rape victims in the criminal justice system;
3. Achieving comparability between the legal treatment of rape and other violent crimes;
4. Prohibiting a wider range of coercive sexual conduct; and
5. Expanding the range of persons protected by the law.³

These themes are reflected in the recommendations this guidebook makes for Interagency Councils to define "sexual assault." Desirable elements to incorporate in its definition are:

- **Gender neutrality** - "The purpose of criminal sexual conduct laws should be to protect *all* citizens from unwanted sexual intrusions."⁴ Traditional rape statutes ignore the possibility that males can be victims and that females can be perpetrators.
- **Specification of proscribed acts** - Sexual Assault definitions should include unwanted "sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight of any part of a person's body or of any foreign object into genital or anal openings of another person's body, but emission of semen is not required."⁵
- **Protection of the individual's right of choice** - The California Penal Code (Section 261.6) offers a good example of consent as it applies to sexual assault:

"consent" shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.⁶
- **Preservation of privacy and confidentiality needs of victims** - The relationship of the victim to the assailant and past sexual relationships and activities should be excluded from consideration. No relationship gives irrevocable consent to sexual contact, nor do past sexual acts indicate consent for currently unwanted sexual contact.

Each of these elements are discussed further in the following sections.

Gender Neutrality

Prior to the 1960s, rape laws assumed that the victim was always a female and that the perpetrator was always a male. Until the progressive law reforms of the 1970s, most states had statutes which did not recognize that males could be sexually assaulted. Indeed, the FBI still defines *forcible rape* as "the carnal knowledge of a female forcibly and against her will. Assaults or attempts to commit rape by force or threat of force are included; however, statutory rape (without force) and other sex offenses are excluded."⁷ This definition is virtually the same as that used in English common law for the past four-hundred years.⁸

Thirty-seven states have enacted sexual assault laws that are gender-neutral.⁹ Gender-neutral laws extend the protection of the law irrespective of the gender of the offender or the gender of the victim.

Specification of Proscribed Acts

Sexual assault is usually defined as sexual penetration or sexual intrusion without consent, and the terms are gender-neutral. The concept of penetration has changed from penile penetration of the vagina to include any sexual penetration of the mouth, anus and vagina. Unwanted touching of intimate body parts is also incorporated.

Gender-neutral laws in and of themselves broaden the concept of sexual assault beyond that of "forcible rape." In addition, there are other sex offenses that cause harm to victims.¹⁰ Koss and Harvey point out:

Although rape is the most highly sanctioned sexual penetration offense, many other forms of sexual victimization may be psychologically experienced as traumatic. Included are unwanted touching, nonconsensual voyeurism, threatening telephone calls, attempted rape, workplace sexual harassment, and sexual coercion (*i.e.*, ostensibly consensual sexual intercourse that occurred subsequent to menacing verbal pressure, threats to end the relationship, or false promises).¹¹

State statutes have designated some kinds of sexual assault as being more serious and, therefore, more severely punishable. Legal differentiations among crimes of various degrees must be recognized by the Interagency Council; however, such designations do not directly relate to the amount of trauma experienced by sexual assault victims. Interagency Councils should respond to the needs of victims of sexual assault irrespective of the degree of the offense perpetrated against them. Interagency Councils should create specific, legally appropriate, responses to these forms of sexual assault which provide support and assistance for the victim.

Protection of the Individual's Right of Choice

In the past, if the woman rape victim's history included "contributory behavior," the defense could assert that she had, in fact, consented to sexual intercourse. Contributory behavior could include those related to common social encounters: casual conversation at a party, or merely accepting a ride home from an acquaintance.¹²

One of the areas of significant reform has been in the area of *spousal rape*. Common law granted husbands immunity for the rape of their wives. Now, in most states, spouses are held accountable, to some degree, for unwanted intercourse. The spousal exemption still exists for lesser sexual offenses in the laws of several states. Only two states (North Carolina and Oklahoma) permit marriage as a defense to rape, and then only when the parties are living together. Statutes specifically prohibit marriage from being used as a defense for rape in fifteen states.¹³

In recent years, the literature has focused increased attention on *acquaintance rape* -- unwanted sexual intercourse with a person known by the victim. *Rape In America* documents that the vast majority of victims are raped by someone they know. "Only 22 percent of rape victims were assaulted by someone they had never seen before or did not know well."¹⁴ This finding makes the distinction of *acquaintance rape* meaningless as it is the norm rather than the exception. (It would be more accurate to create a special category for *stranger rape*, if a distinction is needed.) The creation of the category of *acquaintance rape* implies that prior knowledge of the offender involves some degree of consent for sexual contact -- a supposition that is patently false.

Similarly, the term *date rape* -- often confused with "acquaintance rape" -- has been coined to describe forced sexual contact with a person with whom the victim has had a social relationship, as if that relationship inferred special privileges. The California statutes recognize that no special privileges are granted due to dating by specifically stating that "a current or previous dating relationship shall not be sufficient to constitute consent."¹⁵

All states prohibit sexual activity between children and significantly older persons. Children are not able understand the full implications of such sexual conduct and, therefore, are not able to give *knowing consent*. The age of consent ranges from 13 years of age in Florida to 17 years of age in most other states. Sexual intercourse by an adult with an underage female is classified as *statutory rape*.

The term "consent", and its meaning are the subject of continuing and unresolved debate. The reclassification of some offenses as assaults may mitigate controversy over the term -- as no victim "consents" to an assault voluntarily.¹⁶

Another element related to preserving the victim's right of consent is *force*. The terms "force" and "resistance" have varied definitions among the states. The law may require that a victim simply resist "to the extent reasonably necessary to make the victim's refusal to consent known,"¹⁷ or force may be defined by the degree that the "victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape."¹⁸

Pre-reform laws insisted that victims resist to their utmost ability and that their resistance should not lessen during the offense.¹⁹ This requirement placed more responsibility on the victims of rape than on victims of other kinds of crime, such as robbery, for preventing the criminal act. The concept of force was also limited to physical force and did not take into account other forms of emotional and psychological coercion. Advocates of rape law reform support broadening the definition of the offense so that force or other extreme circumstances are not necessary to define an act as nonconsensual.²⁰

Preservation of Privacy and Confidentiality Needs of Victims

One factor behind the push for reformed rape legislation was a need to change the perception that "rape was a charge easily and frequently leveled against innocent men by scheming and

vindictive women."²¹ This view of women making false accusations of rape was reflected in the treatment afforded victims by the criminal justice system. Without rape shield laws and privacy protections, rape victims' past sexual histories and relationships were exposed for public scrutiny,* and the burden fell on victims to prove that they did not cause or contribute to their own rape. The growth of the feminist movement has been largely responsible for subsequent changes to rape statutes that protect sexual assault victims from intrusive examination of their personal lives.²²

PROTOCOL

For the purpose of this guidebook, the word *protocol* means: *The product of negotiations in which agreements are made and documented to create guidelines, and assign roles and responsibilities for community Sexual Assault Interagency Council participants in responding to victims of sexual assault.*

Elements of Protocol

Breaking down this definition into its constituent parts, protocol are:

- **Product** - a tangible outcome;
- **Negotiation** - a process of issue resolution between participating agencies;
- **Agreement** - consensus shared by team members;
- **Documentation** - in written form;
- **Guidelines** - rules for agencies' involvement in sexual assault cases; and
- **Roles** - functions for agencies within the parameters established by the guidelines.

These elements are discussed in the following sections.

* As of 1991, 46 states and the Federal government have rape shield laws and/or privacy protection provisions.

Product

The concept of the protocol as a *product* is important. Product connotes effort invested in its creation. Effective protocol require effort by those who develop them. The nature of the multi-disciplinary/multi-agency protocol for sexual assault is such that, even if standard protocol were available, they would need to be customized for each venue to accommodate the unique characteristics of different jurisdictions. There are no "off the shelf" protocol for universal application. Many jurisdictions, however, have developed protocol for specific disciplines or have some sort of protocol in place for sexual assault cases. Reviewing any existing protocol is always a good starting point for Interagency Councils. These protocol establish existing procedures, and provide the baseline change. Once current protocol are reviewed and assessed, there are specific protocol development steps that are needed to incorporate the multi-disciplinary/multi-agency approach to assisting sexual assault victims. *Chapter IV: Interagency Council Protocol Development* establishes the step-by-step process for development of the protocol.

Negotiation and Agreement

Some of the responsibilities for addressing sexual assault in the community are indisputable -- such as those established by statute. Relevant statutes should be reviewed, discussed and clarified by Interagency Councils to ensure that communities are in compliance, and that all parties understand their appropriate roles.

Negotiation will be required in those areas where the responsibilities are less clear and in which new interagency relationships are being established, *e.g.*, developing guidelines to address information sharing between victim service providers and prosecutors or law enforcement investigators. The idea of sharing information with non-criminal justice agencies may be unconventional for some law enforcement agencies; however, if victim service providers are to assist investigators by serving as a conduit for information between law enforcement agencies and sexual assault victims, information sharing is required. On the other hand, victim service providers need to have clear guidance concerning information that may be shared with victims, and respect the boundaries established by the Interagency Council.

Members of Interagency Councils should understand that the protocol development process is based on the needs defined by a *community needs assessment* -- the primary step in the protocol development process. Consensus about the community's needs facilitates the negotiations and expedites agreements about how to address these needs by the Interagency Council.

Documentation

Protocol developed by the Interagency Council should utilize terminology that can be understood by all of the participating agencies. One of the complicating factors with multi-disciplinary efforts is that each discipline has developed its own "language." The protocol should recognize and overcome these language differences. Any terms which may have different meanings when used by different agencies should be operationally defined for the protocol. For example, *case* may have different meanings for each participating member of the Interagency Council. For law enforcement, *case* may mean a collection of related crimes consolidated into one investigation; for prosecution, it may mean one trial; and for victim service providers, it may mean one victim. If used in the protocol for the Interagency Council, *case* needs to be defined so that all participants have a common understanding of its use in that context.

Guidelines

Protocol developed by the Interagency Council should establish guidelines for each of the participating agencies' response to sexual assaults and sexual assault victims. Each guideline should have a stated objective so that the individuals using it understand its intent and are able to apply the guideline in spirit as well as substance.

The guidelines establish the parameters for the activity including:

- Which agencies are responsible;
- What they are responsible for;
- When they are responsible; and
- How the activity is to be carried out.

These guidelines are the basis for developing expectations among the participating agencies on the Interagency Council, as well as for understanding how the multi-disciplinary/multi-agency, victim-centered system operates.

Roles

The roles of the agencies participating on the Interagency Council may seem self explanatory, *e.g.*, law enforcement agents investigate and arrest; prosecutors prepare cases and prosecute; medical personnel examine and treat victims, and are responsible for forensic evidence collection; and victim service providers offer services such as counseling and advocacy for victims' participatory rights. The traditional roles of agencies are valid in a traditional operating environment. In a multi-disciplinary/multi-agency context, these roles must be redefined to reflect the interagency interaction.

An *inter-disciplinary dependency* exists in sexual assault investigations. The protocol developed by the Interagency Council formally identifies such inter-disciplinary dependencies and assigns specific responsibilities for each agency's role in the context of a cooperative system. The *Multi-Disciplinary Sexual Assault Response* diagram on page II-14 demonstrates some of the complexities of the system which confront the sexual assault victim. Without protocol which guide each agency's interaction with the victim *and* which also guide each agency's interactions with every other agency, it is extremely likely that the victim's needs will be overlooked.

Ongoing Development Process

The development of protocol for the Interagency Council is an ongoing process. Once the initial protocol has been developed, there may be a tendency to give a collective sigh of relief and consign the protocol to the bookshelf. It is important to resist that temptation. As explained in *Chapter IV: Interagency Council Protocol Development*, once protocol have been developed, their implementation needs to be monitored and the effects evaluated. In addition, developments in criminology, health sciences, law and victim services dictate a constantly evolving protocol, maintaining its legal and scientific relevance.

PROTOCOL FOR VICTIM-CENTERED SYSTEMS

The Interagency Council has an opportunity to redefine the goals of the criminal justice system as it addresses the problems of sexual assault in the community. Traditionally, these goals have been defined in terms of number of arrests, cases closed, convictions, etc. These goals are perfectly valid but do not address the important needs of victims. Protocol developed by the Interagency Council need to have as an explicit goal, increased attention to the needs of sexual assault victims and their involvement in the decisions that affect them and the investigation, prosecution and disposition of their cases.

In creating a victim-centered system, the Interagency Council must balance the needs of victims with the legal requirements or other constraints of the criminal justice system. For example, victims of sexual assault may have serious concerns about their personal safety when their assailants are free in the community. It is not financially feasible for the police department to assign personal bodyguards to every victim; however, it may be possible to increase patrols in the victims' neighborhoods or to give these victims priority call status if they phone 911. Additional support may be available from rape crisis centers or other victim service programs, thereby adding another dimension: that of interagency responsibility. Victims are then not dependent upon the resources of a single agency to provide assistance, but may draw upon the collective resources of several agencies.

CONCLUSION

There are two critical concepts that members of Interagency Councils must understand: 1) sexual assault and 2) protocol.

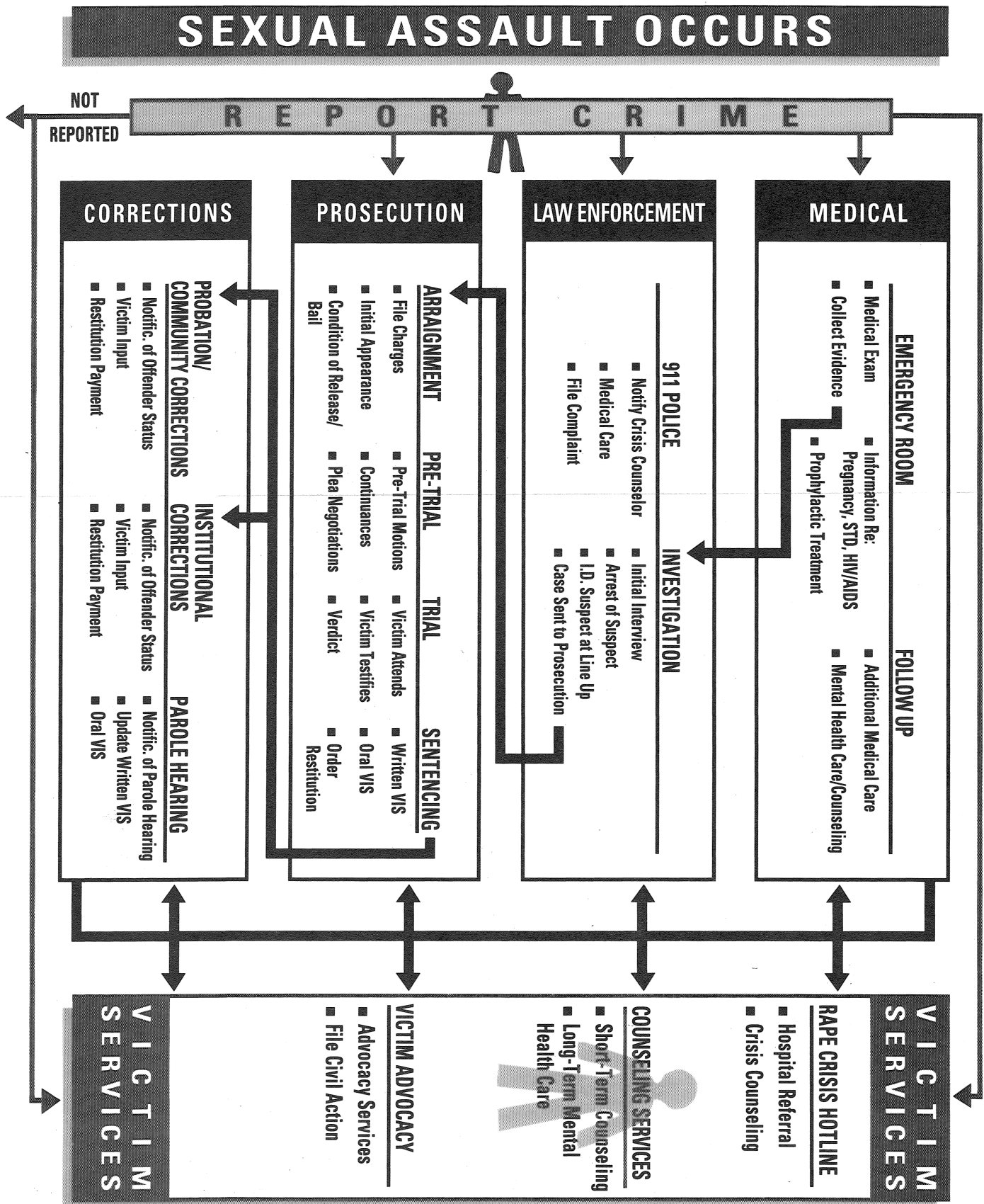
The legal definition of "sexual assault" varies in different states depending upon their statutes. However, in a more generic sense, sexual assault includes non-consensual sexual intrusions perpetrated by either males or females against either males or females. Interagency Councils should seek to provide the broadest possible definition of sexual assault in order to protect victims from a wide spectrum of unwanted, assaultive sexual behavior. The Interagency Council's definition of sexual assault should incorporate the following elements: gender neutrality, specification of proscribed acts, protection of the individual's right of choice, and preservation of privacy and confidentiality needs of victims.

Whenever the word *protocol* is used in this guidebook, it means the product of negotiations in which agreements are made and documented to create guidelines, and assign roles and responsibilities for community Sexual Assault Interagency Council participants. This definition embodies several elements: product, negotiations, agreements, documentation, guidelines and roles.

In order for protocol to be victim-centered, a goal must be the increased attention to the needs of sexual assault victims and their involvement in the decisions affecting them, and the investigation, prosecution and disposition of what -- from their perspective -- is *their* sexual assault case.

Development of protocol should be viewed as a continuing process in order to accommodate changes in technology and laws, and to respond to the results of system monitoring and evaluation. *Chapter IV: Interagency Council Protocol Development* provides detailed instructions for an eight-step process to develop multi-disciplinary/multi-agency protocol for Interagency Councils.

MULTI-DISCIPLINARY SEXUAL ASSAULT RESPONSE DIAGRAM



NOTES

1. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. *ii*.
2. *Ibid.*, p. 14-15.
3. Searles and Berger, 1987, p. 25.
4. Green, 1988, p. 17.
5. *Ibid.*
6. *Ibid.*, p. 10.
7. Federal Bureau of Investigation, 1992, p. 23.
8. Green, 1988, p. 6.
9. National Organization for Victim Assistance, 1988, p. 25.
10. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. *ii*.
11. Koss and Harvey, 1991, p. 5.
12. Green, 1988, p. 9.
13. Data from the National Victim Center Legislative Data Base, current through the laws of 1991.
14. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 4.
15. Cal. Penal Code §261.6 (West 1990).
16. Searles and Berger, 1987, p. 26.
17. Del. Code Ann. tit. 11, §761(g) (1988).
18. La. Rev. Stat. Ann. §14:42.1 (West 1984).
19. Green, 1988, p. 14.
20. Searles and Berger, 1987, p. 28.
21. Green, 1988, p. 7.
22. Searles and Berger, 1987, p. 25.



**National
Victim Center**

**CHAPTER III:
INTERAGENCY COUNCIL REPRESENTATION
AND COMMUNITY PARTICIPATION**

CHAPTER III: INTERAGENCY COUNCIL REPRESENTATION AND COMMUNITY PARTICIPATION

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- **Maintain the flow of information to victims concerning the status of their cases.**

As previously cited, one of the primary dissatisfactions that crime victims (including sexual assault victims) have concerning the traditional handling of their cases is the lack of information about the status of their case.

- **Make the views of victims known to the court on key decisions.**

Bail decisions, continuances, plea negotiations, dismissals, sentencing and restitution are critical points at which victims want to have their opinions heard.

- **Identify and remove inconveniences for sexual assault victims' participation in case handling.**

Sexual assault victims should be permitted to be "on-call" for hearings, interviews and trials, while continuing their daily lives as normally as possible, in order to minimize financial and emotional hardships.

- **Preserve the privacy of sexual assault victims.**

The names and addresses of sexual assault victims should not be made public. Most states* have enacted laws prohibiting public disclosure and publication of sexual assault victims' identities and permitting closed courtrooms at the discretion of the trial judge. Texas, for example, allows a rape victim to use a pseudonym at all stages of the investigation and trial.⁴

Core agencies may benefit from a victim-centered community response to sexual assault by:

- **Increased cooperation of sexual assault victims during the investigation, prosecution and disposition of their cases.**

Informed sexual assault victims who are given the opportunity to participate in case decision making are more willing to endure the ordeals of the criminal justice system.

- **Increased reporting of sexual assaults.**

A long-term benefit of a victim-centered community response will be a change in the perception of sexual assault victims concerning how they may be treated. Those victims who are unwilling to participate due to concerns about public disclosure, further traumatization, and inability to achieve justice will, over time, learn that the system can be *victim-friendly*.

* As of 1991, 32 states and the Federal government had enacted laws intended to protect the privacy of sexual assault victims.

- **Increased political support for criminal justice agencies.**

As the community perception of the criminal justice system changes from one in which only the criminal receives justice to one in which all parties, including the victim, receive justice, public acceptance of increased expenditures for criminal justice agencies will very likely result. *America Speaks Out: Citizen Attitudes Toward Violence and Victimization*, a national public opinion poll conducted by the National Victim Center, found that 70% of the respondents would "probably or definitely" pay higher taxes to improve services to crime victims.⁵

The remaining parts of this chapter discuss considerations that need to be made as communities address the creation of victim-centered, multi-disciplinary responses to sexual assault cases. These considerations include:

- **Membership of the Sexual Assault Interagency Council.**

Which agencies in the community are responsible for sexual assault cases and helping victims of sexual assault?

- **Tailoring Interagency Council membership to meet community needs.**

In addition to agencies with identified responsibilities, what other kinds of organizations and agencies should belong to the Interagency Council?

- **Networking and forming linkages to meet the needs of distinct victim populations.**

What services are available from organizations specializing in providing services to identified populations? How can the Interagency Council access these services for eligible sexual assault victims?

Interagency Council Membership

Membership of the Interagency Council should be viewed on two levels:

1. **Agency membership** - The first level relates to identifying the agencies that should be members of the Interagency Council for development of the protocol.
2. **Individual representatives** - The second level pertains to the kind of representative each agency will have (agency director, division supervisor, line worker or a combination of levels).

Participating Agencies

In order for a community to have an effective multi-disciplinary/multi-agency Interagency Council, there are several agencies that *must* participate. These include:

- **Law Enforcement** - The police department and other law enforcement investigative agencies in the jurisdiction served.
- **Prosecution** - The State's Attorney, District Attorney or other prosecution offices responsible for sexual assault cases.
- **Medical** - Hospitals, emergency care centers, and other medical facilities responsible for examining sexual assault victims and/or collecting forensic evidence from those victims.
- **Victim Services** - Rape crisis centers, independent, non-profit victim organizations, and victim/witness assistance programs operating as part of another agency, *e.g.*, law enforcement or prosecution.

These four categories of agencies are essential participants for formulating any community-wide response to sexual assault. In some communities, there may be other agencies and organizations that should participate based upon the nature of the specific problems of sexual assault within that jurisdiction (this list is developed further in *Chapter IX: Expanding the Interagency Council*):

- **Social Services** - Child protective service agencies are required as a participant in child sexual abuse cases. In other sexual assault cases, participation may be optional depending upon the kinds of social services the agency provides to adults -- income maintenance, homemaker services and long-term medical care.
- **Mental Health** - Access to various kinds of counseling services in order to cope with the psychological trauma of sexual assault is an important component of comprehensive services to sexual assault victims. Mental health agencies should be considered for membership on the Interagency Council. Identifying linkages to mental health services is an essential feature of community planning for sexual assault cases.
- **Courts** - While the traditional role of the judiciary is to interpret the law impartially, judges are beginning to realize that impartiality requires recognition that the victim has rights too. Several judges have taken a lead role in bringing about improvements for crime victims within the criminal justice system.

- **Probation/Community Corrections/Parole** - Sexual assault victims commonly fear that reporting the crime will result in retaliation by perpetrators. It is essential for the welfare of the victim that restraining orders be part of any probationary or parole conditions, and be rigorously enforced -- including the payment of restitution. Agencies responsible for the supervision of sexual assault perpetrators should be considered for inclusion in the Interagency Council. In any case, linkages between probation and other community corrections programs are an essential component of developing a victim-centered community response.
- **Correctional Institutions** - In most communities, the correctional institutions will not be included as part of the Interagency Council. There are linkages, however, that need to be made with these institutions concerning the physical location of the perpetrator and decisions to permit work release or furloughs.
- **Schools/Colleges/Universities** - The research report *Rape In America* shows that "rape in America is a tragedy of youth" with 83% of female rape victims younger than 24 years of age at the time of the rape.⁶ This fact alone indicates the need for schools, colleges and universities to be involved in the community response to sexual assault. Additional factors to be considered are the number of sexual assaults that occur on school campuses and where the responsibility for investigating those assaults is vested. Campus police may be a worthwhile addition to the Interagency Council in jurisdictions with colleges or universities. Other representatives of educational institutions could include school principals, counselors, deans, etc. These institutions are addressed further in the *Closed Communities* segment of this chapter.
- **Media** - The community response to sexual assault must incorporate the linkages to the media. As previously mentioned, sexual assault victims should be able to maintain their privacy and not have their identities disclosed through the media. Experience has shown that the media can be *pro-victim* when reporters, editors and other media representatives are given guidelines and assured that the facts they need to fulfill their roles will be available.
- **Crime Victims' Compensation Agencies** - All states and the District of Columbia have established victims' compensation programs.⁷ These programs generally provide payment to victims of crimes for injuries. In order to be eligible for this form of compensation, the victim must report the crime and cooperate with criminal justice agencies. Each state also has specific eligibility requirements. In addition, the *Victims of Crimes Act of 1984 (VOCA)* requires states to expand their benefits to include payment for mental health counseling and extend eligibility to include non-residents and victims of Federal crimes victimized within the state's borders.⁸

Interagency Councils should not assume that the existence of a victims' compensation agency means that sexual assault victims are aware of their right to compensation. A representative from the state Crime Victims' Compensation agency should be considered for membership on the Interagency Council. At the

very least, a representative should be invited to inform the Interagency Council about the state's Crime Victims' Compensation program and about the processes involved in securing compensation for sexual assault victims.

The protocol for the Interagency Council should delineate linkages with the compensation program's administrative agency. Such linkages can help prevent what have been characterized as "administrative delays"⁹ in making compensation payments to eligible victims.

INTERAGENCY COUNCIL ADVISORY COMMITTEES

The Interagency Council consists of representatives from *agencies or organizations* that have a role specified in the protocol. Individuals will generally not have a responsibility identified in the protocol; therefore, Interagency Councils should consider establishing one or more *Advisory Committees*. The purpose of the Advisory Committee is to receive input from representatives of organizations, as well as from individuals, that are not members of the Interagency Council, but who have an interest in its activities. Examples of possible Advisory Committees include victims of sexual assault, clergy, schools (elementary through college) and media.

A *Victims' Advisory Committee* is critical in order to ensure that input from individual victims is received by the Interagency Council. This group of sexual assault victims should review protocol and advise Interagency Council members about its impact on the needs of victims. Victim advocacy organizations may be good sources for nominations of individuals who are sufficiently recovered from their sexual assault that serving in an advisory capacity would benefit both themselves and the Interagency Council.

Other Advisory Committees may provide valuable information and support to Interagency Councils and may be created on a permanent or *ad hoc* basis. Membership on Advisory Committees should reflect the composition of the community and include diverse ethnic and cultural populations. Individuals selected for Advisory Committees should meet qualifications formulated by the Interagency Council.

TAILORING COUNCIL MEMBERSHIP TO MEET COMMUNITY NEEDS

The word *community* has a variety of possible meanings. It may refer to a geographic location or it may refer to an identifiable population of individuals living within a geographic area. For example, within the *community* of Albuquerque, New Mexico there is a *university community*. There are other types of communities based upon religious beliefs, sexual orientation, ethnicity or economic status. This listing is not complete but illustrates that, in addition to geographic boundaries, communities may be defined by shared cultural, religious and economic ties.

Membership in a community helps give individuals an identity in the context of shared characteristics, such as belief systems, values, economic status or perceived suppression by the *mainstream* majority. Most people belong to multiple communities that are defined by geographic, cultural and religious boundaries. Such affiliations can strongly influence sexual assault victims' reactions to victimization. To the extent that the victim sees the community as supportive, compassionate and accepting, membership in that community may be therapeutic. To the extent that the victim sees the community as judgmental, hostile and skeptical, that community is toxic to the sexual assault victim.¹⁰

Normally, multi-disciplinary/multi-agency planning for a community response to sexual assault applies to the defined geographic region encompassed by the jurisdiction. An important part of the planning process is the realization that most jurisdictions are not homogenous in their make-up, therefore, consideration must be given to the *communities within the community*. Some of the different kinds of diversity are discussed in the following sections on urban communities; rural communities; closed communities; Federal properties; and communities with significant cultural, religious or ethnic groups. This chapter also considers the roles that these groups might play in the development of Sexual Assault Interagency Council protocol.

Urban Communities

Responding to the challenges of sexual assault within urban jurisdictions is reminiscent of "good news - bad news" stories. The "good news" is that there are usually more resources that may be brought to bear on the problems; the "bad news" is that there are almost always more

problems than the resources available to address them. One planning issue is more efficient use of existing resources to create a victim-centered system.

Certainly, the magnitude of the sexual assault problem in urban areas, and the bureaucracies created to address sexual assault, result in a more complicated system. The system is more complicated not only for criminal justice system personnel assigned to sexual assault cases; it is also more complicated for the victim of sexual assault. The urban system may have a tendency to deliver "assembly line justice," with individual victim identities replaced by case numbers. The planning challenge is to develop the system so that sexual assault victims are insulated from the underlying complexities.

Another way of looking at this issue is to consider that, for those working within the urban criminal justice system, a sexual assault case is just another of perhaps hundreds or even thousands of cases. For the victims of sexual assault, it may represent the single, most traumatic event in their lives. Criminal justice personnel must be able to investigate, prosecute and adjudicate the mass of sexual assault cases while giving all victims a sense that their individual cases are important.

The Interagency Council can increase the level of service to individual sexual assault victims by involving these victims in the decisions affecting their sexual assault cases. Another way the Interagency Council can improve services to these victims is through coordinating efforts and assigning specific responsibilities for keeping victims informed of case progress.

Rural Communities

Rural jurisdictions are characterized by large geographic, sparsely populated areas in which certain communities serve as hubs for agriculture and commerce. Populations are generally smaller and often the systems developed to address sexual assault are less formal than their urban counterparts. Rural areas present their own unique challenges to both the criminal justice system and victims of sexual assault. The Rural Task Force of the National Coalition Against Domestic Violence notes that:

There are many commonalities for those of us who identify as rural women. We face lack of resources, isolation, small town politics, few funding sources, little transportation, fewer telephones, and problems keeping shelters and or safe home locations confidential.¹¹

As in cases of domestic violence, both availability and accessibility of specialized services for sexual assault victims are likely to be issues in rural areas. Services, when they are available, are likely to be located in the hub communities, while victims may be several hours away. As the Pennsylvania Coalitions Against Domestic Violence points out in their *Rural Outreach Manual*, "Because there is no public transportation, women without vehicles cannot. . .keep counseling appointments. Poor roads often prevent women who do have cars or trucks from driving long distances. . . Some women never leave the communities in which they live, and they may not know of any other place to go."¹² *

The availability of medical personnel to gather the forensic evidence of sexual assaults, may be a special problem in rural areas that are notoriously under served in the health care fields. The gathering of evidence is important, however, the lack of available medical care for victims is of greater importance. Interagency Councils can address these problems through creating regional resources and providing transportation for sexual assault victims to those services.

On the positive side, there are natural helping systems that have evolved in many rural communities. Identification of these resources is an important facet when planning a rural response to sexual assault. Churches have played a central role in addressing the social service and mental health needs of rural residents, and serve as a source for volunteers and funds.¹³ In rural jurisdictions clergy representation may be essential to an effective Interagency Council.

Closed Communities

Closed communities are those to which public access is limited. Often these communities have established their own internal mechanisms for dealing with sexual assault crimes. American Indian reservations, school campuses and military bases are examples of closed communities. Interagency Councils serving jurisdictions encompassing closed communities should examine the dynamics of sexual assaults involving members of the closed communities. Some of these dynamics are discussed in the following sections.

* Since the citation comes from a report addressing the needs of domestic violence victims, in which female victims are more prevalent than male victims, the pronouns she and her are used. This is only intended to imply that the rural conditions for sexual assault victims would be similar; not that victims would all be female.

American Indian Reservations

American Indian reservations present not only a specific set of cultural perspectives on the issues related to sexual assault, they also represent unique jurisdictional concerns related to:

- The location of the assault (on or off the reservation);
- The victim's identity (Indian or non-Indian);
- The perpetrator's identity (Indian or non-Indian); and
- The jurisdiction of the tribal law enforcement and judicial branches.

The resolution of these questions results in either tribal, Bureau of Indian Affairs (BIA), Federal Bureau of Investigation (FBI), or state jurisdiction for the investigation of the crime and determines whether it will be prosecuted in tribal, Federal or state court.

While these appear to be *systems* issues, they also have an impact on the victims. For example, when victims of sexual assaults are American Indians in non-Indian jurisdictions bordering reservations, communities may not feel responsible for addressing the victims' needs. There may be an expectation that the tribes will assist the victims. Unfortunately, tribes may believe that since the assaults took place off the reservations, the victims' needs should be addressed by the jurisdiction in which they occurred; consequently, victims "fall through the cracks." The planning process should address basic issues about the nature of the sexual assault problem in the community including:

- Who are the victims?
- Who are the perpetrators?
- What services are available to American Indian sexual assault victims in the community?
- What services are available on the reservation?
- How are linkages achieved between reservation-based services and non-Indian criminal justice agencies?

When American Indian victims who live on reservations are assaulted in non-Indian communities, maintaining communication with victims may present unique challenges. Telephone communications have improved considerably on most reservations, however, many

American Indians living on reservations still reside in remote areas with no direct telephone communications. This presents two problems: first, difficulty in notifying victims of case status or that their presence is required; and second, because of the distances that may be necessary for victims to travel, minimizing inconveniences and expenses associated with case-related appearances. Addressing the first problem requires that the Interagency Council establish a liaison with law enforcement agencies on reservations for the purpose of relaying communications to victims. Addressing the second problem requires:

- Planning for appearances;
- Avoiding continuances; and
- Providing transportation, meals and housing.

In jurisdictions with sizable American Indian populations, or in close proximity to reservations, the Interagency Council should consider including American Indian representation from within appropriate tribal agencies in the planning and development process for the Interagency Council's protocol.

Campuses

Another category of closed communities is school campuses. The term *campus rapes* as used in this guidebook refers to the crime of sexual assaults and attacks of coeds on college campuses. One of the issues associated with campus rapes is the hesitancy on the part of college administrators and community residents to recognize that the crime occurred. The issue of campus rapes is one which affects both the university and the local community and, therefore, is one that *both* communities must address through cooperation between local law enforcement agencies and campus security services.

The *Campus Sexual Assault Victims' Bill of Rights Act of 1991* was enacted by the United States Congress and provides for increased protection to victims of sexual assaults on campuses. These include the right to:

- Have sexual assaults investigated by criminal and civil authorities;
- Be free of pressure from campus authorities to refrain from reporting crimes, or to report crimes as lesser offenses;

- Have the same representation as the accused at any campus disciplinary proceeding, and to be notified of the outcome;
- Have full and prompt cooperation and assistance in obtaining evidence necessary for proof of criminal sexual assault, including a medical examination;
- Be made fully aware of and assisted in exercising state or Federal legal rights to test sexual assault suspects for communicable diseases;
- Have access to existing campus mental health and victim support services;
- Be provided housing which guarantees no unwanted contact with alleged sexual assault assailants; and
- Live in campus housing free of sexually intimidating circumstances with the option to move out of such circumstances.¹⁴

Once again, the need for communication, cooperation and joint planning in the development of a victim-centered approach are essential ingredients in effectively addressing this problem. Strong consideration should be given to including campus representation on Interagency Councils.

Interagency Councils should not overlook sexual assaults which take place in elementary and secondary schools -- public, private and church operated. Protocol also need to address the reporting and investigating of these offenses *and* providing assistance to the young victims of these sexual assaults. When addressing sexual assaults of children, the Interagency Council should coordinate its protocol with child protective services.

Military Bases

Military bases present a unique set of conditions that may involve both problems and opportunities. Most military bases contain a variety of services available to members of the military and their dependents who are victims of sexual assault, including medical care and counseling. Some sexual assault victims may not feel comfortable using these services, possibly due to concerns about privacy and confidentiality -- for example, an officer's wife who is the victim of spousal rape will have no choice but to have the offense reported if she seeks treatment

at a military facility. Within the armed services, the only guarantee of confidentiality is with the chaplains.

Military bases also create demands upon the civilian system with large populations of young, single males seeking social outlets in the adjacent civilian community. Restricted public access to military bases may hamper the community's investigations of sexual assault cases involving military personnel. When military officials have disciplined the offenders, victims may not have had an opportunity to be heard, or even know that an action was taken to redress the crime.

Increased attention is being given by the Department of Defense and all of the branches of the military regarding sexual assaults and sexual harassment by military personnel. Adverse publicity caused by sexual assaults of female officers at a 1992 meeting of the Tailhook Association, as well as incidents of sexual harassment at some of the military academies, has led to mandated training for military commanders, law enforcement personnel and social service professionals. The priority of the military to improve their response to sexual assaults may provide an excellent opportunity for closer relationships with Interagency Councils.

Federal Properties

Federal properties include Federal buildings, national parks and monuments, and national forests. Some of the planning considerations pertaining to these Federal jurisdictions are similar to American Indian reservations, but there are significant differences. Victims of sexual assaults in national parks, monuments or forests may be transient vacationers whose residences are thousands of miles away from the crime scenes. For those responsible for investigation, prosecution and adjudication, these distances become management issues and may determine whether cases are even pursued. For victims, these distances may mean that no referrals may be made to rape crisis centers or other victim support services. Consequently, victims do not receive support or counseling from victim service providers to help deal with the emotional distress caused by their sexual assaults. Designating an appropriate Interagency Council participant to ensure that transient victims receive referrals for services in their home communities is an important protocol element for jurisdictions with Federal properties. In planning the community response to sexual assault, representatives from Federal properties should be consulted and given the opportunity to participate in the development of the protocol.

Communities with Significant Cultural, Religious or Ethnic Groups

Up until this point, communities have been primarily defined by geographic boundaries. There are other kinds of communities, however, that are tied together by cultural, religious or ethnic commonalities. These commonalities may also have geographic boundaries; for example, individuals with similar cultural, ethnic or religious backgrounds may constitute neighborhood communities. Some of these neighborhoods function as centers for cultural activities and services for individuals living outside of the neighborhood but who identify with the cultural, ethnic or religious make-up of the neighborhood.

Urban communities tend to be more diverse than rural communities in their composition; consequently they will have identifiable *communities within the community*. Nonetheless, the possibility of identifiable cultural and ethnic groups in rural areas -- for example, the Amish in Pennsylvania -- should not be overlooked. These groups not only have distinct needs, but often have resources in their communities to help meet these needs, such as special victim support programs or interpreter services for victims not proficient in the English language.

The planning process for community response to sexual assault should include participation of representatives from organizations serving the population which might be considered *communities*, as previously discussed. The nature of the participation may include providing testimony at hearings called to gather information about public perceptions of the community needs as related to sexual assault. It may also be as an official representative on the Interagency Council or on an Advisory Committee addressing needs and services specific to that victim population.

The criteria used to select representation and the kind of participation in such groups should include:

- The magnitude of sexual assault crimes affecting the population (including an estimate of unreported sexual assaults);
- Public perceptions of the criminal justice system response to sexual assault;
- The need for specialized victim services for sexual assault victims from the identified population; and
- The availability of victim services targeted for the identified population.

The community assessment process will help identify: ethnic, religious and cultural groups; the needs, issues and concerns each one brings to a victim-centered approach; and the available community resources to address the needs of these population groups.

Sexual Assault Victims of Diverse Ethnic Backgrounds

Many different cultures and ethnic groups are represented in communities across the country. Persons from any ethnic background -- African Americans, Asians, Hispanics, American Indians, Pacific Islanders and other ethnic groups -- may become victims of sexual assault. Interagency Councils need to be aware of the different ethnic groups and cultures in their communities, and address their needs and concerns in the protocol.

Identifying every distinctive cultural or ethnic group, as well as the diverse needs and issues each represent, is impossible in this guidebook. The issues and considerations described on the following pages serve as examples of the types of specific needs presented by different cultures and ethnic groups.

- **The negative impact and stigma associated with sexual assault.**

In some cultures, the stigma attached to sexual assaults may be overwhelming, particularly for women. As a result, women may not report or discuss the assault. In the Asian community, for example, the fear of being ostracized or shamed as a result of sexual assault is so great that women often do not report the crime. If the crime is reported, women may be so ashamed that they may either turn to prostitution or kill themselves as a result.¹⁵

- **Inability to discuss sexual assault with opposite gender.**

As stated above, in some cultures women are too ashamed or fearful to speak about sexual assault. This fear can be exaggerated by actions of the criminal justice system when it is insensitive to the needs of such victims. For example, Hispanic women often find that speaking with men about sexual assault is particularly uncomfortable.¹⁶

- **Differing cultural government.**

Still other cultures have their own "community" or "government" to address problems. For example, American Indian communities have their own sets of norms, rules and regulations, and are governed by their own laws (as discussed in the *Closed Communities* section of this chapter).

Representatives from agencies serving specific ethnic or cultural groups can be valuable members of the Interagency Council in developing a victim-centered system responsive to the cultural needs and norms of diverse population groups. What is acceptable in certain cultures may not be acceptable in others. Behaviors such as making eye contact with victims, using certain terms or words, and pointing fingers at someone or something need to be considered in developing protocol to deal with various population groups.¹⁷

The Interagency Council may need to "do things differently" when working with victims from different cultural and ethnic backgrounds. For example, victims from other countries may have little knowledge of the American criminal justice system and may need the process explained in greater detail; language barriers may necessitate the use of interpreters; and interviewers of a certain age or gender may be necessary to help victims feel more comfortable. Individuals selected as interpreters should be trained to assist sexual assault victims.

Another issue is the victim's immigration status. Because victims may illegally reside in this country or be fearful of being returned to their country, the likelihood of their reporting a sexual assault is diminished. Illegal aliens may believe they will be deported as a result of calling attention to themselves. The Interagency Council protocol should include procedures for confronting immigration and victimization concerns.

Religious Support for Sexual Assault Victims

Many sexual assault victims indicate that their victimization was made bearable due to their religious beliefs or because their spiritual leaders provided counseling and emotional support. As previously mentioned, in rural communities especially, churches and religion have had a tradition of being the sources of emotional as well as spiritual support.

In some urban areas, neighborhoods reflect the influences of dominate religions and their values and beliefs. In these areas, sexual assault victims may be affected both positively and negatively. They may be positively affected if the religious community provides support and understanding. Sexual assault victims may be negatively affected if the religious community is judgmental and blames victims.

There are several ways in which religious communities can participate in the Interagency Council and assist sexual assault victims. Churches have meeting rooms that may be available for peer

support and other kinds of counseling sessions. Churches may also be involved in the collection of clothing that can be provided to sexual assault victims when their clothing is taken for forensic examination.

Members of the clergy can be important participants in the counseling of sexual assault victims; they also may serve as victim advocates. In many communities, the only kind of counseling available may be through the local pastor, priest or rabbi. Many police department have members of the clergy on call, serving as chaplains. The Interagency Council's protocol should provide guidelines for contacting a sexual assault victim's religious leader -- minister, priest, rabbi -- after first obtaining authorization from the victim. The Interagency Council should provide training for clergy to maximize their abilities to assist sexual assault victims.

Gay and Lesbian Sexual Assault Victims

All cultural differences are not based upon religious, ethnic or racial origins. Gays and lesbians represent a distinctly different culture and are estimated to be up to ten percent of the population.¹⁸ Gay and lesbian victims may be reluctant to report sexual assaults because they assume they will be met with insensitive comments or unfair treatment from criminal justice personnel. In addition, many gay and lesbian victims whose sexual orientation has been previously unrevealed, are concerned that their assaults may generate publicity that would *out** them. Repeated sexual victimization may occur when victims fear being *outed* and do not report the crimes. They may fear that disclosure of their sexual orientation will jeopardize their jobs, housing or the custody of their children.¹⁹ These fears have been exacerbated in some jurisdictions by recent attempts to remove anti-discrimination protection such as in Oregon and Colorado.

Gay or lesbian sexual assault victims may not volunteer information about their sexual orientation and criminal justice personnel should not assume a victim's sexual orientation based upon physical characteristics. Most gays and lesbians do not match the stereotypical portrayals of effeminate men and masculine women.

* *Out* as used here describes the revelation that a person is gay or lesbian. It refers to the expression "out of the closet." Within the gay and lesbian community the decision to reveal one's sexual orientation is very personal.

As with other populations, sexual assaults against gay and lesbian victims have a variety of causes, including:

- **Hate Crimes** - Hate motivated crimes tend to be physically and mentally brutal and violent. Sexual assaults that are motivated by bias and hatred are often accompanied by derogatory name calling or graffiti.
- **Spousal Rape** - Just as with heterosexual couples, gays and lesbians may force or attempt to force their partners to submit to sexual activity.
- **Acquaintance Rape** - Gays and lesbians may be sexually assaulted by another gay or lesbian they know or with whom they are involved as part of a social relationship.

Criminal justice and victim service agencies must consider any non-consensual sex as a crime, *irrespective of the sexual orientation of the victim or the perpetrator*. When the characteristics of sexual assault victims become more important than the sexual assault, the victim is being blamed for who he or she is and, therefore, made more vulnerable to further victimization.

In planning for and developing protocol to address the needs of gay and lesbian sexual assault victims, the Interagency Council should identify and provide access to services for these victims in an unbiased, supportive manner. In larger cities, appropriate referral agencies may be located in the gay and lesbian community and could be valuable members of the Interagency Council. Some criminal justice agencies have appointed liaison officers to gay and lesbian communities in an attempt to improve the delivery of their services to this population.

DISTINCT POPULATIONS OF SEXUAL ASSAULT VICTIMS

The previous section discusses diversity within the community by focusing upon communities within the communities which have either geographic boundaries or a geographic locus such as a neighborhood that functions as a "magnet" for individuals sharing particular commonalities. In this section, other dimensions of diversities are discussed -- those commonly found throughout the community.

The following discussions describe the needs of several distinct population groups as they relate to development of a victim-centered system addressing sexual assault. Distinctions are made based upon the age of the sexual assault victim, disabilities, gender of the victim, and relationship of the sexual assault victim to the assailant. Each of these conditions may require

specific protocol to accommodate the needs of the affected sexual assault victim. The categories introduced are not all-inclusive. The discussion of distinct population groups can be used to guide community planning for developing and implementing victim-centered approaches for other population groups as well. NOTE: Whenever a suggestion is made that other individuals -- family members, friends, advocates or caregivers -- may help communicate with, or otherwise provide support to sexual assault victims, their involvement should only occur after victims have given their consent.

Age-Based Distinctions

There are two groups of sexual assault victims who have needs based upon their ages -- children and elderly. The distinctive needs of children are somewhat recognized by statute; elderly sexual assault victims must, for the most part, rely upon administrative provisions for attending to their specific needs.

Child Sexual Assault Victims

The problem of child sexual abuse is quite complex:

Sexual abuse of children can occur in intra-familial and/or extra-familial setting. The types of abuse that may be perpetrated are extremely variable: children may be the victims of voyeurism; they may be enticed or forced to pose for photographs or videotaping in a sexual context; they may be fondled; they may be penetrated orally, genitally and/or anally; they may be forced to perform all sorts of prostitution; they may be involved in ritualistic or demonic activities including torture, bestiality or animal slaughter; they may be paid or unpaid; the activities may take place within the context of a group of adults and/or children or they may take place only with individual perpetrators; the children may be anywhere in age from newborn or infancy to late adolescence; they may be coached to perpetrate sexual abuse; they may survive and they may not.²⁰

This guidebook does not specifically address child sexual abuse issues. Over the past decade, widespread formation of multi-disciplinary teams have occurred to address child abuse in the community. For example, most of the multi-disciplinary protocol received in response to the national call for protocol related to this guidebook were child abuse oriented.

Interagency Councils should collaborate with multi-disciplinary child abuse teams to ensure that all segments of the community population are served. In some communities, the child abuse multi-disciplinary team and the Interagency Council will consist of many of the same agencies and have considerable overlap in personnel. In communities where there are no child abuse multi-disciplinary teams, the Interagency Council's protocol should include child sexual assault victims.

Child victims pose many challenges for victim-centered systems, the primary one being the child victim's limited involvement in making case-related decisions (virtually impossible for young children, but extremely important for older children and adolescents). It is, however, possible for a parent, *guardian ad litem*,* or *Court Appointed Special Advocate (CASA)*** to represent the interests of the young child and participate in case-related decisions. Child victims may be too young or too fearful to report the crime, or confused about the "assault" because the perpetrator was in a trusted or caretaker role. In planning for and developing a victim-centered system, Interagency Councils must also consider the legal procedures that differ in child sexual assault cases.

Many attempts to help child victims result in unintended consequences:

Survivors may be ill prepared for the response to the disclosure. They may feel blamed or manipulated. The type of help they want may not be the intervention that is offered, as when a sexually abused child wants her father to stop molesting her and the intervention takes her away from her home -- a move she did not want.²¹

When addressing the needs of child sexual assault victims, the Interagency Council should conduct a comprehensive inventory of services and resources responsive to the varied needs of children. The inventory should include child protective services, school systems, youth serving agencies, medical facilities and non-profit organizations.

In recent years, there have been substantial advancements in developing and using a team approach for child sexual assault cases. Interagency Councils should rely upon the experience of these teams when developing their protocol.

* *Guardian ad litem* is a term referring to a representative, usually an attorney, appointed by the court to represent the interests of the child.

** *Court Appointed Special Advocates (CASAs)* are volunteers, trained to represent the interests of the child in court proceedings. Usually CASAs are not attorneys.

Elderly Sexual Assault Victims

Sexual assaults of elderly victims present particular issues and challenges for the community Interagency Council. One of the factors complicating the planning and provision of services for this population is that many elderly victims are isolated and either cannot or do not report their assault. Elderly victims are one of the most vulnerable populations. As sexual assault victims, they may be severely traumatized, feel embarrassed or ashamed, and are often uncomfortable when discussing the crime with friends or family members -- if they are able to discuss it at all. Furthermore, sexual assaults of elderly persons are often accompanied by other crimes, such as robbery. When reporting other crimes, these elderly victims may choose to ignore or conceal the sexual assault.

Many elderly persons have difficulty making their own needs known to others -- even without the trauma of sexual assault. Some have physical disabilities or impairments, such as hearing loss, which may exacerbate their problems or intensify the need for services.

Interagency Council members need to recognize that elderly sexual assault victims may require a variety of different types of services and resources -- some of which may not specifically relate to the sexual assault. Helping elderly victims deal with their emotional and physical well being, as well as issues relating to the sexual assault, are important considerations. Close teamwork between victim service providers and social services agencies may facilitate the delivery of needed services.

Many communities have developed programs and services specifically for elderly victims. *Court Watch* in Milwaukee, Wisconsin, provides information, support and assistance to older victims and witnesses in court. Many of these services are important to consider when planning for and addressing the needs of elderly victims, including:

- Staying with the victim in court and during the waiting period, if the victim desires;
- Providing directions and escorts within the courthouse complex;
- Providing information about the court process and related matters when the victim comes to court or calls; and

- Providing information about other community services available to victims of crime.²²

In developing protocol to address the needs of the elderly victims, the Interagency Council should consider the need to:

- **Conduct an immediate assessment** of the needs of elderly victims and respond as quickly as possible;
- **Provide immediate information**, assistance and referrals;
- **Provide support throughout the processes** (accompany victims to physical examinations, court, etc.);
- **Identify and reach out to other local community groups** for support and services to elderly victims (churches, AARP, Meals on Wheels, etc.);
- **Maintain communication and working relationships** with other local organizations (police, senior centers, adult protective services, etc.);
- **Handle various emergency situations** (stalking of elderly victims, health problems related to sexual assault, etc.);
- **Modify the courtroom to facilitate access by elderly victims** (wider aisles for wheelchairs, witness stand at floor level, earphones providing amplification of the proceedings, etc.);
- **Provide emotional support and guidance** (crisis counseling, peer survivor network, victim advocate, etc.);
- **Ensure confidentiality** (including from victims' family members and friends unless consent is given by victims); and
- **Be flexible** in order to provide the specific assistance needed for elderly victims (provide services within the home, arrange transportation, provide 24-hour support, etc.).

Sexual Assault Victims with Disabilities

The *1990 Americans with Disabilities Act, Public Law 101-336*,²³ requires criminal justice personnel to enable full participation by individuals with disabilities including those who are:

- Hearing impaired or deaf;
- Visually impaired;

- Physically disabled; and
- Developmentally disabled.

Specifically, the *American with Disabilities Act* requires *public entities* (defined as "any State or local government, department, agency, special purpose district, or other instrument of a State or local government..."²⁴) to change "rules, policies or practices," provide "auxiliary aids and services" to remove "architectural, communication or transportation barriers."²⁵

The following sections describe some of the adjustments in criminal justice policies and practices that provide sexual assault victims with disabilities the fullest possible access to the criminal justice system and victim services.

Hearing Impaired or Deaf

Individuals who are hearing impaired (those who have some ability to hear) or deaf (those who cannot hear at all) have specific methods of communicating.

People with normal hearing usually communicate by talking and listening. Often, they pay attention only to the words that are spoken and the tone of voice used to say them. Moreover, most people also use facial expressions and gestures to emphasize their words. Faces, hands, and arms can be very useful tools when communicating with others.

People who are hearing impaired may, with hearing aids, hear some of what is said, but it may not sound much like what people with normal hearing would hear. Because of this, it is important to make spoken messages as visible as possible. Usually a combination of methods works well.

Remember that hearing-impaired people vary widely in the ways in which they communicate, and the skill with which they do it. However, most hearing-impaired people communicate by using:

- Sign language;
- Facial expressions and gestures;
- Speechreading;
- Mime (acting out the idea);
- Listening;

- Speech;
- Drawings;
- Writing; and
- A combination of any or all of these.²⁶

All criminal justice agencies and victim service providers need to ensure that their personnel are trained to work with hearing impaired and deaf sexual assault victims or have immediate access to trained referral sources for assistance. Criminal justice system personnel need, at a minimum, to understand the different aids for communications on which individuals who are hearing impaired and deaf often rely: hearing aids, lipreading, sign language and writing.

- **Hearing aids** - If an individual who wears a hearing aid has difficulty responding to, or participating in, a conversation with criminal justice personnel or victim service providers, it is possible that the hearing aid is not functioning -- possibly from damage during the assault. Victim service providers should help find services that will adjust, repair or replace hearing aids damaged due to sexual assaults. Some state Crime Victims' Compensation programs will pay for this.

When taking statements from or interviewing a sexual assault victim who is hearing impaired and wears a hearing aid, the interviewer should articulate and pronounce each word clearly.

- **Lipreading** - Many individuals who are hearing impaired or deaf rely upon lip reading in order to understand what others are saying. When interviewing sexual assault victims who are lip readers, the interviewer should face the victim and speak clearly, but without exaggerating normal lip movement. Even when addressing other individuals present, the speaker should try to face the person who is lipreading.
- **Sign language** - A common sign language is American Sign Language, a manual-visual language communicated primarily through the hands and face, in which signwords develop and evolve through natural processes based on sign communicators' needs, culture and manual-visual communication needs.²⁷ Other sign language systems include: finger spelling and manual English. Just as in spoken language, sign languages include locally specific idiomatic expressions of which the interpreter needs to be aware.
- **Writing** - The interviewer may write down the questions or statements; the sexual assault victim who is hearing impaired or deaf may respond orally or in writing. If the victim responds in writing, both the questions and responses should be preserved as evidence.

Persons responding to reports of sexual assault should not make assumptions about how hearing impaired victims communicate. Sexual assault victims who are hearing impaired or deaf can be asked (or written a note asking) how they would like to communicate: Would the victim like to use American Sign Language and have an interpreter? In order for the investigator to collect necessary information while helping the victim feel comfortable, non-traditional communication methods may be necessary. For example, the use of anatomical dolls may help victims identify the nature, details and circumstances of the sexual assault.²⁸ The Interagency Council protocol should address the possibility of videotaping these interviews, as there might not be a written transcript.

Persons responding to reports of sexual assault of individuals who are deaf may assume that it is appropriate to ask family members to interpret for victims; however, this is not an appropriate role. Family members may have also been traumatized by the assault; a family member may even be the perpetrator. More important, however, this assumption does not take into account the victim's needs. Victims may feel particularly vulnerable after the assault and find it extremely uncomfortable having family members present during the interview. As previously noted, whenever possible, victims should be consulted about family members serving as interpreters and give their consent.

The Interagency Council must also address the issue of telephonic communication with hearing impaired and deaf sexual assault victims. TDDs (Telecommunication Devices for the Deaf) display words and enable communication with deaf and hearing impaired individuals. While some telephone companies offer a *relay* service whereby an individual with a TDD equipped telephone can have messages relayed by an operator to an individual without TDD, the confidentiality of the sexual assault victim and the information relayed might be compromised through such a system. Every criminal justice agency and most victim service providers should have at least one telephone equipped with TDD and personnel trained to use it.

Visually Impaired or Blind

As with victims who are hearing impaired or deaf, victims who are visually impaired or blind present some unique considerations for the Sexual Assault Interagency Council. The term *visually impaired* indicates that there is limited sight; the term *blind* is a legal term indicating severe loss of sight. The planning process and community assessment can help the Interagency Council identify access to local resources for victims who are visually impaired or blind.

During the interview process, as well as in subsequent steps of the case investigation and court processing, victims can also identify the resources and support systems that they need.

The Interagency Council should not make assumptions about a victim's inability to provide details about the sexual assault. For example, sexual assault victims who are visually impaired may not be able to identify their assailants by sight; they may, however, be able to identify the assailants' voices or other characteristics (an Illinois sexual assault victim was able to identify her assailant by his body odors). With the help of support services, victims may be able to provide extensive information about the crime.

Some specific accommodations which the Interagency Council can provide for visually impaired sexual assault victims include the following:

- **Validating victims' abilities to use other senses for making identification of assailants.**

Expert witnesses can testify about how individuals who are blind or visually impaired may be able to compensate for their loss of vision by increasing their reliance on other senses.

- **Accommodating victims with assistance devices.**

Some visually impaired or blind individuals have canes or highly trained dogs which enable them to be more mobile and self-sufficient than would otherwise be possible. A blind or visually impaired sexual assault victim must have complete control over these assistance devices at all times. Guide dogs should be permitted in the courtroom with the victim.²⁹

- **Providing documents with large type for visually impaired sexual assault victims.**

Most word-processing programs allow for scalable fonts. Documents intended to be read by visually impaired victims should be printed in larger size type to facilitate reading.

- **Providing documents printed in braille for sexual assault victims who are blind and know how to read braille.**

Braille is a system of writing consisting of raised dots on a special paper that are read with the fingertips. The Interagency Council should consider preparing general information in braille for sexual assault victims who are blind.

Physically Disabled

Individuals with physical disabilities are those who use wheelchairs, braces, crutches and canes to facilitate or assist their movements. Full participation in the criminal justice system may mean that special accommodations are necessary to transport these sexual assault victims to court, and other case-related proceedings. It may also be necessary for the court to install ramps or make other building alterations to provide complete access for physically disabled persons and to comply with the requirements of the *Americans with Disabilities Act*.

Guidelines for working with victims who have physical disabilities suggest that:

Additional time should be allotted for evaluation, medical examination and collection of evidence. The physically disabled may be more vulnerable to a brutalizing assault and may need special assistance to assume the positions necessary for a complete examination and collection. Improvisations from normal protocol may be indicated in some instances.³⁰

In addition to the more apparent access issues, physically disabled sexual assault victims may have distinctive emotional needs. Their lack of mobility may increase their sense of vulnerability to further sexual assaults. In some sexual assault cases of physically disabled victims, the perpetrator was a caregiver who the victim trusted to provide essential care.³¹ In these circumstances, sexual assault victims with physical disabilities may not feel that they can trust anyone to assist with their care.

Developmentally Disabled

Another distinct population whose needs must be considered in the Interagency Council protocol is the developmentally disabled. The term *developmentally disabled* encompasses a broad variation in degrees of disability and includes "mental retardation, cerebral palsy or other conditions that interfere with normal development and cause difficulties in communication, thinking, or mobility."³²

A primary issue in responding to sexual assault victims who are developmentally disabled is determining their levels of comprehension and communication. Criminal justice personnel and victim service providers should not assume that a developmentally disabled person is an incompetent witness. The same qualifiers used to determine if a child is a competent witness

may be used to determine if a developmentally disabled person -- even if the disability is severe -- is competent to testify.

Developmentally disabled victims may be unable to think in the abstract, may not understand terminology used during the interview process, or may answer questions in a way they believe interviewers would want them to answer. The key to meeting the needs of this population is found in the mental maturity -- not the chronological age -- of the victim. Depending upon the severity of the disability, the victim may not realize that a sexual assault occurred or understand the consequences of the assault, *e.g.*, a severely developmentally disabled girl who becomes pregnant as the result of an assault in an institution.

Developmentally disabled persons may be prime targets for sexual assault because of their vulnerability. For this reason, reports should be handled seriously and procedures developed to accommodate the particular needs of these sexual assault victims, including:

- Interview the reporting witnesses first to determine the probable level of functioning of victims and then interview the victims;
- Interview victims in comfortable surroundings;
- Be patient and make any necessary accommodations to address victims' needs;
- Make victims feel safe and that they are no longer in danger;
- Use developmentally appropriate, simple, non-leading questions during the interview process;
- Let victims use their own phrases and terminology to explain the assault;
- Be compassionate and concerned; and
- Ask for assistance and support from caregivers -- after they have been ruled out as suspects -- during and following interviews.³³

Homeless Sexual Assault Victims

Homeless persons present some difficult challenges to communities, not only because of their economic status and needs, but because they are frequent and vulnerable targets of crime and assault. Since most homeless victims are unable to give law enforcement or other support

agencies telephone numbers or addresses for follow-up assistance, there is a low probability that cases will be prosecuted. In an informal survey conducted by the Chicago Police Department, more than 88% of their homeless population claimed they were victims of sexual assault.³⁴ Few reported the assault to the police.

In developing a victim-centered approach for working with homeless victims of sexual assault, creativity and perseverance are key. Treating homeless sexual assault victims with dignity and respect is, however, equally important. There are several other ways communities can become more sensitive to the needs of homeless sexual assault victims and be more victim-centered in their approach:

- Victims can be given specific times, places and telephone numbers to call to discuss further details of the case, obtain support services, or obtain assistance;
- If victims are staying in a shelter, assistance can be sought from shelter administrators (with victims' consent) to allow victims to make or receive calls related to the assault;
- Third parties can be identified by victims to serve as information links (a friend, clerk at a transient hotel, or relative);
- Sexual assault victims can be encouraged to come into the police department or other agencies whenever assistance is needed; and
- Specific locations (soup kitchens, shelter facilities) can be used to meet with victims.³⁵

Male Sexual Assault Victims

Sexual assault of males may be one of the most under reported crimes in the country. One reason for this phenomenon is that American males resist the notion that they are susceptible to being victimized. In addition, when the assailant is male, some male victims may fear being stigmatized as homosexual.³⁶ Fears about the type of reception or reaction they will receive from agencies involved in the investigation of the crime, as well as personal doubts and denial about the assault, affect the reporting of these crimes as well.

Male victims of sexual assault may face tremendous personal doubt and confusion about the crime. They may question their ability to resist the assault. They may be ashamed and embarrassed by the assault, and often feel very much alone in their efforts to find assistance and

support. They may turn away from family and friends, who would have been the most likely support systems for them during this personal crisis.

The Chicago Police Department's sexual assault protocol cautions police officers not to make assumptions, based upon the nature of the assault, about the victims' sexual orientation.³⁷ Care and concern for all victims are essential factors for all representatives of the victim-centered Interagency Council.

Each Interagency Council should identify local resources and services for treating male victims of sexual assault. Understanding that male victims have complex needs, as well as personal confusion and doubt, will help Interagency Councils respond more effectively to these victims.

Secondary Victims

The importance of providing services and support to secondary victims of sexual assault, including the families and friends who also are traumatized by the sexual assault, are discussed in *Chapter VII: Victim Service Providers on the Interagency Council*. Because there are some unique issues associated with secondary victims, they are referenced in this chapter as well.

Secondary victims are individuals who, although not directly victimized, suffer emotional and mental trauma as a result of the assault of another person. They may be spouses or partners who need to find ways to deal with the crime and the assault on their loved one. They may be parents who feel tremendous guilt because they did not protect their children from the assault. They may be friends who are trying to help the victim cope with the assault.

In developing protocol for a victim-centered system, the Interagency Council should recognize the needs and concerns of secondary victims and consider resources and services to meet their needs, including support groups, crisis counseling, homemaker services and long-term psychological counseling.

Assault by an Intimate Partner

Rape In America: A Report to the Nation, a research report conducted by the National Victim Center and the Crime Victims Research and Treatment Center, revealed that 9% of rape victims

were raped by their husbands and 10% by their boyfriends or ex-boyfriends.³⁸ Despite the pervasiveness of sexual assault by intimate partners, it is a difficult issue for communities to address because of misperceptions and biases about sexual assault perpetrated by one intimate with the victim.

A victim-centered approach recognizes that sexual assault does not distinguish among victims; spouses, partners and lovers may be either victims or perpetrators of sexual assault. Also, because one may have given consent in the past for sexual intimacy does not mean that the consent is irrevocable. Responsibility for these sexual assaults should not rest on the victims, but on the perpetrators.

Because of the intimate and often dependent relationship between these perpetrators and victims, concerns other than the impact of the crime -- or even the crime itself -- may affect the response to the crime by both the victim and the criminal justice system. Many victims who have been sexually assaulted by an intimate partner refuse to cooperate with criminal investigations due to concerns about:

- The system's ability to protect the victim from assault in the future;
- Living arrangements for the victim and the victim's family;
- Need for the family's financial support; or
- The well-being of the victim's children.

Immediate services needed by those who have been sexually assaulted by an intimate partner may include shelter, temporary care of children, crisis counseling, and protection from retaliation by the partner for reporting the sexual assault. Longer term needs may include establishing economic viability for the family, determining child custody, obtaining family counseling, and possibly obtaining a divorce. A victim-centered approach helps the victim to address both the immediate and long-term issues.

CONCLUSION

As part of the process of planning and implementing a victim-centered system, community Sexual Assault Interagency Councils should ensure that they:

- Conduct a thorough assessment and identify population groups that require specialized victim assistance services;
- Identify and access appropriate and necessary community resources and services to meet the needs of distinct populations; and
- Develop policies and procedures that are sensitive to unique concerns and needs, and are flexible and adaptable to individual differences.

The Interagency Council must address the issues and concerns of distinct population groups for its protocol to reflect a victim-centered approach to sexual assault. The underlying premises and principles for dealing with any distinct population are that attention needs to focus on the needs of the victim; that training criminal justice personnel to identify and respond to the needs of specific victim populations is a crucial component in providing comprehensive services; and that stereotypes and personal or professional biases have no part or role in a victim-centered system.

NOTES

1. Koss and Harvey, 1991, p. 133.
2. Ibid.
3. Generally from National Organization for Victim Assistance and the National Victim Center, (1992). *The Road to Victim Justice: Mapping Strategies for Service*. This is a training curriculum which was sponsored by the Office for Victims of Crime, U.S. Department of Justice.
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5. National Victim Center, *America Speaks Out: Citizens' Attitudes Toward Violence and Victimization*, 1991.
6. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 3.
7. National Organization for Victim Assistance and National Victim Center, 1992, p. 41.
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9. Ibid.
10. Koss and Harvey, 1991, p. 115.
11. Rural Task Force, National Coalition Against Domestic Violence, 1991, p. 7.
12. Ibid., Appendix A, p. 5.
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21. Roberts, 1990, p. 211.
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24. Ibid.

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27. Ibid.
28. Goddard, p. 2.
29. Baladerian and Waxman, 1985. This is an unpublished manuscript available through the National Criminal Justice Reference Service at (800) 732-3277. Reference accession No. 113494
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31. Chicago Police Department, p. 107.
32. Baldarian, 1992, p. 8.
33. Chicago Police Department, p. 83.
34. Ibid., p. 94.
35. Ibid., p. 95.
36. Lipscomb et al., 1992, p. 3066.
37. Chicago Police Department, p. 100.
38. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 4.



**National
Victim Center**

**CHAPTER IV:
INTERAGENCY COUNCIL PROTOCOL
DEVELOPMENT**

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CHAPTER IV:

INTERAGENCY COUNCIL PROTOCOL DEVELOPMENT

INTRODUCTION

During the past two decades, the criminal justice system has made remarkable progress in its response to sexual assault crimes and victims. Scientific and technological advances have improved the collection and analysis of evidence. Laws have been strengthened in many jurisdictions to give added protections to the victims of sexual assault -- helping to maintain their privacy and prevent unnecessary intrusion into their lives. Rape crisis centers and other victim service agencies have become more available to support the survivors of sexual assault and their loved ones.

In many cases, however, the sexual assault victim is subjected to repetitive interviews; unintentional insensitivity; confusing procedures; and a feeling of "being kept in the dark." Robert Grayson, testifying in front of the President's Task Force on Victims of Crime, said, "To be a victim at the hands of the criminal is an unforgettable nightmare. But to then become a victim at the hands of the criminal justice system is an unforgivable travesty. It makes the criminal and the criminal justice system partners in crime."¹

This chapter guides agencies in the community through the steps for developing protocol addressing sexual assault cases. The goal of the protocol is to increase sexual assault victims' satisfaction with the performance of the system while, at the same time, improving performance based upon more traditional measurements, such as conviction rates and length of time it takes to move the case from disclosure to disposition.

TRADITIONAL SYSTEM-CENTERED METHODS OF SEXUAL ASSAULT CASE PROCESSING

In the process of developing this manual, over 200 protocols were collected from law enforcement agencies, prosecutors' offices, victim assistance programs, child abuse multi-disciplinary teams and medical facilities. These protocols were then reviewed to determine their pertinence to this project. Nearly 150 of them passed this initial screening and were carefully evaluated. On the basis of this evaluation, it appears that multi-disciplinary service delivery is, except in cases of child sexual abuse, the *exception* rather than the *norm*. The typical (as well as traditional) approach is for each agency in the criminal justice system to develop its policies and procedures based upon the legal and statutory requirements that directly affect it.

In the traditional system-centered approaches to the management of sexual assault cases, the victim is viewed as a witness. Attorney Deborah Kelly, writing in the *Pepperdine Law Review*, describes this concept in the following paragraph:

Victims are introduced to a system grounded in the legal fiction that victims are not the injured party. Victims soon learn they have no standing in court, no right to counsel, no control over the prosecution of their case, and no voice in its disposition.²

Even in jurisdictions in which varying degrees of multi-agency communication and coordination occur, the impetus seems to be on making the *system* run more smoothly. This can have a positive impact on crime victims; however, *victim* satisfaction is a desirable by-product. For this reason, we refer to the traditional multi-disciplinary, multi-agency approaches to sexual assault cases as being *system-centered* rather than *victim-centered*.

Surveys of victims often focus on case management issues rather than on more substantive questions about the victim's role in the judicial process.³ The case management purpose of such surveys mask more fundamental problems encountered by victims within the criminal justice system. Kelly points out three areas in which victim concerns may be overlooked:

1. Services are frequently provided to those select witnesses the state needs to make its case. As most cases are dismissed or plea bargained, many victims never benefit from such programs because they are not needed to testify or provide further evidence. As one woman stated: "After I identified the guy at lineup, I never heard from anyone again. They got

what they needed and dumped me." Other victims were excluded when their complaints were dropped in plea negotiations.

2. Services may be provided which are relatively unimportant to victims, while other more important needs are overlooked. For example, although many victims experience problems with transportation, baby sitting, and parking, most do not judge these problems as serious. Their wishes for greater participation are rarely addressed in these programs.
3. Some victim/witness programs exist in name only. Frequently they enable prosecutors to *manage* rather than *assist* victims. In one jurisdiction . . . the victim/witness unit primarily serves bench warrants and tracks down key witnesses who leave the court's jurisdiction.⁴

A victim-centered approach may also enhance the system's performance; this is critical for maintaining a strong and effective criminal justice system. Another attorney, Paul Hudson, points out:

As the number of disillusioned citizens who have opted out of any involvement with police or prosecutors increase, the ability of law enforcement to apprehend and prosecute diminishes. The criminal justice system must break out of this destructive downward spiral by showing the public, and particularly crime victims, that it is sensitive to victim needs and is appreciative of the essential civic services which citizens perform."⁵

In their book *The Rape Victim: Clinical and Community Interests*, Mary P. Koss and Mary R. Harvey discuss the influence of rape victims' beliefs about how they will be treated in the system as a cause for under reporting of rape. "The victim who acknowledges her experience as rape but anticipates poor treatment from an ill-informed community may not report and may not seek care."⁶

A study by the National Victim Center and Crime Victims Research and Treatment Center titled *Rape in America: A Report to the Nation*, reconfirmed the fear of rape victims and documented that 84% of rape victims do not report to the police. The *Report* further states:

Unreported rapes are a threat to public safety in America. After all, rapists cannot be apprehended, indicted, prosecuted and incarcerated if the criminal justice system does not know that a rape has occurred. Such undetected rapists remain invisible to the criminal justice system. If rape victims are reluctant to report, then rapists will remain free to continue raping America's women, men and children.⁷

Clearly there are compelling public safety interests to increase the attention that criminal justice agencies pay to the needs of sexual assault victims.

Again, it should be noted that addressing victims' needs results in improved system performance. Existing research supports the thesis that criminal justice agencies' performance of their "traditional" roles is improved when victims' needs are addressed. For example, delays in court processing of cases were shown to decrease when victims were present at pre-trial settlement conferences.⁸ Participants in overburdened criminal justice agencies, nevertheless, fear that increased victim participation will further reduce the system's effectiveness.⁹

DEVELOPING A VICTIM-CENTERED, COMMUNITY RESPONSE TO SEXUAL ASSAULT

The purpose of this section is to describe, in detail, the steps for creating protocol to guide agencies in their responses to sexual assault victims in the community. The protocol development process is based upon some underlying assumptions:

- The process is not *self-initiating*. It requires that a leader in the community assume the responsibility for launching the process, enlisting other organizations and agencies, and following through.
- Conflicts among the member agencies can be anticipated and such conflicts are not necessarily negative. Some tips for conflict resolution are in the next section.
- Prior to undertaking the planning process, a community Sexual Assault Interagency Council is created and an interagency agreement, letter of understanding, or other written commitment is signed by the participants (see sample on page IV-7).
- Individual agencies participating in the creation of this protocol know how to fulfill their individual responsibilities pertaining to sexual assault -- *i.e.*, police know how to investigate; prosecutors know how to prosecute; etc. The Interagency Council builds upon existing knowledge and skills, refocusing on collaborative efforts and other ways in which the system can become more victim-centered. Also, the Interagency Council should work together to ensure that knowledge and skills are kept up-to-date with innovations of technology and changes in laws.
- In every sexual assault case, the goal should be to enable sexual assault victims to be informed, active participants in the decisions influencing their cases.

Conflict Resolution

Sexual Assault Interagency Councils provide fertile ground for conflicts to surface. There are several reasons for this: members represent several different disciplines; do not traditionally work closely together; have different organizational goals; and often have to compete for limited resources. All of these factors contribute to creating conflict. Conflict, however, does not always have to be considered negative.

Various authors have presented arguments that conflicts can lead to healthy outcomes.¹⁰ They argue that "conflict leads to change, change leads to adaptation, and adaptation leads to survival."¹¹ The challenge for the Interagency Council is to make conflict a positive force for system improvement. There are some specific techniques used to facilitate constructive conflict.

Alan C. Filley, a conflict resolution consultant, provides these guidelines for resolving conflicts:

- **Conduct a problem analysis to determine the basic issues.**

When parties enter into a potential conflict situation, it is not uncommon for them to have premature solutions to the stated objectives. . . It is essential to find out the needs or desires of the parties by asking them to define specifically what they wish to accomplish with their proposed solutions or objectives.

- **State the problem as a goal or an obstacle rather than as a solution.**

Very often, conflicts occur because individuals are solution-minded. . . [An example of stating the problem as a solution could be demanding a special examination room for sexual assault victims rather than explaining that sexual assault victims should be provided privacy and a calmer atmosphere than the emergency room can provide.]

- **Identify the obstacles to attaining the goal.**

In some cases, the easiest way to identify problems is to clarify the obstacles in the way of the goal.

- **Depersonalize the problem.**

Conflict management is greatly enhanced if the needs and objectives of the parties involved are described through some kind of impersonal format. Listing objectives on a flip chart or a

blackboard helps shift attention away from the personalities to the problems themselves. For both parties, the problems, and not the opposing side, can become the target.

- **Separate the process of defining the problem from the search for solutions and from the evaluation of alternatives.**

Groups that are successful in achieving integrated solutions spend more time in problem definition than do groups that engage in solution methods. . . The need to separate problem definitions from solutions is particularly important when different individuals may engage in each of the two steps. The problem definition is always the necessary product of the interaction of the parties in a conflict situation, but the solutions may be derived from sources other than the participants in the problem definition.¹²

The Interagency Council provides an environment not only for conflict, but for using conflict as a positive force. By achieving consensus on shared goals and providing an opportunity for full participation by all members, the Interagency Council can achieve *win-win* solutions to their conflicts.

Interagency Agreement

Conflict among the members of the Interagency Council can be minimized by a clear understanding of the goals of the Interagency Council and common commitment among the members to achieve the goals. A formal interagency agreement is recommended. This agreement should specify the scope of the developmental process and be signed by the highest official in each participating agency. This "buy-in" requires that the director of each agency appoint an official representative to the Interagency Council. A sample interagency agreement is found on the following page.

The agency representative on the Interagency Council, appointed by the director of the agency, should have a clear understanding of the scope of the authority granted with the appointment. Preferably, members of the Interagency Council should have day-to-day management responsibility for their agency's sexual assault-related functions, *e.g.*, the chief detective in charge of sexual assault investigations; the supervising prosecutor from the sexual assault prosecution unit; the director of a victim services program; and the department chief from a hospital emergency services unit.

SAMPLE INTERAGENCY AGREEMENT¹³

The participating entities herein share certain community goals and purposes in attempting to investigate, prosecute and resolve cases of sexual assault. Each participating agency and organization recognizes the requirement to address the needs of sexual assault victims while fulfilling its mandated responsibilities. In combining their respective individual capabilities, each member agency seeks to increase the effectiveness with which such matters are dealt through the creation of the (insert name of jurisdiction) Sexual Assault Interagency Council, a community-wide, multi-disciplinary, cooperative effort.

The purpose of the creation of the (insert name of jurisdiction) Sexual Assault Interagency Council is to provide and promote closer coordination and better communication among all participants herein. In addition, the community, the victim, and those otherwise involved in the matters of sexual assault will benefit from the guidelines and protocol to be established through cooperative assessment of the nature of the sexual assault problems in this jurisdiction; the needs of sexual assault victims; each agency's responsibilities; and the resources available to address these problems.

Each agency that associates with the (insert name of jurisdiction) Sexual Assault Interagency Council agrees to work toward the creation of standardized, victim-centered protocol for investigation, prosecution and resolution of cases of sexual assault. Each agency participating in this effort agrees to comply with the procedures set forth in the protocol.

Each agency associated with the (insert name of jurisdiction) Sexual Assault Interagency Council understands that it remains solely liable for the actions of its team members. Each agency agrees that there is no liability to the team by virtue of this agreement to informally provide public services.

Each agency that associates with (insert name of jurisdiction) Sexual Assault Interagency Council reserves the right to withdraw from the association. Each agency agrees that withdrawal will only be after written notification to other team members.

Each agency whose representative signs this open letter of association does hereby commit itself to a cooperative effort to investigate, prosecute and resolve cases of sexual assault.

(Provide signature blocks for agency directors)

Participation by management personnel simplifies the process for negotiating and reaching agreements with other agency representatives. Based on information from other interagency protocol development efforts, members of the Interagency Council should expect to meet on a regular basis for several months while they are developing the protocol. After the protocol have been developed, the Interagency Council will need to meet less frequently to maintain communication and monitor how well the protocol function.

Protocol Development Cycle

The developmental process for the community Sexual Assault Interagency Council protocol consists of eight steps:

1. Inventory of existing services;
2. Victim satisfaction survey;
3. Community needs assessment;
4. Multi-disciplinary/multi-agency protocol writing;
5. Formalized agency agreement to the protocol;
6. Implementation training;
7. System monitoring; and
8. Evaluation.

Protocol development is a *cyclical* process with the results of each completed cycle considered during each succeeding cycle. Each step in the protocol development cycle is described in detail in the following sections.

Inventory of Existing Services for Sexual Assault Victims

The purpose of taking inventory of existing services is to identify all services in the community that are available to assist victims of sexual assault. This inventory will include services available from law enforcement agencies, prosecutors' offices, medical facilities and victim service organizations. The inventory will also include other criminal justice system services,

social services, mental health programs, and organizations and agencies that refer sexual assault victims to other services or provide direct services themselves.

The inventory should identify issues affecting availability, accessibility, quantity, quality and legitimacy:¹⁴

- **Availability** - What qualifiers must be met in order for sexual assault victims to receive service? Do criminal charges have to be filed? Do victims have to agree to testify at a trial? Is there a cost for the service?
- **Accessibility** - Are the services available in the times of greatest need or just during *regular* office hours? Are they located where sexual assault victims can gain access to them? Do they have staff or volunteers that reflect the demographic make-up of the community, represent non-English speaking minorities, and can assist victims from different cultures?
- **Quantity** - Very simply, is there enough of a particular kind of service to meet the demand?
- **Quality** - How good are the services that the community has for sexual assault victims? (Agencies need to make an internal assessment of their services, but also need to use the Victim Satisfaction Survey to cross-check their internal assessments.)
- **Legitimacy** - Are the services that are purported to be available to sexual assault victims really being provided? Do law enforcement and prosecution agencies refer victims to non-profit service providers? If the service is available and victims are not referred, is it because the *official* agencies do not recognize its legitimacy?

Information collected from each agency must be comprehensive enough to thoroughly document all services provided directly or indirectly to sexual assault victims from each department or division in the agency. Interagency agreements and contracts with other service providers pertinent to sexual assault cases should be included. Also included in the information from each agency should be statistics on the number of sexual assault victims served for each specific service.

Victim Satisfaction Survey

The confidential Victim Satisfaction Survey (VSS) is conducted in order to determine sexual assault victims' assessments of how well the system responded to their needs. In some jurisdictions, it will be possible to survey every known victim of sexual assault. Larger

jurisdictions may need to select a random sample of sexual assault victims for the first survey. Subsequent surveys may include every sexual assault victim by sending out a survey form at a set time -- six to nine months -- after the assault occurred. If limited resources do not allow for a comprehensive VSS program, random sampling of sexual assault victims should continue.

The VSS should assess the feelings of sexual assault victims regarding how their cases were handled and how they were treated by each agency. One agency should be assigned the responsibility for conducting the survey on behalf of the Interagency Council. Logical agencies to conduct the survey are the law enforcement agencies and victim service providers. The rationale for these recommendations is that both law enforcement agencies and victim service providers serve more victims because charges are often not filed.

Prior to sending out a VSS, the victim should be contacted by the surveyor and asked to participate in the survey. This prior contact is an important form of empowerment for the victim and provides reassurance that the survey is legitimate and that the confidentiality of the victim's case has not been compromised. The VSS does not require that victims identify themselves. It is administered by members of the Interagency Council who have already been in contact with the victims, thereby keeping knowledge of the victims' identities limited to those already involved with the case. The VSS needs to be sensitive to victims' issues and emphasize their options; *not* system goals.

Community Needs Assessment

The community needs assessment is intended to address two issues:

1. Based on the Interagency Council's information, what services does the community require in order to better meet the needs of sexual assault victims?
2. What should the Interagency Council do to meet these needs?

In addition to the Inventory of Existing Services and the Victim Satisfaction Survey, in this phase of the planning process, information should be sought from the community at-large. A public hearing -- or even a series of public hearings -- provide an opportunity for each segment of the community to participate in the development of the protocol. The exposure of sexual

assault as a community issue, and attempts to identify and meet the needs of sexual assault victims, can begin to *de-mystify* the issue for the community. It may also help change victim perceptions, thus, enhancing both reporting and victim cooperation within the criminal justice system.

Public hearings require extensive planning. Notices should be sent to representatives of:

- Victim service agencies and mental health professionals;
- Crime victim advocacy groups and networks;
- Public agencies that assist sexual assault victims;
- Medical facilities and associations;
- Ethnic, religious and cultural communities;
- High school, college and university student bodies, faculty, and administrators;
- Elected officials;
- Feminist organizations; and
- Other groups or individuals with an interest in sexual assault-related issues.

Members of the Interagency Council should also provide testimony concerning their perceptions of sexual assault and victims' needs. Individuals who testify should be asked to provide a written copy of their testimony and may need to limit their testimony to five or ten minutes. After public hearings, the Interagency Council should publish a report based upon testimony from the hearings.

The Interagency Council should request media coverage of hearings with the stipulation that media representatives respect the privacy of sexual assault victims who testify. Media representatives should be briefed before the hearing and required to get written authorization from sexual assault victims. Unless authorized by the victims, reporters should withhold complete identity and refrain from photographing sexual assault victims in a manner which would reveal the victims' identities.

At this point (after the Inventory of Existing Services, the Victim Satisfaction Survey, and public hearings), the Interagency Council is ready to consider the system as it currently functions and begin responding to the identified needs on several different levels:

- The first level of response is *administrative*.

Administrative responses are those which are discretionary for the director of each agency. Administrative responses may include changing procedures for case processing within the agency.

- The next level of response is *budgetary*.

Budgetary responses include reallocation of resources to address an identified problem, or seeking additional financial resources to increase service levels.

- The next level of response is *systemic*.

System responses reflect interagency functioning and "interfacing." A system response might entail redefining agency roles to more efficiently interact with sexual assault victims, *e.g.*, the prosecutor may decide to contract with the rape crisis center to provide victim assistance services rather than providing such services in-house.

- The next level of response is *legislative*.

The Interagency Council may find that needs exist outside the scope of any agency's statutory authority, or that problems exist in the context of the criminal code defining sexual assault. Once a specific legislative response is proposed, the Interagency Council should inform legislators of the need for remedial action.

It is important to note that at each level of response, the Interagency Council must consider a number of options or strategies for implementation. The task of the Interagency Council is to select the most reasonable course of action for the jurisdiction. These selection and implementation processes are not totally objective, and may lead to spirited discussions among representatives of the constituent agencies on the Interagency Council.

An advantage of the multi-agency/multi-disciplinary community Sexual Assault Interagency Council is that each agency may formulate *administrative* and *budgetary* responses in a *systems* context. This enables each agency to assess the impact of internal operational changes on the functioning of other participating entities. For example, would the creation of a special sexual assault unit in the police department have an impact on the operation of the prosecutor's office? How would the creation of such a unit affect the services of other agencies? How would it impact victims?

Better coordination of services for sexual assault victims may result in monetary savings to some agencies. A thorough examination of the community needs, however, may result in the

identification of unmet needs and, thus, the demand for additional funding. Another advantage to the Interagency Council is the opportunity to present joint funding requests. Many governmental funding processes, either by design or default, pit agencies against each other in competition for funding. A similar multi-agency/multi-disciplinary coordinated effort in New Mexico resulted in a 25% net increase in state-level funding for children's programs in the participating agencies (Corrections, Courts, Social Services and Mental Health), at a time when the state was experiencing a decrease in overall revenue.

A Victim-Centered System -- Responsibility Matrix is included as Appendix A. This form tracks the progress of a case through the criminal justice system and asks the Interagency Council to identify victim-oriented concerns and determine, as a team, the most appropriate agency in the community to take a primary role in addressing each issue identified. The Interagency Council also needs to identify agencies with a secondary role, *i.e.*, those that have a need to know about the case but do not necessarily have a lead or active role in its resolution. *Chapter I: Looking Back -- Moving Forward* provides examples of how these forms might look once they have been filled-in. The blank form in Appendix A provides the Interagency Council an opportunity to examine its own system and determine levels of responsibility for participating agencies. The issues of organizational responsibility need to be addressed in the protocol developed by the Interagency Council.

Writing Multi-Agency/Multi-Disciplinary Protocol

Once the Interagency Council has identified primary and secondary responsibilities of individual agencies, and discussed communication linkages requirements, the procedures for fulfilling these responsibilities must be written. The written protocol should identify the:

- Goals to be accomplished;
- Tasks necessary to achieve the goals;
- Procedures for carrying out specific tasks;
- Primary parties responsible for these tasks; and
- Secondary roles other agencies, if any, will have.

All agencies represented on the Interagency Council must incorporate responsibilities that arise from the newly developed protocol into their individual operating procedures. Future changes

in agency procedures will be coordinated with the other members. The result is that every agency gains knowledge of the others' responsibilities and the ways in which the agencies work together in responding to sexual assault victims.

Interagency Agreements

When the Interagency Council was organized, the participating agencies entered into written agreements. After agency roles have been re-established and protocol written, the Interagency Agreement should be reviewed and amended, if necessary. Membership on the Interagency Council may need to be expanded to include other agencies that provide relevant services. All members of the Interagency Council should be parties to the same written agreement, which reflects a commitment to the protocol they develop (see page IV-7 for a sample Interagency Agreement).

Implementation Training

All personnel from each agency represented on the Interagency Council who have responsibilities to assist sexual assault victims need to be trained to implement the protocol. Development of training programs for Interagency Councils must be a collaborative effort. Training programs should include:

- **Agency Orientation** - Informing staff from all participating agencies about each agency's responsibilities to and services for sexual assault victims.
- **Victim Characteristics** - Enabling Interagency Council personnel to work with sexual assault victims appropriately; understanding the effects of the physical and emotional trauma associated with sexual assault; considering diverse populations of victims who may react differently or have special needs.
- **Privacy Protection** - All personnel working with sexual assault victims should receive training about the importance of protecting the privacy and confidentiality of sexual assault victim information. In addition, all individuals working with sexual assault victims should be able to inform them about their statutory privacy rights.
- **Legal Requirements** - Familiarizing Interagency Council personnel with criminal statutes and ordinances related to sexual assault; reviewing court decisions influencing criminal procedures; and examining laws providing victims' rights.

- **Investigative Strategies and Procedures** - Teaching Interagency Council personnel to apply the statutory requirements during the investigation of a case including: forensic and other evidence collection; different strategies for developing a case when the identity of the suspect is known to the victim versus when the identity is unknown; and communicating with the sexual assault victim about the progress of the case.
- **Court Procedures** - Identifying common tactics used by defense counsel to intimidate sexual assault victims and how to combat those tactics; providing increased involvement of sexual assault victims in case decisions; and providing emotional support for sexual assault victims during trials.
- **Post-disposition Sexual Assault Victim Support** - Developing an awareness on the part of Interagency Council members of needs that victims still have after a case has been adjudicated, and providing training in how those needs can be met, *e.g.*, informing victims of steps to take if contacted by their assailants and how to enroll in corrections-based victim notification programs, when applicable.

These are just a few of the areas in which personnel from all participating agencies and organizations on the Interagency Council should receive training. *Training in every area should include a balance between system requirements and victim-centered activities.*

System Monitoring

Once the protocol are developed and the personnel using them are trained, the system performance should be monitored. System monitoring will accomplish the following functions:

- **Assess the degree to which the protocol are used.**

Development of protocol and ensuring that they are used are different issues. Many system changes have failed because once the protocol were developed, assumptions were made about their use. Each member of the Interagency Council should establish a process for continually evaluating the use of the multi-agency/multi-disciplinary protocol.

- **Assess the impact on the sexual assault victim.**

Given that a goal of this process is to provide victims with greater opportunities to be participants in the processing of their sexual assault cases, system monitoring needs to examine victim involvement and determine if victims avail themselves of the opportunities extended.

- **Assess the impact on the agencies providing services to sexual assault victims.**

As each agency is affected by the protocol, the impact on each agency's operations needs to be examined. Questions that should be addressed include costs, case-flow, conviction rates, etc.

System monitoring provides information upon which to base adjustments to the protocol. The Interagency Council needs to view the development of protocol as an on-going, dynamic process. As new developments become available, *e.g.*, statutory changes, scientific advances for evidence collection, information system technology, etc., the Interagency Council will be in a position to consider and incorporate appropriate advances into the protocol.

Evaluation

The Interagency Council should measure the impact of its protocol against the goals it established when the protocol was developed. Questions that should be asked include:

- Are sexual assault victims more satisfied with their treatment by the criminal justice system than they were before the Interagency Council protocol were developed?
- Does the coordination of involvement by criminal justice system agencies and victim services programs result in better system performance from both victims' and agencies' perspectives?

Chapter X: Implementation Issues provides additional considerations for conducting evaluations of Interagency Council protocol.

Feedback

Development of protocol is a cyclical process, with the results of each completed cycle used during the next cycle as the basis for making adjustments to the protocol. Interagency Councils must have the results of monitoring (to determine that protocol are being used) and evaluation (to measure the impact of protocol on victim satisfaction and system performance) in order to judge future needs.

The diagram on page IV-18, the *Protocol Development Cycle* provides a graphic representation of the relationship of the eight-step protocol development process to the continual evolution of improved response to sexual assault in the community.

CONCLUSION

The development of multi-disciplinary/multi-agency protocol to respond to the needs of sexual assault victims depends upon a systematic process of information collection, analysis and consensus building under the leadership of the Interagency Council. The Interagency Council consists of agencies and organizations that have documented their commitments through an *interagency agreement* to develop protocol. This chapter describes protocol development as an eight-step cyclical process.

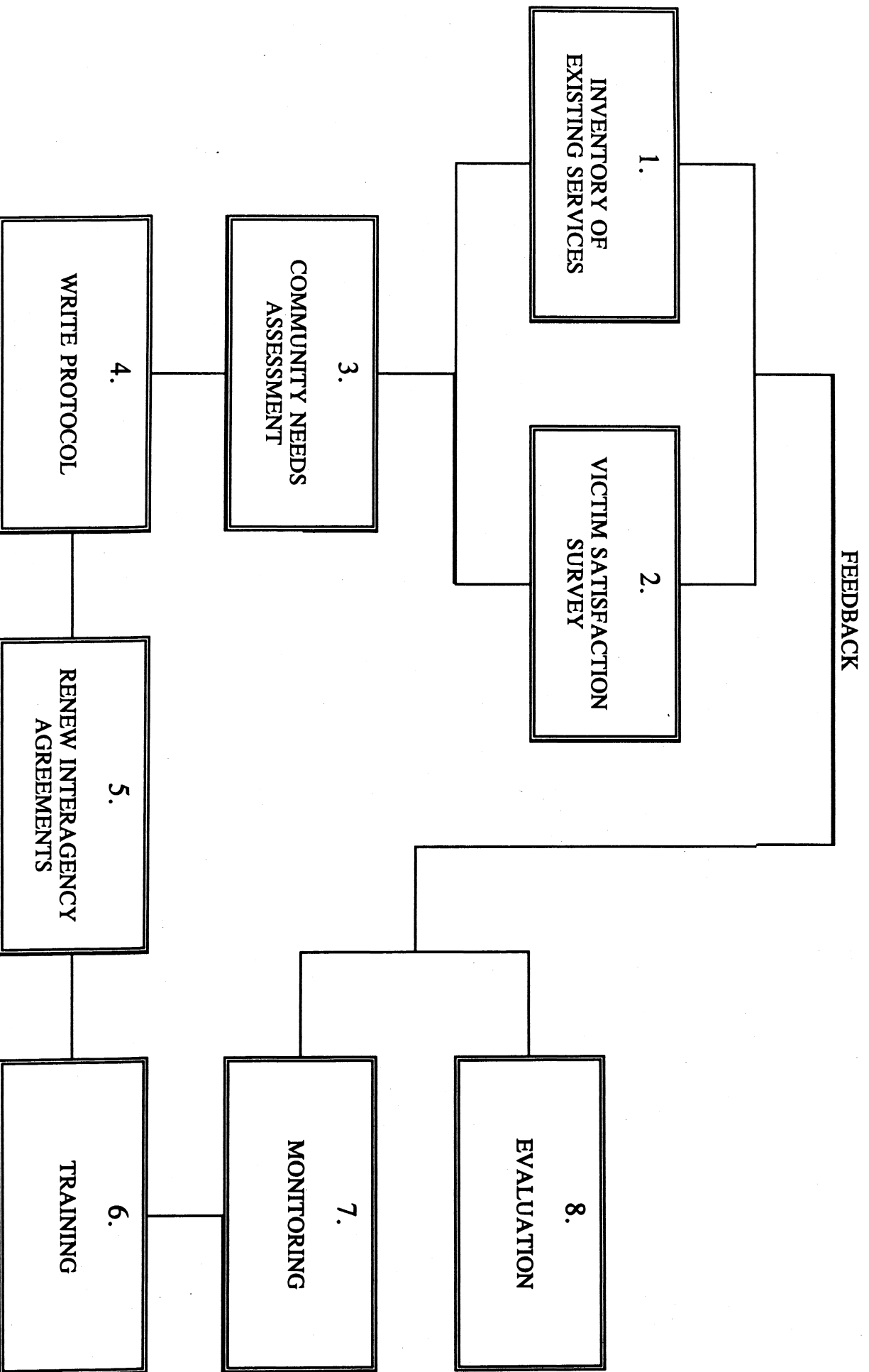
The first step in protocol development is to conduct an *Inventory of Existing Services* so that the Interagency Council may examine all current elements in the community addressing the problem of sexual assault. Next, the Interagency Council seeks input from sexual assault victims through a *Victim Satisfaction Survey* to determine their opinions of the existing services.

Once these steps are completed, the Interagency Council expands the information base by conducting public hearings. Information from these three sources is consolidated into the *community needs assessment* report. This report is the basis for *writing protocol* addressing these needs.

Each agency affected by the protocol reviews the commitment it made when it became a part of the Interagency Council for the purpose of developing the protocol. Now these agencies need to reaffirm their commitment to creating a victim-centered response to sexual assault and pledge to implement Interagency Council protocol by renewing the *interagency agreement*.

Developing protocol and making a commitment for their implementation is not sufficient. The next step is *training* all personnel affected by the protocol to perform them. The execution of protocol is monitored by the Interagency Council and the impact of the protocol is evaluated with the feedback from *monitoring* and *evaluation* used in the next development cycle.

PROTOCOL DEVELOPMENT CYCLE



NOTES

1. United States, 1982, p. 9.
2. Kelly, 1984, p. 16.
3. Ibid., p. 17.
4. Ibid., p. 17-18.
5. Hudson, 1984, p. 31.
6. Koss and Harvey, 1991, p. 91.
7. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 6.
8. Heintz and Kerstetter, 1979, p. 365.
9. Hudson, 1984, p. 41.
10. Labovitz, 1980, p. 30.
11. Ibid.
12. Filley, 1975, as cited by Labovitz. 1980, p. 35-36.
13. Modelled after Washoe County Child Sexual Abuse Investigation Team of Reno, Nevada.
14. Koss and Harvey, 1991, p. 104-107.



**National
Victim Center**

**CHAPTER V:
VICTIM-CENTERED APPROACHES
TO LAW ENFORCEMENT**

CHAPTER V: VICTIM-CENTERED APPROACHES TO LAW ENFORCEMENT

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CHAPTER V:

VICTIM-CENTERED APPROACHES TO LAW ENFORCEMENT

INTRODUCTION

Law enforcement agencies occupy a central, critical position in the criminal justice system and are essential participants on the community Sexual Assault Interagency Council. In many cases of reported sexual assaults, law enforcement is the first criminal justice agency contacted by the sexual assault victim. The response rendered by the 911 operator, patrol officer, investigator and police-based victim advocate (if one exists) can build the foundation for the relationship with the victim that will influence the victim's recovery from the sexual assault. These contacts also influence the victim's willingness to cooperate during the investigation and adjudication of the sexual assault case.

This chapter is based on an assumption that the police department, sheriff's office or other law enforcement agency participating on the Interagency Council knows how to investigate a sexual assault case and prepare it both technically and legally for prosecution. The goal of this chapter is to articulate the primary law enforcement-related concerns of *victims* so that the Interagency Council can develop protocol incorporating these concerns into a *victim-centered* system.

The following is an excerpt from a rape victim's letter concerning her treatment by a law enforcement officer. It demonstrates the importance of the police officer's response to the victim:

Art was 25 years old when he was assigned my case. His age and therefore his experience as a detective, quite frankly, concerned my family. From the beginning I had faith that Art could handle it. I sensed this was not the type of man who was too proud to seek advice and use the resources available to his advantage. I was right. My family now refers to him as the "detective that never gave up."

It was very traumatic for me to recall the details of an extremely heinous crime. It was also traumatic for Art to record them. What quickly developed was that inexplicable connection between two strangers who endure trauma together.

Here were a few things I could always count on from Art as he worked my case:

1. He would ask about how I was before he asked for what the department needed -- and most importantly -- he listened to my answers.
2. He treated me with respect as the survivor of a crime and not a piece of evidence for his case.
3. Despite how traumatic and intense the topics we discussed were, Art ALWAYS found a way to make me laugh. With his smile and humor he did it every time.
4. He never gave up hope -- and was kind enough to share his with me. He ended every interaction with, "We're gonna get this guy, Nancy -- I can feel it." Whether he believed it or not, he made me believe it.

And Art DID get him . . .

The work Art Parga chose was the meaningful work of law enforcement and public service. Art made a difference to the people in the communities that he served. . . Art was truly a special person. I am just one example of how dramatically he affected the victims he worked with."

Law enforcement's concern about the rights of victims is documented by the Commission on Accreditation for Law Enforcement Agencies. The Commission promulgated standards pertaining to *Victim/Witness Assistance*, stating, "In its own best interests, law enforcement has a role to play in victim/witness assistance, a role that no other component of the criminal justice system can duplicate."¹

There are two specific accreditation standards that support the multi-agency/multi-disciplinary Interagency Council protocol:

55.1.6 *The agency maintains liaison with other criminal justice agencies and governmental and non-governmental agencies and organizations concerned with victim/witness needs and rights, . . . Written procedures govern the relationship*

* This excerpt is from a letter written by a sexual assault victim to the family of Detective Art Parga after he had been killed in the line of duty while investigating an unrelated case. The victim gave her consent to publish excerpts from the letter in this guidebook.

between the agency and the victim/witness efforts of other agencies and organizations.

Commentary: Outside sources of victim/witness assistance include other support and/or assistance efforts within the local, county, and state criminal justice system, encompassing but not limited to those of the prosecutor, the court, probation, parole and corrections agencies, and crime victim compensation program[s]; and other government-sponsored victim/witness assistance efforts and non-government sponsored efforts (such as domestic violence shelters and rape crisis centers). The purpose for liaison is at least two fold: (1) to ensure that agency referrals of victims/witnesses to outside sources are based on accurate and up-to-date knowledge of the services offered by those sources; and (2) to maintain an on-going channel of communication by which to offer and receive suggestions about how agency and outside sources can more effectively work together in order to better serve the victim/witness. Liaison may be initiated by letter, phone call, or in person.²

55.2.1 *A written directive defines at least the following level of victim/witness assistance information provided by the [law enforcement] agency between victimization and preliminary investigation either directly or on a cooperative basis with other area agencies:*

- *information, available 24 hours daily, from a single point of contact regarding victim/witness assistance supplied by the agency directly, including the phone number to call if the victim requires an emergency response . . .*
- *referral information, available 24 hours daily, from a single point of contact regarding services offered in the agency's jurisdiction by other organizations (governmental or private sector) for victims/witnesses in need of medical attention, counseling, and emergency financial assistance.*

Commentary: Situations to which this standard applies include those instances when neither a patrol officer nor an investigator can be assigned to the case in a timely manner, thereby creating a significant delay between victimization and initial contact with the victim/witness by officers conducting the preliminary investigation. The "single point of contact" could be a phone number connecting a caller to a recording or to a specific position (such as a dispatcher. . .) staffed 24 hours a day. A single point of contact could provide the information noted in bullet one and a second single point of contact could supply the information described in bullet two, or a single point of contact could provide both bullet one and bullet two information. . . Victim/witness assistance information may be supplied in cooperation with other agencies, such as by a multi-agency dispatch center.³

These and other standards document that law enforcement agencies recognize the importance of being responsive to the needs of victims and the advantages of interagency cooperation in meeting those needs.

LAW ENFORCEMENT AGENCIES ON INTERAGENCY COUNCIL

Law enforcement agencies that *must* be involved in development of effective Interagency Council protocol include any agency with responsibility to receive and investigate complaints of sexual assault and the authority to arrest the assailant. This includes state, county and local law enforcement agencies. It may also include transit police, university police and school security forces. In some cases, it will also include Federal law enforcement agencies such as the Federal Bureau of Investigation, U.S. Marshals Service, U.S. Park Police, Military Police and/or the Bureau of Indian Affairs Police.

PRIMARY ROLE OF LAW ENFORCEMENT AGENCIES

Traditional law enforcement responsibilities have focused upon the crime and the criminal. Law enforcement officers want to make an arrest to prevent the assailant from assaulting another victim. This concern is not only understandable, it is an essential element of the duty to *protect the community*. It is extremely important, however, that law enforcement concerns extend beyond *potential* victims and address the needs of those who are already victims of sexual assault.

Addressing Victim Concerns

Sexual assault victims experience a host of fears and anxieties as a result of being victimized. Many victims have concerns which the police are called upon to handle. For example, victims fear that their assailants will return to the crime scene; they may be in pain from the physical and emotional trauma caused by the assault; and they may be confused about what they should do. The Colorado Law Enforcement Training Academy offers the following guidance for recognizing and responding to sexual assault victims' concerns:

- **Victims may continue to experience fear after the police arrive.**

Directly reassure the victim of her* immediate safety. Reassure her that continued assistance will be available from law enforcement and from other resources.

- **Victims frequently expect to be blamed for what has happened. They will often blame themselves.**

Help place the blame on the assailant. Reassure the victim that you do not blame her. Avoid making comments which may be interpreted as your blaming the victim.

- **Victims need HELP to REGAIN A FEELING OF CONTROL over their lives.**

Clearly EXPLAIN ALL of the investigative procedures and allow the victim a feeling of partnership in the case. AVOID PUTTING THE VICTIM IN A PASSIVE ROLE.

- **Victims feel their assault is very important and seek sympathy and understanding.**

Express understanding of the importance which the victim places on the event. DO NOT TREAT ANYONE AS A "ROUTINE CASE."

- **Victims usually fear a recurrence of the assault.**

WHEN the victim is ABLE TO LISTEN AND PLAN for the future, GIVE THE VICTIM INFORMATION ABOUT HOW TO BE SAFE IN THE FUTURE.⁴

These are just a few of the reactions commonly experienced by sexual assault victims, as described by this booklet. By recognizing these reactions, law enforcement officers will be better able to respond to and appropriately assist victims. As demonstrated by the Colorado Law Enforcement Training Academy, training programs are increasingly preparing police officers to attend to the needs of victims.

* Although the booklet refers to the sexual assault victim as *her*, it is important to note that males may also be sexually assaulted and experience reactions like those of female victims, as well as reactions that are specific to males.

Law Enforcement Victim/Witness Assistance Programs

Growth in the number of victim assistance units within police departments and sheriff's offices is another indication of movement by law enforcement agencies toward a victim-centered orientation. This movement is exemplified by programs such as that of the Arlington, Texas Police Department's Victim Assistance Program. Operating in the Special Investigation Division of the Arlington Police Department, this program provides the following assistance:

1. Notification of and assistance with filing for victims' compensation benefits.
2. Information on the status of their [crime victims'] investigation.
3. Crisis intervention counseling.
4. Short term counseling (0 to 6 weeks).
5. Education and information.
6. Referrals.
7. Personal advocacy.
8. Assistance with return of property.
9. Transition to court system and court accompaniment.
10. Coordination with the investigator, assistance in dealing with problems that arise in the scheduling of line-ups, interviews, and other appearances of victim/witnesses.⁵

LAW ENFORCEMENT'S ROLE ON THE INTERAGENCY COUNCIL

Earlier in this chapter, a reference was made to the Commission on Accreditation for Law Enforcement Agencies and its standards regarding written interagency agreements that govern interaction between the law enforcement agency and victim/witness assistance programs. This reference applies to law enforcement agencies with their own victim assistance programs, as well as those without such programs. In either case, the Interagency Council provides the opportunity to work out cooperative relationships among agencies serving sexual assault victims.

The following sections examine victim-related issues that emerge as victims, law enforcement and other agencies interact during the processing of sexual assault cases.

Victim Reports Sexual Assault

In most communities, victims of sexual assaults may be able to report their assaults to a number of agencies. As documented by several studies,⁶ most sexual assaults are never reported, but sexual assault victims who choose to report, may call 911 or the local police emergency number. Another reporting option is going directly to the emergency room of a hospital. Still another option might be a 24-hour hotline operated by a rape crisis center.

The options available to sexual assault victims seeking assistance highlight two issues that the law enforcement agency must address: 1) the provision of appropriate services to the sexual assault victim who reports the crime directly to the police; and 2) the provision of appropriate law enforcement services to the sexual assault victim who reports the crime to another agency or organization.

These issues are discussed below:

- **Providing appropriate services to the sexual assault victim who reports the crime directly to the police.**

Staff responsible for receiving sexual assault reports need to know how to ascertain the nature of services needed. The Chicago Police Department, *Detective Division Protocol for Sex Crimes Investigations*, states:

It is important for the police dispatcher to ensure that the beat officers are assigned to conduct the preliminary investigation as soon as possible for two reasons:

- 1) It is axiomatic in police work that the faster the response to a crime scene the greater the likelihood of arresting the offender; and
- 2) A quick response by the police is the first step in convincing the victim that the police are going to take her complaint seriously.⁷

The Chicago Police Department's protocol for the dispatcher also requires that the dispatcher determine if the victim is still in danger, is in need of medical

attention, and inform the victim that the police are on the way, caution the victim against destroying evidence, and obtain a description of the assailant, assailant's vehicle, and clothing for an "all call message" to police units in the area.⁸

In addition to the above responsibilities, law enforcement agencies should consider the benefits of enabling the telecommunications officer to transfer the victim's call to a rape crisis line pending the arrival of the patrol officers or ambulance. The Chicago Police Department's protocol encourages dispatchers to stay on the line with the caller until the beat officers' arrival, but recognizes that due to time and workload constraints, this may not always be possible.⁹ Transferring the caller to a rape crisis line ensures that all sexual assault victims have access to the emotional support that a trained crisis counselor can provide, irrespective of the workloads of the police dispatchers. Contact with the rape crisis line also puts the sexual assault victim in touch with a support network beyond the immediate crisis.

As stated in the Chicago Police Department protocol:

The importance of the police dispatcher in sexual assault cases should not be overlooked. In order for law enforcement personnel to successfully investigate these cases, it is necessary for the victim to cooperate fully in the investigation. The dispatcher is usually the first police officer or "authority figure" that the sexual assault victim contacts. The concern and assurance expressed by the dispatcher can set the tone for the victim's future interaction with the police.¹⁰

Because of the vital role the police dispatcher has to assist sexual assault victims, the Interagency Council's protocol should provide specific guidelines for dispatcher training. *Chapter X: Implementation Issues for the Interagency Council* addresses some of the training requirements for all law enforcement personnel.

- **Providing appropriate law enforcement services to the sexual assault victim when the victim reports the crime to another agency or organization.**

Several studies suggest that many sexual assault victims do not turn first to the police for assistance. For example, the U.S. Senate Committee on the Judiciary points to increases in reported rapes in Louisiana and Michigan of 0.3 and 4.7 percent respectively while rape crisis centers in those states reported increases of 39 and 36 percent respectively in the same year (1990).¹¹ These increases imply that many sexual assault victims do not summon the police for assistance at the time of their assaults. Because of the public safety concerns associated with criminals at large, police departments should strive to establish a collaborative, cooperative working relationship with rape crisis centers and hospital emergency rooms so their personnel will be more likely to encourage their clients and patients to make reports to law enforcement agencies.

Police departments should consider establishing a single point of contact for rape crisis counselors and hospital emergency room personnel. A liaison within the police department, to whom rape crisis center and hospital personnel can refer sexual assault victims, could serve to encourage reporting by victims. The liaison can provide increased *personalization* to help dispel the perception of a somewhat threatening, impersonal police department. Rape crisis centers and hospital personnel can reassure victims that the detective understands their concerns and will try to minimize additional trauma and adversities that they might suffer.

Irrespective of whether the sexual assault victim first makes the report to the police department or another organization, the victim-centered focus is on the victim's needs, as well as on apprehension of the assailant to prevent others from being victimized.

First Responder

The actions taken by the first responder to the scene will be determined by the nature of sexual assault that has occurred and the injuries to the victim. In order to determine the specific offense, a preliminary investigation is necessary. The preliminary investigation includes asking the victim a series of questions to determine what happened and who the perpetrator is. The first responder should take steps to ensure the safety of the victim and to obtain appropriate medical care, if necessary. Some police departments, such as the Chicago Police Department, recommend that all victims of sexual assault or attempted assault be transported to the nearest hospital for treatment and a medical examination.¹²

Issues that need to be addressed by the first responder are:

- **Assessing the safety of the sexual assault victim.**

The first police officer on the scene needs to make sure that the assailant is no longer a threat to the sexual assault victim. The officer should ask if the assailant has left, get a description (if the dispatcher has not already broadcast one), and send a *be-on-the-look-out* alert. If the assailant is present, the officer should separate the assailant from the victim and, if probable cause exists for arresting the accused assailant, place him or her in custody.

- **Obtaining the sexual assault victim's informed consent to be transported to the hospital and for any anticipated medical procedures, including the forensic evidence collection.**

Police officers responding to the scene of a sexual assault cannot assume that the victim wants to go to a hospital or other medical facility and be subjected to

evidence collection procedures. The police officer needs to explain to the victim the need for the preservation of evidence, *even if the victim does not anticipate pressing charges at this time.*

In order to give informed consent, the sexual assault victim needs to know:

- **The consequences of a delay in pressing charges.** Evidence collection is necessary even if the sexual assault victim is not ready to file an official complaint. If the victim later decides to pursue prosecution, the evidence could make a difference in the successful prosecution of the case.
 - **To bring a change of clothing to the hospital as those worn during the assault will be taken and examined for essential evidence.** If the sexual assault victim is transported directly from the crime scene, the police officer should offer either to get replacement clothing from the victim's home or from a clothing bank established by the Interagency Council. No sexual assault victim should *ever* have to leave the hospital in an examination gown.
 - **The financial arrangements for payment of the examination and evidence collection.** Most states pay for sexual assault examinations and evidence collection. Many victims may also be eligible for *victims' compensation* through their state's Crime Victims' Compensation program for additional medical care related to the sexual assault.
- **Notifying a family member, clergy or friend to meet the victim at the hospital and provide emotional support.**

Some sexual assault victims will have well developed, natural support systems in the community consisting of their families, friends or members of the clergy. With the victim's permission, the first responders may contact such individuals and arrange for them to meet the victim at the hospital, provide emotional support, or transport the victim from the hospital.

- **Contacting a rape crisis center or other victim service provider to serve as a victim advocate.**

At the time of the sexual assault and for a period of time thereafter, the victim experiences a feeling of great vulnerability. In order to help restore the victim's sense of control and to provide emotional security, a crisis counselor or other victim service provider may be helpful. The first responder should ask the victim if he or she would like to have an advocate present -- someone who is available for support and to help alleviate some of the emotional pressure. The advocate should meet the victim at the hospital and be prepared to provide support throughout the medical and forensic examinations, if the victim wishes.

- **Informing sexual assault victims of their right to victim confidentiality.**

In some jurisdictions, first responders are responsible for informing sexual assault victims about their legal rights. In Texas, for example, the patrol officer informs victims of their right to select a pseudonym for use in all official documents concerning the case. Each law enforcement agency is required to maintain a confidential registry of pseudonyms and true identities.¹³ In other states, such as Florida, it is a violation of the state law to publish identities of victims without first obtaining their permission. Such provisions, which maintain the confidentiality of victims' identities, help avoid the public intrusion and the stigma often experienced by sexual assault victims.

The first responders to sexual assaults should receive training in crisis intervention and victim response. Training issues are discussed in *Chapter X: Implementation Issues for the Interagency Council*.

After the patrol officers file their report, the case is assigned to investigators or detectives for the follow-up investigation. Cases are usually assigned to investigators when victims make their first reports to someone other than the police, such as a rape crisis center.

Initial Interview

The first step in the follow-up investigation is generally an interview of the sexual assault victim; this is one area in which the Interagency Council can alleviate the stress of the investigation on the victim. Each time that sexual assault victims relate their experiences, they relive them.¹⁴ The development of a joint interviewing protocol makes required information available to appropriate members of the Interagency Council, with minimum distress to the victim.

Some cases of sexual assault pose the additional dimension of medical needs -- possibly related to injuries caused by the assault. Interviewers should consult the attending physician or sexual assault nurse practitioner before interviewing victims with special medical requirements. Ideally, such an interview will occur when the victim is lucid and able to give informed consent. When victims are medically incapacitated, the victims' medical requirements supersede the investigators' responsibility to conduct an interview.

The interviewers should consider such issues as whether to videotape or audiotape the initial interview; whether the victim prefers to have male or female interviewers; what information is needed for law enforcement and prosecution purposes; whether or not to interview in a room

with one-way mirror and use observers during the interview; how to encourage victims who are reluctant to pursue prosecution; and how to provide language interpreters if needed by the victim.

- **Taping the interview** - The Interagency Council should have definitive guidelines concerning the use of recording devices during the interview. In some cases, such as when the victim is seriously injured and might not survive, an audio or video recording of an interview may be necessary. Videotaping can be important for non-verbal communication such as in sign language interviews. In other cases, recording the interview provides greater opportunity for defense attorneys to point out inconsistencies between immediate recollections and later testimony. Recording the interviews may also create questions about the degree to which the victim, especially a child, is being subjected to leading questions. There is no universal agreement about the advisability of recording victim interviews. If the interview is going to be taped, and the victim is physically able, the victim should give written consent. *Each community Sexual Assault Interagency Council needs to examine the pros and cons and develop a protocol addressing this issue.*
- **Gender of interviewer** - Several protocol received for this project assumed that if the victim of a sexual assault is a woman, then the interviewer should also be female. The prevailing thought in the field is that this should not be assumed. The significant characteristic is that the victim should be comfortable with the interviewer, which may or may not be accomplished by having someone of the same gender. The skill of the interviewer in establishing rapport with the victim may be more critical than his or her gender. However, the victim's preference regarding the gender of the interviewer should be respected.
- **Information requirements** - By collaboratively identifying the specific information needed from the interview, the interviewer(s) can increase efficiency, and thereby reduce the stress experienced by the sexual assault victim. Several protocol received for this project achieve collaboration through interviews conducted jointly by representatives from prosecutorial and law enforcement agencies. A victim advocate or other support person of the victim's choice (parent, partner, friend, etc.) is often present to provide support to the victim. If more than one individual is present during the interview, the Interagency Council protocol should specify that one of them be the designated interviewer to minimize the victim's confusion (another individual should be designated to take notes and ensure that a comprehensive record of the interview is made).
- **One-way mirrors** - Some sexual assault investigative protocol mention interview rooms with a separate observation room in which representatives of the Interagency Council may watch as a selected interviewer questions the sexual assault victim. The interviewer is able to take a break from the questioning to confer with the observers and to allow the victim to relax. This kind of interview process permits a number of individuals, who have a need to obtain information from the victim, to witness the interview and provide their questions to the

interviewer. When using this arrangement, the interviewer should inform the victim about the existence of the observation room and the presence of professionals observing the interview. The interviewer should introduce all observers to the sexual assault victim and explain their purpose for observing, stressing that they have the victim's welfare in mind. Being up-front with the victim at this point can prevent a violation of trust.

- **Sexual assault victims' preferences** - It is not unusual for sexual assault victims to not want to press charges and prosecute the case. In a similar vein, the victim may want to press ahead with the criminal case when the prosecutor does not. At some point before the end of initial interviews, the interviewers should ask the victims what course of action they would like to pursue. The interviewers should present this choice only after explaining a range of investigative strategies and options to the victims so that they know what may lie ahead.

Sexual assault victims reluctant to file a complaints may be seeking reassurance that they believed and that their security needs will be addressed.¹⁵ Another reason for not wanting to press charges may be the victim's relationship to the offender. For example, a battered wife may not want her husband to be incarcerated, but rather prevented from *forcing* her to have sex.

Sexual assault victims should not feel as though they are being pressured to take legal action. The more latitude victims are given in making decisions, the healthier their eventual recovery will be. It is possible that referring victims to rape crisis counselors or victim advocates -- individuals perceived to be unequivocally in the victim's corner -- may help victims decide on the most advantageous course of action. At the same time, it is important to realize that the decision to prosecute is *not* the victim's. Law enforcement and prosecution can (and do) make that decision without victim concurrence.

- **Provide interpreters if necessary** - *Chapter III: Interagency Council Representation and Community Participation* identifies some distinct populations of individuals who may need interpretation services -- individuals who are non-English speaking or hearing impaired. The Interagency Council's protocol need to identify sources for interpretation services and how to access them.

Investigation

The investigation of sexual assault cases is generally performed by the detective bureau or investigations division of the police department. During this phase, witnesses will be tracked down and interviewed, evidence will be collected, suspects will be identified and, if all goes well, the investigation will be concluded with the arrest of the suspect(s).

While the investigators are involved with the previously mentioned processes, sexual assault victims continue to be affected by the assault and should be kept fully informed of the status of the case. They may be experiencing fears that the assailant will return and repeat the assault or attempt to commit murder. The victims' sense of personal security is seriously compromised until the arrest and detention of the assailant. Some victims wonder if the police are *really* doing anything. It is not unusual for victims to frequently call law enforcement authorities, wanting progress reports and wondering why the assailant has not been arrested. A trained victim advocate can help in such cases.

The Interagency Council provides an effective mechanism for keeping sexual assault victims informed about the progress of investigations and addressing the fears caused by the sexual assault while, at the same time, allowing investigators to concentrate on closing the case.

- **Keeping victims informed** - The Interagency Council should consider how to best provide information to victims about the progress of their cases. One measure that ensures that victims will receive needed information, which also enables the investigators to use their time on the investigation, is to coordinate case-related activities with a victim service provider. The Interagency Council protocol should delineate how information gleaned from investigations may be made available to victim service providers; what information should be shared with victims; and what information should be considered *case sensitive* and not given to victims.

For many law enforcement agencies, the concept of sharing information about a case with an outside agency causes discomfort and may, in fact, be prohibited by departmental policies. Such departmental policies may need to be re-examined. The Interagency Council may want to develop protocol to permit limited information sharing on an interim basis. Once the agencies have established trust, they may be more willing to share information with other members of the Interagency Council.

For victim service providers, serving as facilitators between victims and law enforcement agencies requires utmost discretion and sensitivity to the needs of these victims, as well as the requirements of law enforcement agencies. *Chapter VII: Victim Service Providers on the Interagency Council* examines this role from the point of view of victim service programs.

- **Sexual assault victims' personal safety concerns** - As previously mentioned, an immense concern of many sexual assault victims is that the assailant will return and attempt to further hurt or even kill them. The law enforcement agency should address this concern and establish procedures for victims to contact the police in case they feel intimidated, harassed or in physical danger. The victim service provider can assist by helping to assure that victims are not left alone until they

feel comfortable being by themselves. When victims are ready, and they request it, the victim service provider can also assist by providing personal security advice to those victims. Such advice, developed in cooperation with the police department, may include conducting security surveys of victims' homes that show how to improve physical security, or installing *caller I.D.* on the telephone so victims can identify the source of incoming calls.

- **Accommodating victims' needs during the investigation** - The successful investigation of the sexual assault, in many cases, requires that victims be involved in interviews, line-ups, making statements, etc. At the same time, the victims need to be able to resume normal activities, such as attending school, socializing with friends, holding down a job, and maintaining family responsibilities. Often the demands of case processing conflict with the need for normalcy. When such a conflict arises, procedures should be developed in favor of the victims' return to normalcy. When possible, case investigation should be scheduled to minimize conflict with the victims' employment and other responsibilities.

Arrest

The arrest of the suspected assailant concludes the *primary* involvement of law enforcement with the case (except for testifying in court). Once apprehended, if the assailant is not known to the sexual assault victim, he or she will need to be identified. Victims are likely to have conflicting emotions around the time period of the arrest. Some victims fear even the minimal encounter with the assailant required by a line-up. If unable to positively identify the assailant, some sexual assault victims will feel guilty. If assailants are released on bail, sexual assault victims may feel unprotected. The Interagency Council should address these concerns as it develops its protocol:

- **Notification of sexual assault victims of assailants' arrest** - The protocol should identify who, within a reasonably short time period, will notify the sexual assault victim that the suspected assailant has been taken into custody. The protocol should also provide direction for informing victims about the potential outcomes of bail decisions and of their right to be present at bail hearings.* Also, the protocol should assign responsibility for informing victims about police line-ups, when they are scheduled, and if it is necessary for the victims to attend.

In cases where the identity of the suspect is unknown and when the line-up cannot be scheduled until after the bail hearing, sexual assault victims need to be informed that attendance at the hearing would compromise the investigation. Victims would have the identities of the alleged perpetrators revealed at the bail

* Laws of eight states give crime victims the right to testify at bail hearings concerning the dangerousness of defendants.

hearings before they have been properly identified at the line-up. In these circumstances, victims should not attend bail hearings. In order to resolve this conflict between the legal system and sexual assault victims' full participation, consideration should be given to having victim advocates relay the victims' concerns about the perpetrators' release.

- **Identification of assailants by sexual assault victims** - As previously stated, even minimal encounters between victims and their assailants posed by police line-ups can arouse emotional reactions in these victims. Preparing victims prior to police line-ups, reviewing identification procedures, and generally briefing them about what to expect is helpful. If the sexual assault victim appears to be too emotionally affected by the prospect of a line-up, the protocol should provide accommodations to increase the victim's feeling of safety. Providing a victim advocate for emotional support is also helpful for the victim. For preliminary law enforcement purposes, a photo ID of the alleged assailant may suffice.
- **Keeping sexual assault victims informed about assailants' detention status after the arrest** - The Interagency Council protocol should specify how sexual assault victims will be kept informed about the custody status of their assailants after arrests have been made. There are two primary reasons for this:
 1. Victims will enjoy a greater sense of emotional security knowing that their assailants are locked-up; and
 2. If assailants are released, victims need to take steps to achieve a greater sense of personal safety (as discussed in greater detail in the next section).

After the apprehension of the suspected assailant, the role of law enforcement agencies becomes less predominate. In the early stages -- from the initial report through arrest -- law enforcement personnel are the primary actors. After the arrest, at least to most victims, the law enforcement role seems secondary to other agencies such as the prosecutor's office and the courts. There are, however, still some aspects of involvement with victims that are very important victim-centered concerns.

Arraignment/Initial Appearance

Law enforcement personnel should discuss with the prosecutor their assessment of the risk presented by the assailant to the sexual assault victim and to others in the community. If the court grants release on bond or on the assailant's own recognizance, both law enforcement officials and the prosecutor should routinely ask for conditions of release that protect the victim

from contact or harassment from the assailant. Victims should be provided with specific, step-by-step instructions for actions to take if the assailant attempts to harass or make contact. Examples of such steps are calling 911 or having a 24-hour telephone number to call that will result in expedited police response; installing special telephone services for recording, trapping and tracing calls; and establishing contact with victims service providers for support in handling emotional stress caused by harassment from the perpetrator. If there is an active Neighborhood Watch Program, with the sexual assault victim's consent, it may be alerted.

Probation/Community Corrections/Parole

At the time that the convicted assailant returns to the community -- through probation or parole -- the corrections department needs to inform the law enforcement agency of the return and of the conditions under which the assailant may remain in the community or participate in a particular program. Law enforcement agencies are generally the only agencies within the criminal justice system with 24-hour operations and, for this reason, they are essential monitors of conditional release programs during hours when other agencies do not operate.

Sexual assault victims feel vulnerable anytime the assailant is at large in the community. Often, victims will move away from the locale in which the assault occurred in order to re-establish a sense of personal security. Law enforcement agencies can help victims feel more secure if procedures are in place that give priority to calls for service from victims whose assailants are back in the community.

CONCLUSION

Law enforcement agencies are essential participants in the Interagency Council. Innovations in the field of police services indicate that law enforcement agencies are becoming more victim-centered with victim service units operating in many police departments and sheriffs' offices. The accreditation process in which many law enforcement agencies voluntarily participate has established standards that call for interagency agreements benefiting crime victims and witnesses.

This chapter has focused on the role of law enforcement agents as first responders who set the tone by which the victims evaluate the initial and subsequent responsiveness of the criminal justice system to their concerns.

The development of such a victim-centered system benefits not only the victims, but the participating agencies as well. When victims understand how the criminal justice system works and the choices available to them, they prove to be better witnesses -- willing to tolerate some inconveniences if it will help to convict the offender.

The system benefits by more victim involvement as well. Research shows that cases proceed with fewer continuances and delays.¹⁶ Victim involvement seems to lead to better case management and higher accountability. Overall, the creation of a victim-centered, multi-agency/multi-disciplinary community Sexual Assault Interagency Council, guided by written protocol, can result in a *win-win* situation for all.

NOTES

1. Commission on Accreditation for Law Enforcement Agencies, Inc., 1991, p. 55-1.
2. Ibid., p. 55-3.
3. Ibid.
4. Brittsan and Shelley, 1989, p. 35.
5. Arlington Police Department, 1990, § 16.003.
6. U.S. Senate Committee on the Judiciary, 1992, p. 20.
7. Chicago Police Department, p. 14.
8. Ibid., p. 15.
9. Ibid.
10. Ibid., p. 13.
11. U.S. Senate Committee on the Judiciary, 1992, p. 22.
12. Tex. Criminal Procedure Code Ann. § 57.01 (Vernon 1988 Supp.).
13. Ibid.
14. Rowland, 1985, p. 340.
15. Generally, Young, "Crisis Intervention," 1992; and Young, "Tailoring Services to Sexual Assault and Family Violence Victims," 1992.
16. Heintz & Kerstetter, 1979, p. 365.



**National
Victim Center**

**CHAPTER VI:
PROSECUTION AS A COMPONENT OF
VICTIM-CENTERED CASE MANAGEMENT**

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CHAPTER VI:

PROSECUTION AS A COMPONENT OF VICTIM-CENTERED CASE MANAGEMENT

INTRODUCTION

The influence of a prosecutor extends beyond the powers of his or her office. The prosecutor is a symbol of justice and public protection from the ravages of crime. Membership of the prosecutor's office is critical for the success of the Interagency Council. As the chief law enforcement officer within a jurisdiction, the prosecutor can provide leadership to other law enforcement agencies and encourage them to participate in the development of interagency protocol for sexual assault cases.

The role of the prosecutor in America's criminal justice system has evolved from one of holding perpetrators accountable to their victims, to one of holding perpetrators accountable to the state. Contemporary *jurisprudence* holds that crimes are committed against society and not against individual victims. This distinction creates misunderstandings on the part of sexual assault victims.

Sexual assault victims have been subjected to one of the most traumatic experiences possible. They expect that the prosecutor will represent *their* interests in what they perceive to be *their* case. Prosecutors, on the other hand, do not have responsibility to represent the personal interests of each sexual assault victim. Their Constitutional duty is to represent society in the *state's* cases. Because sexual assault victims see themselves as the aggrieved parties, they expect to participate in the decisions made concerning the processing of their cases. This dissonance between victim expectation and prosecutorial role has been one of the driving forces behind the

emergence of the victims' rights movement. Deborah Kelly, noted author and researcher of victim concerns, cites this example:

Victims' comments clearly indicate that they deeply resent being excluded from deliberations. To illustrate, when 100 rape victims were asked how they would improve police and court procedures, most wanted increased participation and status in the judicial system. Though victims are largely irrelevant to the state, their proposals reflect that the case is extremely relevant to them.¹

The President's Task Force on Victims of Crime emphasized victims' participation in the recommendations for prosecutors articulated in its *Final Report*:

1. Prosecutors should assume ultimate responsibility for informing victims of the status of a case from the time of the initial charging decision to determinations of parole.
2. Prosecutors have an obligation to bring to the attention of the court the views of victims of violent crimes on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution. They should establish procedures to ensure that such victims are given the opportunity to make their views on these matters known.
3. Prosecutors should charge and pursue to the fullest extent of the law defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.
4. Prosecutors should strongly discourage case continuances. When such delays are necessary, procedures should be established to ensure that cases are continued to dates agreeable to victims and witnesses, that these dates are secured in advance whenever possible, and that the reasons for the continuances are adequately explained.
5. Prosecutors' offices should use a victim and witness on-call system.
6. Prosecutors' offices should establish procedures to ensure prompt return of victims' property, absent a need for the actual evidence in court.
7. Prosecutors' offices should establish and maintain direct liaison with victim/witness units and other victim service agencies.
8. Prosecutors must recognize the profound impact that crimes of sexual violence have on both child and adult victims and their families.²

The guidelines for creating the protocol of the Interagency Council -- keystone of a victim-centered system -- embrace these recommendations.

DEVELOPING PROSECUTION PROTOCOL FOR THE INTERAGENCY COUNCIL

The development of protocol for the Interagency Council is a cooperative process involving all member agencies. The eight-step process for developing the protocol is described fully in *Chapter IV: Interagency Council Protocol Development*. This chapter presents issues related to the prosecutorial role on the Interagency Council. The development of detailed legal procedures is beyond the scope of this guidebook. An underlying premise of this document is that the prosecutors participating in the Interagency Council have the necessary legal expertise to oversee the development of protocol in legal areas (rules of evidence in sexual assault cases). The focal point for this guidebook is the victim and restructuring the system's operation to facilitate victim participation.

The following sections identify specific issues relating to prosecutorial functions and the exercise of almost unlimited power of prosecutorial discretion that need to be addressed in the protocol.³ Please note that suggestions for protocol do not advocate altering the level of discretion entrusted to the prosecutor; however, they do endorse consideration of sexual assault victims' needs in the exercise of prosecutorial discretion. Sexual assault victims deserve to be informed about the reasons motivating decisions that appear to be adverse to their interests.

Victim Reports Sexual Assault

Few (if any) prosecutors' offices are prepared to receive reports of sexual assault directly from victims. Sexual assault victims may be unaware of whom to report the crime, however, and call the prosecutor's office first. Ideally, individuals who answer the telephone at prosecutors' offices would be able to transfer calls to the police: 911 (if the call is an emergency), or a sex crimes investigator (if the report is delayed). Staff at the prosecutor's office should ask victims if there is an emergency situation present (Is the assailant at the crime scene? Does the victim need medical attention?) before transferring the call, and tell them to stay on the line until the transfer is completed. Individuals in prosecutors' offices who answer the telephones should be trained in crisis intervention so that they are able to assist *all* sexual assault victims, especially those who call to report the crime.

Some sexual assault victims who initiate contact with the prosecutor's office may be seeking legal advice, or may want to clarify in their own minds what they have experienced. The victim/witness assistance program in the prosecutor's office (if one exists) is an appropriate referral in these situations. Referrals could also be made to rape crisis centers or other victim advocacy organizations. To ensure that victims do not "fall through the cracks," individuals making referrals should always ask victims to call back if they do not receive the needed assistance from the referral agency. Protocol for the Interagency Council should provide specific guidelines on the actions to be taken by prosecutorial staff who directly receive reports of sexual assaults from victims. Also, the protocol should identify referral agencies for information and victim assistance.

Initial Interview

When possible, prosecutors should participate in the initial interviews of sexual assault victims. The rationale behind this recommendation is based upon the following factors:

- **The number of times sexual assault victims need to repeat the details of the assault will be reduced.**

Each time victims need to recount the details of the assault, they relive the victimization and re-experience the emotional stress of the crime.⁴

- **Prosecutor ensure that information needed for future prosecution is captured at the inception.**

Based on information received from the initial interviews of victims, prosecutors can begin to develop strategies they will use in presenting cases to the grand jury and prosecuting the alleged assailants at trial.

- **Prosecutors can make an independent evaluation of the cases as presented by sexual assault victims.**

Even verbatim transcripts of interviews cannot convey the amount of information one can gain from personally observing the body language, tone of voice, inflections and a multitude of other factors communicated non-verbally.

Prosecutors and law enforcement personnel should collaborate while developing the protocol for interviewing sexual assault victims. Issues to be addressed include:

- Permitting a counselor or advocate to be present during victim interviews;
- Deciding to videotape or audiotape the interview with the victims' consent;
- Accommodating victims' preferences for male or female interviewers;
- Developing information needed for law enforcement and prosecution purposes;
- Identifying victims' key concerns and possible fears, and providing assistance and support to address such concerns or fears;
- Deciding to interview in a room with one-way mirrors and use observers during the interview;
- Responding to sexual assault victims' desires related to moving forward with their cases; and
- Providing sign and foreign language interpreters if needed by sexual assault victims.

Some of these issues may be factors in all sexual assault cases, while others may apply only under unique circumstances that are specified by the protocol, such as with child victims. *Chapter V: Victim-Centered Approaches to Law Enforcement* fully discusses the issues to be considered during the initial interview.

Arraignment/Initial Appearance

The next stage of sexual assault cases in which the prosecutor assumes a primary role -- in the eyes of victims -- is following the arrest of the suspect(s). As recommended by the President's Task Force on Victims of Crime, prosecutors presenting cases at bail hearings, arraignments or initial appearances should consult victims to determine their perception of threat from alleged perpetrators.^{5*} The prosecutor should request that releases on bail or personal recognizance be contingent upon victim input, along with the accused assailant(s) being prohibited from having any contact with the victim. To preserve confidentiality of victims' exact addresses, the court may prohibit the defendant from going into areas of the community in which the victim lives and works.

* The right of victims to testify about the threat posed by defendants is included in the laws of eight states.

The Interagency Council protocol should contain instructions for sexual assault victims for specific steps to take if the conditions of release are violated by the defendant. Police and prosecutors should rigorously enforce all conditions of release. In cases where the identity of the assailant is not an issue, victims should be able to testify at bail hearings. In cases which might be compromised by victims testifying at bail hearings (those in which the victim has not identified the assailant at a line-up), an advocate selected by the victim should be allowed to convey the victim's concerns to the court.

Pre-Trial

During the pre-trial phase of case processing, the prosecutor should keep sexual assault victims informed about the status of the case, the detention status of the accused assailant, and schedules for hearings. Prosecutors' offices and victim services programs should establish linkages to ensure that sexual assault victims have regular personal contact concerning case status. There are some points during the pre-trial phase that prosecutors may need face-to-face contact with sexual assault victims such as for case analysis and to discuss plea negotiations. Prosecutors should also contact victims concerning rescheduling of hearings and trials. These responsibilities are discussed in the following sections.

Analysis of Case/Options and Probable Outcomes

After a review of the case, the prosecutor should consult with the sexual assault victim and identify the strengths and weaknesses of the case. The prosecutor should explain each available option to the victim and solicit the victim's concurrence on a course of action. Prosecutors are not bound by the wishes of victims, but successful prosecution often depends upon their cooperation. Therefore, it is mutually beneficial for victims and prosecutors to agree on a course of action.

Plea Negotiations

Prosecutors are often concerned that victim involvement in plea negotiations will result in "fewer cases being plea bargained based on a fear that victims will be overly vindictive and will object to charging concessions by the prosecutor."⁶ At least one study indicates that this fear may be exaggerated:

According to the evaluation of this program, the victim participants did not make insistent demands for severe punishment of the defendants; they did not prove to be obstreperous; and no significant differences in settlement or trial rate between test and control cases were identified.⁷

Laws of 24 states require that victims be consulted during plea negotiations.* Protocol for the Interagency Council should provide guidance for sexual assault victims' participation in plea negotiations. If victims disagree with prosecutors, they should be afforded the opportunity to have their objections presented to the court.

Motions/Continuances

Generally, delays in bringing a sexual assault case to trial benefit the defendant and work to the detriment of the victim. For this reason, once prosecutors decide to try a case, they should resist any attempts to delay bringing it to trial. If hearings or trials need to be rescheduled, they should consider any scheduling conflicts for victims when setting the new date and time. Sexual assault victims should be given the same considerations for continuances as defendants. Prosecutors should establish an "on-call" system for sexual assault victims, thereby enabling short notice for victim appearances. Such a system may entail having a telephone number where the victim may be contacted, or providing the victim with a beeper for paging. If hearings are held at which victims want to be present or are needed to testify, prosecutors can contact them shortly before the proceeding. Prosecutors should also contact victims who are "on-call" to inform them of canceled proceedings.

* *People v. Stringham*, [206 Cal. App. 3rd. 184 (1988)] upheld this requirement when a guilty plea was determined to have been properly vacated when the sentencing judge found that the victim's survivor had not been permitted to comment on the plea.

Preparing Sexual Assault Victims to Testify

When prosecutors decide to try sexual assault cases, victims need to be fully informed about their roles in the trial and what they can expect. Prosecutors will need to prepare sexual assault victims in advance for testifying and being cross-examined. Prosecutors should be certain that victims understand the court proceedings and the rights that crime victims have. Victims need to understand that a victim advocate or family member has the right to be in the courtroom during their testimony to provide emotional support. In addition, the prosecutor needs to ascertain any specific needs sexual assault victims may have -- interpreters, transportation, wheelchair access, medication schedules -- and reassure victims that their needs will be accommodated.

Sexual assault victims need to know the questions which are likely to be asked by the prosecutor as well as the kinds of questions the defense counsel will ask on cross examination. Victims should be given reassurances that prosecutors will call the judge's attention to any questions that are inappropriate. Prosecutors should explain that judges control the admissibility of testimony and that a judge may require that some objectionable questions be answered in open court.

The Interagency Council protocol should provide for a court orientation for all sexual assault victims including a visit to the courtroom, discussion of procedures, and the roles of various participants in a trial -- judge, prosecutor, defense counsel, jury, bailiff. In addition the protocol should delineate how sexual assault victims' rights will be protected during the trial with those procedures explained to the victim before the trial.

In some jurisdictions, defense counsels have an opportunity to interview victims. Prosecutors should prepare sexual assault victims for, and be present during, such an interview. In addition, victims should be permitted to have their advocate, family member or friend present for emotional support during the interview.

Trial

Sexual assault victims have many needs during the trial which prosecutors and victim service providers should recognize and address. If victims agree to testify, their testimony should be delivered early in the trial to permit them to be present in the courtroom and observe the proceedings, if they desire and the court allows this practice. Any contact that victims have with

their assailants is emotionally stressful; therefore, there should be a separate waiting area for victims, away from defendants, their families and peers, and defense witnesses. If sexual assault victims feel the need to have support persons with them during the trial, prosecutors should make the necessary arrangements. Rape crisis centers and other victim service organizations often provide court accompaniment for victims. If the victim is unable to or decides not to be present for the entire trial, the prosecutor should use the "on-call" procedure described in the preceding section. The prosecutor should submit a motion to the court to keep the media out of *all* sexual assault trials to preserve the victim's right to privacy. Also, special accommodations should be provided for victims who have disabilities, are elderly or children, or have other specific needs. *Chapter III: Interagency Council Representation and Community Participation* discusses several special accommodations to consider for these populations.

Verdict/Appeals

When defendants are found guilty, sexual assault victims may experience a sense of vindication for having held their assailants accountable for their crimes. However, defendants may appeal the verdicts and the appellate court may overturn them or remand cases for retrial. Prosecutors should explain the appeals process immediately following the verdict so that victims are prepared for any outcome. Prosecutors should also inform sexual assault victims of all appeal filings and their possible outcomes. In addition, victims should be consulted about decisions to retry cases overturned by appellate courts. The input of the victim at the appeals stage is just as important as it was at the initial stage.

When the verdict is *not guilty*, sexual assault victims may experience severe emotional trauma. Prosecutors and victim service providers should reassure victims that they were correct in reporting the crime and working through the system. Victims also need to know that the legal standard of *beyond a reasonable doubt* is difficult to attain, but that assailants may be held accountable through civil procedures with a lower standard -- the *preponderance of evidence* -- and they may want to seek assistance from private attorneys. Prosecutors should provide referrals to local civil attorneys, to the Coalition of Victims' Attorneys or Consultants (COVAC), or the National Victim Center to help victims understand possible civil remedies.

It is especially important that prosecutors inform victims when appeals result in the release of defendants who were previously incarcerated. In such cases, prosecutors should inform sexual assault victims of appropriate steps to take to prevent intimidation or harassment, or if they *are* harassed by the defendant. Any such harassment should be prosecuted to the full extent of the law.

Sentencing

Prosecutors should routinely request that restitution be paid to sexual assault victims for all losses incurred due to the sexual assault: medical expenses; mental health counseling; lost wages caused by the assault as well as losses for court appearances, police and prosecutor interviews, and depositions for the defense; and any other reasonable costs incurred by the victim resulting from the criminal's acts. An itemized statement of losses should be included as part of the *Victim Impact Statement (VIS)* for the court to use as a basis for ordering restitution. The court should order the restitution at the time of sentencing.⁸

There are several methods that enable sexual assault victims to participate in the sentencing phase of the criminal justice process. Victims should prepare a VIS which becomes part of the pre-sentence investigation report, usually prepared by the probation department. In addition, victims should be able to testify at sentencing hearings to balance information the court typically receives from the defendant and his or her family and friends. If, for some reason, victims are thwarted in their ability to present information in a VIS or present testimony in court, they may wish to write a letter to the judge, thereby ensuring that the court has the benefit of their input prior to passing sentence. Sexual assault victims may call upon victim service providers to help prepare their VIS open-ended responses. A copy of the VIS should be included in the sentencing documents which are forwarded to the corrections agency. The Interagency Council should consider a standardized VIS form with a check box for automatically enrolling the sexual assault victim in the Department of Corrections notification program (if this kind of program is available).

Post Disposition

Once the trial is over, the sentence pronounced, and the appeal(s) dismissed, the prosecutor's *primary* role is completed. Prosecutors should, however, continue to monitor assailants through their corrections program -- probation, incarceration or parole -- and inform victims of changes in release status or scheduled parole hearings, especially if this notification procedure is not instituted in the corrections agency. Some corrections agencies do have a responsibility to inform victims of changes in offenders' status, including transfer to a secure facility, furloughs, parole hearings or releases of their assailants.

Prosecutors should inform victims of any right they have to be kept informed of the convicted offenders' status. While many states require prosecutors to assure responsibility for enrolling victims in corrections-based notification programs, this should be a standard component of Interagency Council protocol. The prosecutor should provide victims with all information and forms necessary to enroll them in both institutional corrections *and* parole-based victim notification programs.

The Interagency Council protocol should specify how probation and parole conditions will be monitored and strictly enforced. Failure to make restitution or to comply with restrictions placed on contact with sexual assault victims should be prosecuted on a priority basis. If victims elect to utilize services from victim advocacy organizations or rape crisis centers, information may be passed through these organizations, thereby ensuring that emotional support will be available any time potentially disturbing news is delivered.

CONCLUSION

Prosecutors function as the chief law enforcement officers in their jurisdictions. As such, their involvement is pivotal for the establishment of victim-centered, Interagency Councils and development of multi-disciplinary/multi-agency protocol to guide their operations. In addition to evaluating protocol for legal sufficiency, prosecutors need to consider participation by sexual assault victims in the processing of cases throughout the entire criminal justice system.

Prosecutors should provide information to victims concerning strengths and weaknesses of cases and available options and consequences. Prosecutors can lessen the stress experienced by sexual assault victims by providing "on-call" systems to permit notification on short-notice for appearances, as well as for notifying victims when proceedings have been postponed or canceled. Prosecutors need to reassure sexual assault victims that procedures are in place to ensure their safety. They should inform victims that civil litigation is possible, even when a criminal verdict of *not guilty* is returned. They should also keep victims informed of appeals and appellate court decisions. Finally, prosecutors can help victims understand and access their rights through the institutional and/or community corrections system.

NOTES

1. Kelly, 1984, p. 19.
2. United States, 1982, pp. 63-64.
3. For discussion of prosecutorial discretion, see generally Aynes, 1984.
4. Rowland, 1985, p. 340.
5. United States, 1982, p. 63.
6. Gittler, 1984, p. 166.
7. Ibid., citing a study in Dade County, Florida.
8. National Victim Center, Crime Victims and Corrections: Implementing the Agenda for the 1990s, 1992, p. H-6.



**National
Victim Center**

**CHAPTER VII:
VICTIM SERVICE PROVIDERS ON THE
INTERAGENCY COUNCIL**

CHAPTER VII: VICTIM SERVICE PROVIDERS ON THE INTERAGENCY COUNCIL

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CHAPTER VII:

VICTIM SERVICE PROVIDERS ON THE INTERAGENCY COUNCIL

INTRODUCTION

This chapter describes the role of victim service programs and organizations as members of the multi-agency/multi-disciplinary community Sexual Assault Interagency Council. Their involvement on the Interagency Council is unique. Unlike other core members (law enforcement agencies, prosecutors' offices and medical facilities/hospitals) which serve victims at certain decision-points in the case, many victim service programs serve and assist victims from "start to finish." They often provide assistance and support to victims at the time of the initial report; throughout the investigation, prosecution and court proceedings; and during the period in which the assailant is incarcerated or released. As such, victim service programs are in a unique position to interact with other Interagency Council members at each decision point in a case, and help prevent further trauma to sexual assault victims.

Victim service programs offer a variety of services such as:

- Crisis intervention and response at crime scenes;
- Helping prepare victims for court;
- Maintaining constant communication with victims and their families regarding the case status;
- Encouraging and supporting victims as active participants in the case;
- Advocating for victims' rights and services;
- Communicating the views and opinions of victims to other agencies and organizations (court, prosecutors, police, other victim service providers, etc);

- Securing appropriate services for victims and their families;
- Protecting and ensuring the victims' privacy;
- Helping prevent additional trauma or injury to victims; and
- Ensuring that the system responds to victims and their families in an appropriate, timely manner.

In *The Road to Victim Justice: Mapping Strategies for Service*, a training manual prepared by the National Victim Center and the National Organization for Victim Assistance Dr. Marlene Young writes:

- The psychological trauma of victimization can be separated into two phases: the initial crisis reaction to the violation, and the long-term stress reactions it sometimes causes, with the second of these often exacerbated by additional "assaults" by society and institutions.¹

Because of the breadth and scope of services offered by victim service organizations, they are essential members of the Interagency Council and are in a key position to help prevent these additional "assaults" on victims. While system-based *and* community-based victim service programs are becoming increasingly common, not every community enjoys the full spectrum of victim support and advocacy services.

VICTIM SERVICE PROVIDERS

Crimes of sexual assault create many victims. There are the *primary victims* -- the individuals who were sexually assaulted. Individuals from organizations or programs providing assistance to these victims are termed *victim service providers*. They offer crisis intervention and counseling, as well as short- and long-term support to the sexual assault victim.

The trauma and devastation of sexual assault are not experienced *solely* by the primary victims. It extends to many others, including parents, children, guardians, and even friends and co-workers. Victim service providers help these *secondary victims* to cope with the assault, and to learn how to support the primary victim. In the victim-centered approach, victim service providers address needs of both primary and secondary victims.

Thus, the term *victim service providers*, as used throughout this guidebook, encompasses individuals from a wide variety of agencies, disciplines and services. While the number and scope of victim services in each community are largely based on local needs, issues, problems and available resources, the spectrum includes:

- Victim/witness programs or units found in either law enforcement agencies, prosecutor offices or corrections agencies;
- Rape crisis and sexual assault centers;
- Victim advocacy programs;
- Counseling services, telephone hotlines and centers available 24-hours per day;
- Independent mental health professionals;
- Community education and prevention organizations; and
- Organizations and agencies providing support, advocacy and services to victims and their families.

CONSIDERATION OF VICTIM SERVICES ISSUES

The challenge for some of the *traditional* agencies, such as law enforcement and prosecution, is to modify their approach and become more victim-centered. Victim service providers face different challenges. For them, a key issue is *forming relationships necessary to encourage other Interagency Council members to utilize their services for assisting victims*. Victim service organizations need to develop strategies for educating other Interagency Council members about the availability and importance of their services and how they, as victim service programs, can support the goals of traditional agencies.

In some communities, victim service programs have been unable to effectively promote a victim-centered approach. In a study of 184 crime victim and witness programs in the United States, respondents were asked to identify their major problem areas. Attrition of volunteers, their relationship with the court, liaison with police, and staff turnover ranked among the top four problems.² Poor relations with other agencies and program instability caused by staff turnover may tend to isolate victim service programs and cause mistrust, skepticism or separation from

other agencies in the system. This isolation can be overcome by participation on the Interagency Council with its collegial relationships.

There are distinctions between *traditional* agencies and victim service organizations. Agencies such as law enforcement, prosecution and hospitals have specific roles, functions and responsibilities -- often specified by law -- relating to sexual assault. They respond to victims and participate at specified times throughout the case. Generally, each community has a limited number of *traditional* agencies (one prosecutor's office, one or two law enforcement agencies, and a handful of hospitals or medical facilities). Where victim services exist, victim service programs have broader mandates, roles or functions relating to sexual assault. They interact with victims throughout the case (sometimes beyond the official end of the case).

The number of victim service organizations in a community is not arbitrarily limited. However, the undefined roles and profusion of victim service providers in a community may lead to competition among organizations, confusion about their functions and uncertainty about benefits to the system. Interagency Council members will be cautious about including victim service organizations if they are perceived to be disorganized, unprofessional or impeding interagency cooperation.

An important function that victim service programs fulfill is maintaining communication with sexual assault victims, their families, and other agencies from the time of the initial report of the assault until victims no longer require their services. This includes:

- Notifying sexual assault victims of case progress;
- Informing them of changes in schedules;
- Helping them acquire compensation and/or restitution payments; and
- Keeping agencies informed of the opinions and needs of the victims.

Victim service providers need to recognize the importance of information sharing and communication -- with victims *and* other agencies. Too often, client confidentiality is used as a way to avoid sharing information -- as a "system" response to the issue. In a victim-centered approach, members of the Interagency Council will strive to maintain a balance between open communication and protection of victim privacy/confidentiality in order to meet the needs of sexual assault victims and their families.

Victim service programs as well as other Interagency Council members should fulfill their own purposes, policies and procedures. Each agency must perform its own roles and responsibilities, and not attempt to do the work of other organizations or agencies. The Interagency Council provides a forum for defining the roles of each participating organization and establishing protocol for its involvement.

THE ROLE OF VICTIM SERVICE ORGANIZATIONS ON THE INTERAGENCY COUNCIL

Victim service organizations and programs may be involved at various points in sexual assault cases. Their involvement may begin at the time sexual assault victims report their assaults and extend beyond the point when other agencies have terminated their involvement. The following section includes a discussion of issues relating to victim service programs and their involvement and coordination with other agencies of the Interagency Council.

Initial Report of Sexual Assault

Once sexual assault victims make the decision to report their assault, one of the first questions facing them is "*Who do I call?*". Typically, there are three options in any community -- the law enforcement agencies, hospitals or emergency hotlines operated by rape crisis or sexual assault centers. Each of these agencies has immediate concern for the safety and physical, mental and emotional well-being of the victim. For victim service programs, in this case rape crisis or sexual assault centers, the primary concerns are to:

- Provide support to victims;
- Provide protection for victims; and
- Obtain appropriate medical attention and assistance for victims.

Victim service programs often play dual roles: providing *crisis intervention counseling* and acting as *coordinator* with other agencies. As crisis intervention counselors, victim service providers offer immediate counseling and support needed by sexual assault victims to help them cope with the trauma of their assault. As coordinators, personnel from these organizations seek assistance and support from agencies and organizations in the community to address the needs

of their clients. Victim service programs interface with law enforcement agencies, prosecutors' offices, medical hospitals, and mental health agencies or counseling services. Victim service organizations also provide communication linkages by making sure the appropriate agencies are notified that the sexual assault occurred when victims have given their consent.

Coordinate with Other Agencies

Interagency Council protocol should provide clear directions for involving victim service programs at the earliest possible time after receiving reports of sexual assaults from victims, irrespective of the agency receiving the report. As mentioned in *Chapter V: Victim-Centered Approaches to Law Enforcement*, consideration should be given to enabling police dispatchers to transfer 911 calls to rape crisis hotlines while police officers are being dispatched to the crime scene. In some jurisdictions, crisis intervention counselors accompany police officers responding to reported sexual assaults or they meet sexual assault victims at the hospital or other medical facilities used for forensic examinations.

The Interagency Council protocol should specify procedures for coordinating agencies and their services, as well as determine responsibility for victim support and intervention. Issues for consideration include:

- **What resources and services are available in the community?**

What agencies, services or resources are available and/or needed for victims of sexual assault at the time of the initial report? Are there specialized services in the community for different types of assault, *e.g.*, rape crisis center, center for domestic violence, sexual assault hotline?

- **Who or what agency will be responsible for ensuring that victims are informed of and receive these services?**

Because several agencies or organizations may be involved at the time of the initial report, protocol should identify which agency will take responsibility for ensuring that victims receive the needed assistance.

- **How will services be provided?**

The Interagency Council should consider how services -- such as transportation, financial assistance and other logistical support -- will be provided to victims and their families.

- **What are the procedures for interagency notification?**

The initial report of sexual assault may be made to law enforcement, hospitals, or rape crisis or sexual assault hotlines. In developing protocol, the Interagency Council should also consider what procedures will be used for notifying other agencies at the time of the initial report. In considering this issue, it is critical that the wishes of the victim be taken into account.

Initial Response

When a sexual assault victim first contacts a rape crisis center or other victim advocacy organization, the first concern is for the safety and well-being of the victim. In this capacity, victim service providers:

- Help identify and address the immediate needs and concerns of victims, *e.g.*, are they in a safe place, are there family members or friends who should be contacted, do they need medical care or transportation to the hospital, and do they have clothing to wear to and from the hospital?;
- Provide crisis counseling to victims and their families;
- Offer information to victims about law enforcement interviews and/or medical examinations, and answer questions about these procedures;
- Serve as advocates/intermediaries during interviews with law enforcement or during the medical examination;
- Help arrange transportation to and from the hospital or other medical facility; and
- Caution victims against destroying evidence.

The Interagency Council's protocol should clarify how these needs will be satisfied in the local community. It is important to note that, for their own safety, victim service providers should *not* go to the scene of a recent sexual assault unless accompanied by a law enforcement officer.

Whenever victim advocates make their initial contacts with sexual assault victims, they should explain their role and seek the victims' consent before progressing further; *they should not assume that the victim wants victim services until consent is given.*

Medical Intake and Forensic Examination

Victim service providers play an important role during the medical intake and forensic examination. They may act as intermediaries for victims to arrange transportation to medical facilities. They should monitor procedures to ensure that appropriate medical and/or forensic examinations and treatment are offered to sexual assault victims. Depending on the type of sexual assault (intercourse, fellatio, etc.; with or without injury to the victim; whether or not there was ejaculation), the medical examination should include informing the victim about the possibility of pregnancy, sexually transmitted diseases (STDs) and HIV/AIDS, and making referrals for follow-up medical treatment and psychological counseling, as necessary. The Interagency Protocol may specify that victim service providers inform sexual assault victims about some of these concerns and refer victims to appropriate medical and psychological resources for follow-up treatment.

Victim service providers may, at the victims' request, be present at/or provide support during the medical examination. They can foster a more victim-centered approach by supporting victims' efforts to communicate their fears and anxieties about the forensic examination to medical professionals. Some victim service programs provide replacement clothing and personal hygiene articles for victims *after* their examinations.

Victim service providers should offer assistance to family members who are affected by the crime and in need of counseling and support services. Family members need to understand the trauma experienced by the sexual assault victim and the kind of support that is necessary for the family to provide. At the same time, they need to recognize effects of the sexual assault on themselves and be given the opportunity to receive counseling.

Victim service providers should help victims obtain financial assistance for the medical and forensic examinations and for follow-up treatment from their state Crime Victims' Compensation programs. Victim service providers can supply claim forms and help victims complete and submit them.

Initial Interview

Several agencies or organizations may participate in the initial interview, including law enforcement, prosecution and victim service providers. The purpose of the initial interview is

to enable law enforcement agencies to hear the victims' account of their sexual assaults. The purpose of victim advocate participation is to provide emotional support for victims.

Because initial interviews are the first opportunity for victims to relate the details of their sexual assaults, they may experience trauma as they relive the crime.³ The initial interview can also set the tone for the follow-up investigation and prosecution. The use of interviewers who are inexperienced or insensitive, pose inappropriate or irrelevant questions, or traumatize victims by repeatedly asking questions that they are unable to answer, may not only jeopardize the case, but can cause unnecessary added emotional harm to victims and their families.

A victim-centered approach, using a team of a law enforcement investigator, prosecutor and victim service provider, can:

- Ensure that the needs and concerns of victims are considered during the interview;
- Ensure that the questions posed and information gathered meet the needs of each agency or organization; and
- Alleviate added stress and trauma by reducing the number of victim interviews.

Victim service providers can help ensure that the initial interview is victim-centered. As advocates for the victim, they can make sure that victims understand the purpose of the interview, are able to ask questions and have their questions answered, are not pressured into making decisions they are not prepared to make, and that their rights are upheld. Furthermore, victim service providers can ensure that the necessary assistance and support are available and provided to sexual assault victims before, during *and* after the interview.

Key elements of the initial interview include adequate planning, communication and strategizing. Members of the Interagency Council should develop protocol to guide the interview process. The protocol should focus on issues relating to Interagency Council coordination prior to and during the interview, as well as ways to structure the interview process to make it more *victim-centered* (using only trained and sensitive investigators and staff to conduct interviews, having representation from both law enforcement and victim services present at all initial interviews, etc.).

As indicated in *Chapter V: Victim-Centered Approaches to Law Enforcement*, protocol for initial interviews should consider the needs of victims related to:

- The gender of the interviewers;
- Location and time of the interview;
- Maximum number of persons to be present at the interview to ensure the victim's comfort;
- The information needed by each agency relevant to the case;
- The information needs of the victim; and
- The role of each person participating in the interview (who will take the lead in the questioning, who will be the notetaker, etc.).

As stated earlier, the role of victim service providers during the initial interview is to provide emotional support for sexual assault victims. Victim service providers should also signal the interviewers when victims appear to need a break from questioning. In most cases, the actual decision to take a break should be left to the interviewer and the sexual assault victim.

Investigation

Primary responsibility for investigating reports of sexual assault rests with law enforcement. Generally, investigators from a detective bureau or investigative division, as well as prosecutors, handle the investigation.

It can take months or years for the trauma of sexual assault to diminish. For many sexual assault victims, the fear and pain of the assault may never completely disappear. Throughout the investigation, victims have numerous questions that need to be addressed -- about the status of the case, the whereabouts of the assailant, and the actions of law enforcement and other agencies. Calls from victims may be frequent until they feel there is some closure or control because the assailant was apprehended or detained. Many crimes, however, go unsolved. For these victims, the investigation may seem like an eternity.

Victim service providers help alleviate some of this anxiety and assist law enforcement by helping keep sexual assault victims informed during the investigation. In doing so, however, care must be taken to provide necessary and appropriate information to victims while not compromising the case. Informing victims of case sensitive information, such as the details of a pending arrest, is not only potentially harmful to the victims, but may jeopardize the case.

While drafting protocol, the Interagency Council should:

- Discuss information concerns and needs of victims and how best to address them;
- Determine what case-specific information can and cannot be shared with victims;
- Determine who should be responsible for providing information to victims;
- Determine how to provide ongoing information and keep victims informed throughout the investigation (notifying victims of police line-ups or assisting when additional statements are required); and
- Determine how to alleviate victim's fears about safety (giving victims an opportunity to discuss these fears and specific steps they should take if harassed by their assailants).

Arrest

As discussed earlier, keeping victims apprised of the status of the investigation is an important function for both law enforcement and victim service providers. The victim service provider's role of keeping the sexual assault victim informed about any changes in the investigation or case processing, particularly when an arrest is made, adds significantly to the victim's feeling of physical and emotion security. Protocol developed by the Interagency Council will guide this process.

Victims often feel a sense of elation or euphoria when an arrest is made because they believe they are no longer in danger of re-victimization. This euphoria, however, is often temporary. As time passes, sexual assault victims may become fearful of the next steps -- police line-ups, court appearances, cross examinations, facing the assailant in court, or reliving the victimization. Fears and anxieties that plague victims during the investigation may re-surface.

Communicating with and keeping victims informed throughout the investigation and subsequent arrest help prepare them for future stages in the case. Victim service providers can assist law enforcement agencies by:

- Notifying victims of an arrest;
- Keeping victims advised about the detention and location of the assailant;

- Keeping victims informed of any changes in detention status, alleged assailant's location or bail;
- Supporting victims through police line-ups necessary to identify the assailant; and
- Providing or securing counseling or other emotional support needed by sexual assault victims.

Initial Appearance/Arraignment

The initial appearance in court or the arraignment hearing can also lead to added anxieties for sexual assault victims as they may relive the assault⁴ and fear their assailants' reprisals. Supporting victims and maintaining open communication are very important during this process. Victim service providers play important roles by:

- Keeping victims notified of the time and place of the arraignment;
- Keeping victims informed of the status of the hearing and any subsequent court dates;
- Discussing special conditions with victims;
- Arranging transportation to and from the hearing;
- Representing victims' views when identification has not been made by victims; and
- Requesting special protection for victims, if necessary.

Federal and state legislation afford legal protection to victims by addressing some of the issues identified above. As described in *Chapter I: Looking Back -- Moving Forward*, in many states, victims must be notified of court schedule changes, pre-trial or bail release dates, final disposition and sentencing. Twenty-four states require victim involvement at critical decision points such as plea negotiations. State statutes also dictate victims' access to court and allocution, as well as specific courtroom procedures.

As part of the process used to develop protocol, the Interagency Council should review and consider legal mandates and statutes governing roles, responsibilities and actions during court processes. Additionally, Interagency Council members should consider judicial requirements when developing protocol and identifying agency roles and responsibilities. Rules that govern

courtroom procedures often supersede statutory provisions if the court finds that statutes infringe on its Constitutional status as a separate branch of government. Victim service providers may provide valuable assistance to victims by providing an orientation to the operation of the court system and what victims can expect.

Pre-Trial

As cases progress through the criminal justice system, there may be a tendency to focus more attention on offenders than on victims. As the case is prepared for the grand jury or preliminary hearing, attention focuses on ensuring that assailants do not abscond, that they appear in court (if appropriate), and that they are prosecuted.

Interagency Councils can help keep the process victim-centered by keeping victims informed and involved in legal aspects of the case -- responsibilities for which victim service providers are well-suited. As the grand jury or preliminary hearing dates approach, victim service providers can:

- Help prepare and support victims during case preparation by serving as an advocate and communication link among agencies;
- Keep victims notified of the status of the grand jury proceedings and alleviate concerns or fears associated with their testimony;
- Ensure that victims are included in and/or consulted about the hearing process, if appropriate;
- Ensure that the opinions and desires of victims relating to the hearing are known;
- Urge the prosecution to move for a speedy trial; and
- Strive to ensure that hearing dates accommodate, to the extent possible, the needs and schedules of victims.

As discussed above, when developing protocol, Interagency Council members should review and consider legal mandates and statutes governing roles, responsibilities and actions during criminal justice processes.

Plea Negotiations

Plea negotiation decisions are often based on: 1) the legal sufficiency of the case; and 2) perceived threat by the assailant to the community. Often, victims' needs and desires are not considered when making these decisions. In a victim-centered approach, victim service providers can help reduce fears and anxieties by keeping sexual assault victims informed during preparation of cases by the prosecution, and ensure that the opinions, thoughts and needs of victims play a role in decision making.

Victim service providers, working closely with other Interagency Council members (particularly the prosecutor), can:

- Keep victims informed of plea negotiations, motions and continuances;
- Coordinate victim "on-call" systems for court appearances;
- Make sure that victims' opinions concerning plea negotiations are conveyed to the court and are considered when accepting pleas;
- Advocate with the prosecutor and the court to give victims an opportunity to express their objection to plea negotiations (if they so wish); and
- Make certain that victims' needs are considered prior to making decisions about restitution, sentencing, etc.

Victim service providers serve as advocates for victims, keeping victims' needs prominent in the minds of criminal justice personnel who are involved in the case. In this role, victim service providers strive to ensure that the needs of victims are a primary consideration when making case decisions.

Trial

Victim service providers play dual roles during trials -- they provide support to victims and ensure that victims needs are prominent in the awareness of people in decision making positions. In their roles, victim service providers can:

- Accompany victims to court;

- Work with the prosecutor or court to provide separate areas for defense and prosecution witnesses and victims -- both primary and secondary;
- Advocate for victims to have the same access to court proceedings and courtrooms as that afforded the defendants -- unless there are sound legal reasons to not permit their presence;
- Provide or secure ongoing emotional support to victims as needed; and
- Communicate with victims to keep them informed of court proceedings, changes in dates, etc.

Sentencing

The dual role of victim service providers at the time of sentencing is similar to the role described earlier -- as advocates for victims, and as information links. At the time of sentencing, victims' opinions should be communicated to prosecutors and judges for consideration when making decisions about plea negotiations; terms and conditions of probation; payment of restitution; and other sentencing options.

Victim service providers can assist the prosecutor by helping victims prepare *Victim Impact Statements (VIS)*. A VIS documents the effect of the sexual assault on the victim and the victim's family. The VIS presents the victim's perspective and can be used to balance the usually favorable information provided by the offender and the offender's friends and family for the Pre-Sentence Investigation (PSI) report, and are used by judges in making sentencing decisions. The VIS can be used to support claims for restitution and payment for medical and psychological treatment. Sexual assault victims should also be able to speak at the sentencing hearing, providing first-hand information to the court about the impact of the sexual assault on them and their families. Victim service providers can provide continued support and protection to victims by advocating protection orders with no-contact provisions to be included with sentencing conditions.

The Interagency Council should review and consider legal mandates and statutes governing roles, responsibilities and actions which relate to sentencing and victim participation in court processes. These mandates will affect local protocol.

Appeals

Victim service providers should be prepared to provide sexual assault victims with continued emotional support when their assailants appeal their convictions or sentences. Victims need to be informed if their assailants are released pending decisions by the appellate courts. If the assailant is released, sexual assault victims should be told what action to take if they are harassed or threatened in any way.

When the appellate decision is made, the prosecutor and the victim advocate should review the decision with the sexual assault victim. The prosecutor needs to help victims understand the grounds of the reversal. If the conviction was overturned, victims also need to understand what actions the prosecutor plans to take regarding a new trial. In addition, they need to know what their role will be if a new trial is sought.

Victim service providers should remind victims that irrespective of the outcome of the appeal, they may still seek redress through civil litigation.

Probation/Parole/Discharge

Decisions regarding probation, parole and release/discharge from incarceration do not usually encompass what is appropriate or in the best interest of victims. The *Final Report* of the President's Task Force on Victims of Crime, proposed several recommendations regarding parole board actions as they relate to victims of crime. Among the recommendations are:

1. Parole boards should notify victims of crime and their families in advance of parole hearings, if names and addresses have been previously provided by these individuals.
2. Parole boards should allow victims of crime, their families, or their representatives to attend parole hearings and make known the effect the offender's crime had on them.⁵

Victim service providers can play a role in release decisions (which include probation, parole and discharge) by advocating that victims' needs, as well as requirements for restitution payments, are included in the conditions of probation, parole or discharge. Victim service providers can inform sexual assault victims of scheduled parole hearings and assist them with VIS preparation prior to the hearings. In addition, victims service providers can provide support

to victims who wish to personally appear at parole hearings. They also can provide information to victims about release decisions. Many corrections agencies have victim advocate programs that other victim service programs should interface with.

As members of the Interagency Council, victim service providers can work with other members to develop protocol for enforcing conditions of probation and parole and dealing with violations, *e.g.*, priority prosecution of sex crime perpetrators who violate probation or parole, intensive supervision supplementing probation and parole officers with police officers, etc. Victim service providers have a secondary role that entails encouraging sexual assault victims to report harassment or non-payment of restitution to a point of contact within law enforcement, prosecution or corrections. Victim service providers, as well as other Interagency Council members, can serve as additional eyes and ears of prosecution and law enforcement and help ensure that, when conditions are violated, the criminal is held accountable.

The release of an offender back into the community may present additional concerns and trauma for victims. For this reason, victim service providers play another important role by providing continued support and assistance to sexual assault victims during this time of crisis in their lives.

Incarceration

During the time an offender is incarcerated, there may be a tendency by the criminal justice system to forget about victims. Sexual assault victims may also view the incarceration as a final step in the criminal justice process -- the assailant was apprehended and therefore is no longer a threat.

While incarceration may present a brief period of relief for victims, it remains a time of continued need for support and assistance. Communicating with sexual assault victims remains a priority as circumstances such as pending release, furlough dates, parole hearings and changes in the offender's status arise. Victim service providers can help prevent premature release by helping victims to update their Victim Impact Statements for periodic submission to the parole board. Victims may also request that a victim service provider accompany them to a parole hearing, if they choose to testify. Victim service providers should inform sexual assault victims about enrollment procedures for notification programs within the department of corrections -- when they exist -- so that they can receive automatic notification of changes in prisoners' status.

After Cases are Completed

Victim service organizations are unique as they often continue to have contact with sexual assault victims long after perpetrators have completed their sentences. Some sexual assault victims may need emotional support and counseling services from victim programs for extended periods of time due to post-traumatic stress disorder related to their assaults (Appendix B has a discussion of post-traumatic stress disorder and rape trauma syndrome). Often sexual assault victims experience episodic panic attacks, sleeping disorders and other manifestations of the trauma induced by their assaults. Victim service programs help individuals who were sexually assaulted cope with these episodes of psychological stress.

CONCLUSION

For most agencies involved in a victim-centered, multi-disciplinary approach to sexual assault, the challenge is to become more sensitive to the needs of victims throughout the case. Victim service providers do not face the same challenges. As primary advocates for victims, they are already in a key position to encourage and support efforts and actions that are victim-centered. Additionally, they are in a unique position to work with other Interagency Council members because their work on behalf of sexual assault victims brings them into contact with other agencies and organizations at all stages of case processing.

Perhaps the most difficult challenges for victim service providers are to *promote* the victim-centered approach and to serve as a liaison between victims and criminal justice agencies and other organizations. They need to achieve an effective balance between representing victims and understanding the criminal justice system's legal and traditional functions. The Interagency Council's protocol establish the guidelines for maintaining this balance. Victim services are important at each phase of the criminal justice system's process -- from the initial report of the sexual assault, to beyond involvement by all other Interagency Council members. If law enforcement, prosecution and medical disciplines are the building blocks of the response system for sexual assault cases, victim service programs are the cement which holds the system together for victims.

NOTES

1. Young, "Psychological Trauma of Crime Victimization," 1992, p. A-1.
2. Roberts, 1990, p. 107.
3. Rowland, 1985, p. 340.
4. Ibid.
5. United States, 1982, p. 83.



**National
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**CHAPTER VIII:
MEDICAL RESPONSIBILITIES OF THE
INTERAGENCY COUNCIL**

CHAPTER III:

INTERAGENCY COUNCIL REPRESENTATION AND COMMUNITY PARTICIPATION

INTRODUCTION

This chapter has two major sections:

1. Suggestions for Interagency Council membership from both core agencies and a broad array of other organizations representative of diverse constituencies.
2. Discussion of distinct populations of sexual assault victims and the necessity to incorporate their needs in the Interagency Council's protocol.

The first section of this chapter contains suggestions for members of the community Sexual Assault Interagency Council. The core membership consists of law enforcement, prosecution, health and victim service agencies and organizations. Additional types of agencies are suggested for expanding the Interagency Council in order to have a continuum of services represented.

A victim-centered approach recognizes and responds to differences in each community -- particularly as related to population needs and geographic settings. This section of the chapter describes how the needs of different *communities within communities* and jurisdictions should be considered by the Interagency Council when developing a victim-centered system. Characteristics of the following are discussed:

- Urban communities;
- Rural communities;
- Closed communities;
- Federal properties; and
- Communities of significant cultural, religious or ethnic groups.

The second half of this chapter discusses distinct populations of sexual assault victims whose specific needs require explicit protocol. These distinct population groups include children and the elderly, individuals with disabilities, the homeless, and persons assaulted by their intimate partners. This second section also discusses linkages with organizations able to provide some of the services required by these distinct victim populations.

BENEFITS OF COMMUNITY PARTICIPATION IN PROTOCOL DEVELOPMENT

The concept of sexual assault as a *community* concern serves as the starting point for transforming the criminal justice system's response to sexual assault. In the context of community responsibility for addressing the issues of sexual assault, the set of respondents may be enlarged beyond the traditional criminal justice system. By extending the responsibility for sexual assault response to the *community*, criminal justice agencies expand the resources they may mobilize to assist victims.

A victim-centered system begins with a core of criminal justice agencies, health care facilities and victim service organizations, with appropriate linkages to other service providers in the community. Because each community is unique in its matrix of services, the composition of the Sexual Assault Interagency Council will reflect the uniqueness of the community.

A primary goal of developing a victim-centered system to respond to sexual assault is to *empower* the victim to make choices. Empowerment "is a primary antidote to rape trauma."¹

When practitioners "march on" with their work, implementing standard procedures without concern for their rape victim's right to know and choose among alternative procedures, they reinforce her* status as victim, ignore her capacity for survival, and undermine her recovery.²

Other goals which the victim-centered community response to sexual assault can help achieve are to:³

* This quotation refers the specific sexual assault of "rape" and, therefore, references the victim as "her." Male sexual assault victims also need to be empowered to make choices and to know what is being done and why it is necessary.

CHAPTER VIII: MEDICAL RESPONSIBILITIES OF THE INTERAGENCY COUNCIL

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CHAPTER VIII:

MEDICAL RESPONSIBILITIES OF THE INTERAGENCY COUNCIL

INTRODUCTION

Chapter I: Looking Back -- Moving Forward introduces a composite case of a sexual assault victim. In this case, taken from the 1982 *Final Report* of the President's Task Force on Victims of Crime, the sexual assault victim is taken to a hospital emergency room; left alone for hours in a public area; treated by an intern who seems more irritated by being called out than he is interested in the victim's injuries; and who asks inappropriate questions such as, "Did you know the man you had sex with?" The nurse is portrayed as judgmental. The sexual assault victim, dressed only in a hospital gown because her clothes are taken as evidence, goes home in a cab. Later, the hospital sends the victim a bill for its emergency services. This is the kind of horror story which serves to deter victims from seeking appropriate medical care at the time of the assault.

There are numerous examples of sexual assault victims who received similarly callous and uncaring medical treatment at the time of their sexual assaults. Consider the experience of one sexual assault victim as reported by David Austern in his 1988 book, *The Crime Victim's Manual*. The victim, a law student on her way home from class, was raped and beaten. She was taken to the hospital, given a gynecological examination "in a portion of the emergency room that was neither enclosed nor in any manner private."¹ Her clothes, shoes and purse with its contents were taken as evidence and, in the middle of a cold rainy night, she was given a dollar to take a bus across town wearing only a paper dress and paper shoes.

The rape and beating were bad enough, but the way I was treated after that was even worse. I knew they could tear me apart in court, but I sure didn't know about the rest -- they took my clothes, my money, my keys, my credit cards, they examined me in public, they insulted me, and then they billed me. . .

You know, next time I won't even scream. Somebody might hear me and call the police.²

Both of these cases -- the composite from 1982 and the more recent experience related by Austern -- point to the need for reforms in the manner that sexual assault victims receive medical attention for injuries related to their assault. Fortunately, many of the needed reforms are well underway. As described later in this chapter, in some areas specially trained nurse examiners have replaced physicians as the primary caregiver for sexual assault victims. Furthermore, rape crisis centers are developing segregated examination rooms -- some independent of hospitals -- so that the needs of sexual assault victims are not placed in competition with life and death emergencies common to emergency rooms. Finally, some hospitals are developing advocacy programs for sexual assault victims in order to expedite their examinations.

Some states, such as Illinois, Kentucky, Arkansas, Delaware, Alabama, and Florida, adopted standardized protocol for forensic and medical examinations³ developed through support from the U.S. Department of Justice, Office for Victims of Crime. These protocol guide comprehensive medical examinations and evidence collection procedures throughout the states in which they are operational.

ROLE OF MEDICAL CAREGIVERS

Sexual assault cases present several areas of concern for medical personnel. As stated in *Rape: The Evidential Examination and Management of the Adult Female Victim*:

Medical needs [of sexual assault victims] include prompt attention to injuries (which may be life threatening), and careful documentation of all objective signs of trauma (however subtle), which may be crucial to corroboration of later testimony. Evaluation for and prevention of unwanted pregnancy and sexually transmitted disease are essential aspects of medical care.⁴

In addition to diseases and physical trauma caused by the sexual assault, the emotional impact may be the most significant injury and should also be a concern of medical personnel attending to the needs of the victim.

Until recently, whenever *medical personnel* were referenced in discussions of sexual assault one could infer that the individuals in question were physicians. The traditional justification for physician involvement is based upon several premises:

- The physician-patient relationship is often cited as the optimum facilitator of trust, veracity, and reassurance.
- The legal community feels that physicians are more credible witnesses than other health care providers.
- Hospital emergency rooms are available 24-hours a day and therefore, sexual assault exams have been incorporated into the regular duties of emergency room physicians.⁵

Direct physician involvement in sexual assault cases, however, is changing. The next section describes some innovative programs that use specially trained nurses for sexual assault examinations.

INNOVATIVE MEDICAL HANDLING OF SEXUAL ASSAULT

Some hospitals and medical care providers have developed innovative approaches to meet the needs of sexual assault victims and, at the same time, fulfill their responsibilities for the collection and preservation of evidence. These innovations range from using specially trained nurses to collect evidence, to assigning victim care coordinators to victims throughout their stay in the emergency department.

The intent of these programs is to enable victim-centered services to be delivered to sexual assault victims. Programs operate under the direction of physicians who are on-call to care for sexual assault victims with serious physical injuries. Most sexual assault victims do not require treatment from a physician and, as the following examples indicate, these innovative approaches result in more sensitive treatment for victims with less waiting time.

Nurse Examiners

For the past ten years, nurse examiners have been used in Hillsboro County, Florida to examine sexual assault victims. Originally, the program operated out of the emergency room of a hospital, but in 1990, after all of the nurses in the program had been upgraded to Advanced Registered Nurse Practitioners, the program relocated. It now operates from the Hillsboro County Crisis Center Office where the examination takes place in quiet, pleasant surroundings and with few people present. If necessary, the program provides a change of clothing to the

victim. Donated toiletries and showers are available for victims who wish to wash before leaving.⁶

A similar program is operated by the San Francisco Rape Treatment Center. Sexual Assault Nurse Examiners (SANEs) with special training take medical histories and perform evidentiary exams. They also make patient assessments, order and interpret laboratory tests, and formulate and implement plans of care based upon standardized protocol.⁷

These programs are just two examples of the use of SANEs for handling the medical and forensic evidence collection needed of sexual assault victims. The designation of a nurse as a SANE has become a recognized nursing specialty with prescribed training and professional preparation. Both of the programs described above operate under the direction of physicians; however, the use of qualified nurses results in a more economical approach to quality care than that provided by attending physicians. The nurse examiners have been found qualified to testify in court about medical procedures used and the results.

Hospital-Based Advocacy Programs

Some hospitals, such as St. Luke's Roosevelt in Brooklyn, New York, and Boston City Hospital in Massachusetts, provide sexual assault victims with advocacy services. St. Luke's Roosevelt Hospital has male and female advocates who are trained to assist and support victims through emergency treatment procedures.

The Advocate may provide personal or moral support, may help the patient understand policies, procedures and medical care, may assist the patient in gaining understanding of any of the issues or from any of the individuals involved with the treatment. The Advocate's role is highly personal and individual and will vary with every patient and with every Advocate.⁸

Boston City Hospital provides either a social worker or registered nurse designated as the Victim Care Coordinator (VCC). The VCC oversees the provision of care throughout the victim's stay in the emergency department. The use of the VCC and a standardized sexual assault evidence collection kit has decreased the amount of time a victim is required to spend in the emergency department by an average of 1.5 hours.⁹ In addition, Boston City Hospital provides up to four follow-up supportive counseling sessions with a masters-prepared psychiatric registered nurse or social worker.

DEVELOPING MEDICAL PROTOCOL IN A VICTIM-CENTERED SYSTEM

Medical care providers working with sexual assault cases traditionally work in a multi-disciplinary environment:

- They work with law enforcement agencies collecting forensic evidence;
- They work with prosecutors preparing and presenting testimony; and
- They work with sexual assault victims, addressing victims' medical and emotional needs.

Hospital personnel may also work with rape crisis counselors or other advocates who accompany victims to or are called to meet them at the hospital. This history of multi-disciplinary involvement may facilitate participation of medical caregivers on the Interagency Council.

The following sections discuss some of the medical concerns of sexual assault victims as they progress through the criminal justice system. These sections do not address medical, forensic or legal procedures. The Interagency Council should not overlook these areas but should incorporate victim participation in decision making. There are several excellent protocol addressing medical and forensic procedures in sexual assault cases.

The Sexual Assault and Report

As referenced in *Chapter I: Looking Back -- Moving Forward*, the study *Rape In America: A Report to the Nation* shows that 84% of rape victims never report the crime and another 4% wait longer than 24-hours before they report.¹⁰ In only 17% of all rape cases were there medical examinations. Of the cases in which there were medical examinations, 60% occurred within 24-hours of the assault.¹¹ Some victims seek assistance from their physicians or from emergency care facilities but in only two-thirds of the cases did sexual assault victims tell their doctors that they had been sexually assaulted.¹² Many sexual assault victims who seek help from medical caregivers may not want to report the assault to the police. Although reporting requirements vary from jurisdiction to jurisdiction, in general, all suspected sexual assaults of minors are required to be reported to a child protection agency by physicians, nurses and other health care professionals. Adult victims (individuals 18 years of age or older) may decide whether or not

to report their sexual assault to law enforcement agencies. "In general state statutes usually provide guidelines, but in many instances, the practical application of the law is left to the discretion of the local district attorney and police authorities."¹³ *This suggests that protocol should resolve the issue of handling sexual assault cases when victims report to hospital emergency rooms.* To the extent permitted by state laws, victims should be free to make informed decisions about whether or not to report the assault. Without exerting pressure on victims to report, medical personnel or victim advocates should discuss the available options with them.

The Emergency Room

Although the emergency room has evolved to be the primary source of medical care and forensic examination for sexual assault victims, it may be far less than an ideal environment:

Most emergency departments are organized with single physician coverage. From the rape victim's perspective, the results are long delays (often hours) before the exam begins and frequent interruptions as the physician is called away to attend to more urgent or life-threatening medical problems.¹⁴

The problem of emergency department physicians being called away for other patients may be overcome by using a specially trained nursing staff, as described earlier. *Rape In America* documents that only 4% of rape victims have serious injuries necessitating emergency room medical care.¹⁵ This finding supports the use of nurse examiners and non-hospital-based facilities for most sexual assault evidential examinations.

The problems of the physical surroundings and lack of privacy in an emergency room setting may be resolved by designating an area in a more private location in the hospital to conduct medical and forensic examinations of sexual assault victims:

A private location within the hospital, such as a room adjacent to the emergency department or a private office located nearby, should be utilized for the preliminary consultation with the victim. In order to prevent others from hearing the conversation, a similar facility should be used for the follow-up law enforcement interview at the conclusion of the examination.¹⁶

The Interagency Council should work with medical personnel providing care and performing forensic examinations to identify non-emergency room alternatives for assisting sexual assault victims.

Consent

Obtaining the consent of sexual assault victims for various needed medical and evidentiary procedures is an on-going process:

Consent for evaluation and treatment of medical problems is the same as for any other patient presented to the emergency department in need of care. Additional, separate consent must be obtained for any photos that are taken, for the collection and performance of special forensic tests, for the release of any physical evidence from the hospital laboratory to the criminalistic laboratory, and finally, for the release of information from the patient's hospital record to appropriate authorities in the criminal justice system.¹⁷

Sexual assault victims have the right to consent to medical treatment, including professional evaluation of physical and emotional trauma, and the detection and prevention of sexually transmitted diseases; but may still refuse authorization for the evidentiary examination. Medical personnel or victim advocates need to inform victims of the significance of refusing the evidentiary examination and encourage victims to allow evidence collection, even if they do not anticipate filing charges at the time of the examination.^{18 19} Without this evidence, prosecutors may not have probable cause to file charges, even if sexual assault victims change their minds at a later date.

Medical Intake

When sexual assault victims go or are taken to health care facilities, the first responsibility is to determine the extent and seriousness of any injuries and to treat them. Unless the victims are accompanied by victim advocates or crisis counselors, hospital personnel should inquire if they want assistance from trained victim advocates, possibly from rape crisis centers or other victims' organizations. Utilizing victim advocates provide advantages to both the medical facility and the victim. It assures that victims will have someone with them for the duration of the hospital stay, freeing hospital personnel for other duties. Further, a victim advocate not only provides constant accompaniment, but is also a source of accurate information for victims about the procedures they are going through, as well as what they might expect in the future.

During the intake process, medical personnel need to explain the forensic examination to the sexual assault victim: the procedures used, any potential discomfort, and the importance of collected evidence in later prosecution of the case. As indicated in the previous section, victims

need to be given the choice of having the evidentiary examination. They also need to know that having the examination does not require them to file charges in the future and that the hospital can retain the evidence for a specified period of time until the victim decides.²⁰

Forensic Examination

Although specific evidence collection procedures are not discussed in this section, the Interagency Council should incorporate standardized evidence collection procedures into the protocol they develop. A victim-centered protocol will be sensitive to the amount of discomfort experienced by the sexual assault victim, and evaluate procedures based upon their evidentiary value and balanced against the present state of the victim. For example, many of the medical protocol submitted in response to the call for protocol for this guidebook specify that 15 - 20 pubic hairs be *plucked* (a potentially traumatic process) from the victim for comparison evidence. Yet, forensic experts say that pubic hairs are important in less than one percent of sexual assault cases and could probably be collected when and if it is determined they are needed.²¹

Another example of being sensitive to victim discomfort is discussed in *Sexual Abuse of Young Children: Evaluation and Treatment*:

The classical knees to chest, face-down position has been abandoned by many examiners. This position is a possible re-enactment of the abuse of boys and is threatening to them. We place the boys in a left lateral decubitus (lying on the side) position and ask them to grasp their knees "like a cannonball" which results in excellent visualization.²²

Although this guidebook does not have child sexual abuse victims as a focus, this example is presented because it shows how increased awareness of the effect of a particular procedure can lead to changes that ease the impact of the examination on victims.

Medical Concerns Related to Sexual Assault

Sexual assault victims may have a number of medical concerns about possible consequences of the assault. These concerns include the possibility of pregnancy, infection with a sexually transmitted diseases (STDs), and infection with HIV which eventually leads to AIDS.²³ Each of these concerns should be addressed by standard protocol. Victims need to be told about

prophylactic or prevention measures that can be administered at the time of the medical examination, and about the incubation periods and symptoms of STDs (including HIV/AIDS).

Many victims have religious and moral concerns about terminating pregnancy -- even if the pregnancy was caused by rape. If so, they may feel the need for spiritual guidance or consultation with family members before agreeing to prevention or termination of a possible pregnancy. Many hospitals have chaplains on staff who may be able to assist victims with addressing these difficult personal choices.

For the past decade, the entire world has suffered from a plague unlike any in modern times, that of HIV/AIDS. The HIV infection leads to AIDS -- the depletion of the body's disease fighting cells and increased susceptibility to a host of opportunistic infections which eventually results in death. HIV is contracted through the exchange of bodily fluids, and for that reason some sexual assault victims are in danger of becoming infected -- especially children.* At present, there is no known cure for the HIV infection.

Irrespective of the sexual assault perpetrator's HIV test results** (if available), those victims whose assault included the possible exchange of bodily fluids -- semen, blood, urine or saliva - - should be counseled to have an HIV test. To preserve the confidentiality of the results, the testing for HIV should be anonymous with the results disclosed only to the victim. Because antibodies to HIV do not show up immediately, the victim should be tested for HIV at six-month intervals for eighteen months to two years. This testing provides the opportunity for early detection and, if the victim is infected, enables early treatment which can prolong years of productive life. The victim also needs to receive prevention information addressing the transmission of the HIV to others.

Because there are constantly new developments in HIV/AIDS research, the agency responsible for advising sexual assault victims in this area should have access to information concerning medically advanced treatment. The Interagency Council protocol should delegate the responsibility to an appropriate agency to collect information and provide the other participating

* Child sexual assault victims of HIV infected assailants may be more susceptible to HIV infection. The relative smallness of their body orifices and tenderness of their tissues makes tearing of tissues more likely, thereby allowing viruses contained in semen, saliva and blood to infect the child.

** Research is in progress that would enable testing blood, urine and semen found at the crime scene for traces of HIV. If successful, these procedures could provide sexual assault victims with their assailants' HIV status whether they consented to being tested or not.

agencies with updates concerning HIV transmission and treatment. Appendix C has additional information concerning HIV/AIDS.

Referral for Follow-up Medical and Psychological Treatment

Medical personnel performing examinations of sexual assault victims should arrange for follow-up treatment for injuries or conditions arising from the assaults. Treatment may be provided by victims' personal physicians or by other appropriate practitioners selected by the victim.

Medical caregivers or victim service providers may also make referrals for psychological counseling to deal with the emotional stress caused by the sexual assault. Most sexual assault victims benefit from short-term counseling after being assaulted. When counseling is not provided, long-term after effects may manifest themselves throughout a victim's lifetime. The results of the study *Rape In America: A Report to the Nation* indicate that nearly "one-third of all rape victims will develop rape-related PTSD [post-traumatic stress disorder] in their lifetimes" (See Appendix B). Other psychological problems associated with the aftermath of sexual assault include depression, suicide and substance abuse.²⁴

CRIME VICTIMS' COMPENSATION

Prior to leaving the hospital or other medical facility, sexual assault victims should be given information concerning their eligibility for assistance from the state's Crime Victims' Compensation program or other sources of public assistance. Victims also need to be informed of the state's responsibility to pay for costs associated with the collection of evidence. For example, in the state of Washington, statutes provide:

No costs incurred by a hospital or other emergency medical facility for the examination of the victim of sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.²⁵

As of 1991, similar statutory provisions existed in 30 states.* Protocol for hospital personnel should include guidance for providing victims with information about payment for the evidentiary examination, as well as application procedures for victims' compensation. If victims want to apply for compensation through the state's program, either hospital staff or the victim service provider should provide assistance with the paperwork.

NON-EMERGENCY MEDICAL ATTENTION FOR SEXUAL ASSAULT VICTIMS

The previous sections of this chapter discuss the medically related problems of sexual assault victims in terms of an early report. The study *Rape In America* documented that only 17% of all rape cases had a medical examination following the sexual assault.²⁶ An additional concern is that only two-thirds of the rape victims in this study told their doctors that they had been raped.²⁷ The fact that a person has been sexually assaulted is a serious medical concern with possible long-term aftereffects.

The American Medical Association's Council on Scientific Affairs points out that

Rape victims appear to be frequent users of medical services in the months and years postassault. In one study, visits to physicians increased 18% in the year of the assault, 56% in the following years and 31% the year after, compared with previctimization levels. . .

Although most emergency departments have established protocols for rape victims who are seen soon after they have been raped, only a small minority of victims seek this type of assistance. Other victims present to private physicians or emergency departments with complaints based on the symptoms, but do not disclose that an assault has occurred. Still others do not present until months after the incident, but then contact the medical community repeatedly over time. Early identification of rape trauma by medical staff can help de-mystify nonspecific medical complaints and enable the physician to make appropriate referrals to help sources to assist with rape recovery.²⁸

Interagency Councils should recognize that many sexual assault victims do not report their victimization. Local physicians should be encouraged by the Interagency Council to screen their

* While 30 states and the Federal government specifically pay for forensic examinations of sexual assault victims, the remainder of the states allow compensation for medical expenses for crime victims and so would appear to cover the expenses of the forensic examination this way.

patients for having been sexually assaulted and protocol should guide referrals by physicians to the appropriate community resources for victim assistance.²⁹

CONCLUSION

Sexual assault victims seeking aid from a hospital or other emergency care provider have been subjected to an assault that was probably the single most physically and emotionally traumatic experience of their lives. Meeting the needs of these victims requires a separate, private examination area. Consideration should be given by the community Sexual Assault Interagency Council to provide an alternative to the hospital emergency department for evidential examinations. Staff assigned to the examination and treatment of sexual assault victims need to be specially trained for this responsibility.

Sexual assault victims need to re-establish control over their lives and, therefore, should be asked for their consent prior to performing any medical or forensic procedures. Information should be available concerning the risk of pregnancy, sexually transmitted diseases and HIV/AIDS; tests and prophylactic measures should be included in the Interagency Council's protocol.

When sexual assault victims enter the emergency department for examination and treatment, they should be given priority. Staff should be non-judgmental and caring. And when victims leave the hospital, transportation and clothing should be provided when needed.

Due to the small percentage of sexual assault victims that are seen in the emergency department subsequent to their assault, other medical personnel in the community should screen their patients who have symptoms indicating possible assault and make referrals to appropriate treatment resources in the community.

NOTES

1. Austern, 1987, p. xiv-xiii.
2. Ibid.
3. Generally from, Goddard, 1986.
4. Green, 1988, p. 2.
5. Ibid., p. 47.
6. Huckins, 1991, p. 1-4.
7. San Francisco Rape Treatment Center, 1991, p.1.
8. St. Luke's/Roosevelt Hospital Center, 1988, p. 2.
9. Meunier-Sham and Paradise.
10. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 6.
11. Ibid., p. 5.
12. Ibid.
13. Green, 1988, p. 51.
14. Ibid. p. 48.
15. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 4.
16. State of Delaware, 1989, p. 5.
17. Green, 1988, p. 52.
18. Ibid.
19. Goddard, p. 21.
20. Ibid.
21. Green, 1988, p. 126.
22. MacFarlane and Waterman, 1986, p. 57.
23. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 5.
24. Ibid, p. 14.
25. Wash. Rev. Code § 7.68.170 (1979).
26. National Victim Center and Crime Victims Research and Treatment Center, 1992, p. 5.

27. Ibid.
28. Council on Scientific Affairs, 1992, p. 3185.
29. Ibid., p. 3188.



**National
Victim Center**

**CHAPTER IX:
EXPANDING THE
INTERAGENCY COUNCIL**

CHAPTER IX: EXPANDING THE INTERAGENCY COUNCIL

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CHAPTER IX:

EXPANDING THE INTERAGENCY COUNCIL

INTRODUCTION

The previous four chapters discuss the roles of prosecutors, police, victim service providers and health care professionals as members of the community Sexual Assault Interagency Council. The well-defined roles of these disciplines in sexual assault cases are clear for most jurisdictions. This chapter discusses additional agencies and organizations that should be considered for membership and/or other advisory positions on the Interagency Council.

Interagency Council members share a commitment to address the problem of sexual assault in the community and alleviate its impact on sexual assault victims. Law enforcement agencies, prosecutors' offices, medical care facilities, and victim advocacy organizations meet these criteria; however, they are not the *only* agencies or organizations in the community that share this commitment to sexual assault victims. The following sections discuss roles and responsibilities for additional agencies, organizations and individuals in jurisdictions whose participation can increase the effectiveness of Interagency Councils.

SOCIAL SERVICES

Public and social service agencies provide a variety of support services for sexual assault victims. In child sexual abuse cases, child protective services (CPS) divisions of social service agencies are legally responsible for receiving and investigating reports of child sexual abuse. In fact, in many communities, child abuse cases are handled by a multi-disciplinary team similar in composition to Interagency Councils. (Child sexual assault cases are discussed in more detail in *Chapter III: Interagency Council Representation and Community Participation.*)

Similarly, sexual crimes against elderly victims -- including crimes committed by family members, caregivers and strangers -- are often reported first to Adult Protective Services (APS). APS in some states have formed multi-disciplinary teams to investigate allegations of sexual assaults against the elderly, and coordinate the best provision of services to victims that may be impaired because of their age.

In addition to CPS and APS responsibilities, social service agencies may provide homemaker services, food stamps, health care and other services to income-eligible recipients. Sexual assault victims may lose income, jobs or be incapacitated, thereby becoming eligible for social services and public assistance. Many other victims who are receiving public assistance at the time of the assault may need additional support because of the assault.

Social service agency participation on the Interagency Council can help expedite delivery of required services to sexual assault victims. Protocol should include referral criteria such as eligibility for specific available services, and the social service agency should expedite processing of applications from victims.

Expedited service delivery to sexual assault victims may simplify the ability of the law enforcement and prosecutorial agencies to process some cases. For example, a homeless woman who has been sexually assaulted may not have an address to receive notices of hearings and trial. Communication between the victim and criminal justice agencies working on the case can be simplified by social services intervening and providing housing to the victim.

MENTAL HEALTH

Nearly all sexual assault victims need initial crisis counseling after the assault. Various studies suggest, however, that only a small percentage of rape victims seek help at the time of their rape. Many women attempt to cope on their own immediately after their assault. However, nearly half of one sample of non-recent victims eventually sought help for assault-related concerns.¹

Although fewer than half of these victims *seek* help for mental health problems identified as related to their assaults, the study *Rape In America: A Report to the Nation* documents an over-representation of depression and suicide attempts among sexual assault victim populations.² This

supports the assertion that the mental health needs of sexual assault victims have been left largely unaddressed.

There are four different approaches to mental health services for sexual assault victims:

- A single-session trauma debriefing procedure for recent victims;
- Individual reintegrative treatment for victims who seek therapy months or even years after their assault;
- Group treatment with other victims; and
- Public education designed to reach victims who never sought formal services.³

Community rape crisis centers can often fulfill many of the crisis counseling needs of sexual assault victims. Additional mental health resources are required when services are not available through a rape crisis center or other victim advocacy organization. More extensive services are also necessary when victims require long-term psychotherapy. It is advantageous for community mental health centers and rape crisis centers to work together, sharing their respective expertise and resources to ensure that victims are provided with appropriate mental health care. Such teamwork can be facilitated under the aegis of the Interagency Council.

The Interagency Council should seek expertise and advice from mental health professionals who are knowledgeable about current trends in sexual assault treatment and support for victims. Treatment for the trauma of sexual assault is an ever-evolving profession, and one that requires up-to-date knowledge of current research and its application to practice.

Mental health counselors can also serve as resources for the Interagency Council by providing training and technical assistance, serving as expert witnesses in criminal and civil trials, and addressing emotional stress experienced by staff members assigned to sexual assault cases.

SCHOOLS/COLLEGES/UNIVERSITIES

Interagency Councils should consider a wide variety of educational institutions as potential members. Many school systems, colleges and universities have their own security forces -- some with regular policing powers. Students may report sexual assaults taking place on campus to campus police, to school administrators or to a trusted teacher. Experience has shown that

schools are often reluctant to file official reports of sexual assault due to possible bad publicity or, in cases in which the assault was perpetrated by another student, they prefer to handle the case through internal discipline processes that give the perpetrator the "benefit of the doubt." The provisions of the *Campus Sexual Assault Victims' Bill of Rights Act of 1991* that were reviewed in *Chapter III: Interagency Council Representation and Community Participation* reinforce the need for liaison between the Interagency Council and educational institutions.

The involvement of schools, colleges and universities should also include input from professionals with authority over educational policies, including: school boards for primary and secondary schools; Boards of Regents for colleges and universities; and Boards of Directors for private institutions. Similarly, other education-related groups concerned about potential crimes on their campuses -- including the Parent-Teacher Association, teachers' unions and professional associations of education employees -- should be aware of Interagency Council activities and, when possible, provided with opportunities for input.

There are benefits to including educational institutions on the Interagency Councils; however, inclusion of the reporting, investigating and prosecuting sexual assault cases that occur on campuses is *not* incumbent on the appointment of education representatives to the Council. Benefits include close coordination and communication with educational institutions in the community, thereby enabling an accurate assessment of sexual violence on campus and creating easier access for providing support services to campus sexual assault victims whose schools, colleges and universities are represented on the Interagency Council.

COURTS

The judiciary occupies a unique position in the criminal justice system. Judges are charged with maintaining an impartial position between prosecution and defense. Direct judicial involvement with the Interagency Council may be viewed by some as a violation of their neutral position. On the other hand, some judges are activist in nature, and believe that the system has tilted too far in its consideration of the rights of the accused. These judges often seek opportunities for greater involvement in addressing sexual assault victims' concerns.

It may be possible to have court participation through a staff member, absent the direct involvement of judges. Many courts have administrators who can represent courts on Interagency Councils. Court administrators often have extensive influence on judicial scheduling

and facility considerations -- two areas with potential victim impact. Another approach for court involvement is citizen watch-dog groups. One such group, the Council for Court Excellence in Washington, D.C., has undertaken studies of court operations *at the request of the court*. In communities where such groups exist, they may provide a valuable bridge between the court and the Interagency Council.

The Interagency Council should suggest court rules to their jurisdiction's courts. The rules would reinforce the community's concerns for the sensitive treatment of sexual assault victims by the court. Members of the Interagency Council should review existing court rules pertaining to victim involvement in judicial proceedings and suggest revisions in those areas where victims are not afforded explicit equity of access, process and privacy.

Judges often provide training and technical assistance for criminal justice agency personnel and should be involved in Interagency Councils' training programs. They can instruct in several different areas, such as legal issues related to sexual assault cases (including privacy protections), courtroom procedures and appellate court decisions.

CORRECTIONS

After defendants are convicted of felony sexual assault, responsibility for their supervision is generally vested in a state department of corrections. Traditionally, departments of corrections have focused upon the offenses for which offenders have been sentenced, the conditions of the sentence -- probation or incarceration -- and the length of time of the sentence. These are the critical elements that help determine the program in which the offender will be placed. These are all *system-centered* concerns.

Interagency Councils should be aware that state departments of corrections are becoming increasingly involved in providing important services to victims. These services range from monitoring payment of victim restitution to ensuring that victims are informed of changes in offender status. The following sections suggest ways in which Interagency Councils and state departments of corrections can collaborate to provide a complete victim-centered system in both community-based and institutional corrections programs.

Probation, Parole and Community Corrections

The involvement of community corrections with the Interagency Council is essential to ensure that sexual assault victims' rights are protected *after* a conviction. Probation and parole agencies are responsible for supervising offenders while they are in the community by monitoring their activities and securing compliance with conditions for remaining in the community. The roles of probation and parole officials are critical to helping sexual assault victims retain a sense of security when their assailants have community placements.

Probation officers work in concert with the prosecutor, defense attorney and judiciary to make recommendations about the convicted offender's sentence. In sexual assault cases, such recommendations include, but are not limited to:

1. Length of sentence;
2. Restitution to help victims recover costs associated with the crime, including short- and long-term mental health counseling;
3. Protective or stay-away orders to ensure the victim's security;
4. HIV testing every three months for up to two years (and in some states, providing the results to victims);
5. Community service;
6. Participation in treatment programs (particularly sex offender treatment programs); and/or
7. Participation in education programs (such as "Impact of Crime on Victims" programs in which offenders learn about the impact their crimes have on themselves, their families, their communities and their victims).

The sexual assault victim's input into a convicted offender's sentence and relevant conditions are usually included in a Pre-Sentence Investigation (PSI) report, which is completed by the probation officer. In some jurisdictions, a written Victim Impact Statement (VIS) is attached to the PSI; in other communities, the probation officer interviews the victim to obtain input about sentencing and recommended conditions of probation.

The Interagency Council should establish protocol that help guarantee victim involvement in pre-sentence investigations, especially through the use of VISs. The Interagency Council should help

coordinate such input among the involved agencies including: the prosecution, defense, judiciary, victim advocate, probation department and, perhaps most important, the sexual assault victim.

Similarly, parole agencies possess authority that can have a tremendous impact -- both positive and negative -- on the sexual assault victim. In most cases (except in states with determinate sentencing), the sentenced term of imprisonment is much longer than the term a convicted offender actually serves.⁴ Therefore, parole hearings often come as an unpleasant surprise to sexual assault victims.

Interagency Council protocol should specify that victims are to be notified of all parole release hearings, and that they can submit a VIS prior to or during the parole hearing.* The Interagency Council can develop protocol that includes a "check off" box on pre-sentence impact statements, which indicates the victim has requested to be *automatically* enrolled in the state paroling authority's victim notification program. The entire Interagency Council should coordinate efforts to make sure sexual assault victims are informed of and accorded any extended rights relevant to parole notification and input at parole hearings.

The ideal parole situation would include the support and advocacy of a victim service provider for the sexual assault victim. Since most parole hearings are held in penal institutions, victim attendance and participation can be an intimidating and frightening experience. In South Carolina, the Department of Probation, Parole and Pardons Services has a Victim Services Division whose staff help victims prepare impact statements, accompany them to parole hearings, and notify them of the parole board's decision. A separate waiting room -- complete with information about victims' rights, a children's play area, and other accoutrements -- guarantees that victims will not have to encounter their offenders at parole hearings.

When persons convicted of sexual assault are released to the community on either probation *or* parole, it is imperative that victims are informed about their assailants' status. The Interagency Council should develop protocol directing that sexual assault victims be provided with the name and contact information (24-hours per day) for the offender's probation or parole officer to receive status updates, or to provide information relevant to the offender's condition(s) of probation or parole.

* Twenty-nine states allow victims to attend parole hearings, with 28 states allowing victims to testify before the paroling authority.

The Interagency Council can also help community corrections agencies and administrators plan and develop victim sensitivity training programs for their personnel. Since most probation and parole staff positions are "offender directed," such training programs can help them also view *victims* as clients, and make their agency's overall mission more victim-centered.

Institutional Corrections

Institutional corrections agencies -- which oversee both adult and juvenile prisons, jails and offenders -- play a significant role in sexual assault cases that result in a conviction and incarceration.

The historical role of institutional corrections has included protecting the public while, at the same time, punishing offenders for their criminal acts. A more recent but equally important role involves providing crime victims with information and services.

The Interagency Council must be knowledgeable about the types of corrections-based services available for sexual assault victims, and how victims can access them. These services include notification, offender education and treatment programs, and programs for correctional personnel who have been victimized on- or off-the-job.

Victim Notification Programs

According to the 1991 *National Victim Services Survey of Adult and Juvenile Corrections and Parole Agencies* conducted by the National Victim Center, 26 adult corrections agencies and seven juvenile corrections agencies indicated they sponsor victim notification programs.⁵ Such programs vary in their scope and **range of services**, including notification of: release; transfer to a less secure facility; furloughs and other temporary types of release; escape; and death. It is incumbent upon victims to *request* to be notified and/or to *register* in the agency's victim notification program.

When Interagency Councils conduct their Inventory of Existing Services as specified in *Chapter IV: Interagency Council Protocol Development*, the following information should be obtained from state department of corrections:

- Does the agency have a victim notification program (mandated either by state law or enforced via agency policy)?
- If yes, how do sexual assault victims enroll (and maintain enrollment) in the program?
- What specific types of notification are available through this program?
- Who is the agency contact for victim notification (including name, address and telephone number)?
- Does the victim notification program have a statewide toll-free telephone number for victims to utilize? (NOTE: Many programs provide this important victim-centered service.)
- Are there information brochures about the program that the Interagency Council can distribute to its members?

If programs are not available, the Interagency Council should work with corrections officials to develop avenues by which sexual assault victims can access offender status information. This kind of information is critical to sexual assault victims' feelings of safety and security.

Offender Education and Therapy Programs

More and more corrections agencies are providing inmates with programs that are geared toward changing their attitudes and criminal behaviors. One such program -- the "Impact of Crime on Victims" classes -- has a 40-hour curriculum that helps offenders examine the detrimental impact their crimes have had on many people, including their victims. The "Impact" program, similar to Victim Impact Panels that are widely used in institutional corrections, include presentations by victims that personalize "the victim experience" and put a human face on the tragedy that offenders cause. Some institutions also offer a therapeutic approach to violent rapists through specialized sex offender treatment programs.

The Interagency Council should obtain information about these and other institutional corrections programs applicable to sexual assault victims. Many victims feel better knowing that efforts are being made to change offenders' violent behaviors through education and treatment. Some sexual assault victims choose to participate in the "Impact of Crime on Victims" classes as guest faculty members or as members of Victim Impact Panels; many believe their contributions to

these programs will possibly prevent another person from suffering a sexual assault, and also consider it an important component of their personal recovery.

Interagency Council protocol should provide referral guidelines for victim participation in such programs and assign primary responsibility for coordinating contact between sexual assault victims and the corrections department.

Other Institutional Corrections Services

Some corrections agencies sponsor other programs and services that are applicable to sexual assault victims, including: restitution collection and disbursement to victims; HIV testing; and protecting victims from intimidation, harassment and/or harm. In addition, some forward-thinking agencies encourage programs where inmates raise funds for local victim service programs, including rape crisis centers and victim/witness assistance programs. The Interagency Council should identify these programs and services available for sexual assault victims, and incorporate them into its protocol and network of services.

OTHER REPRESENTATION

Chapter III: Interagency Council Representation and Community Participation describes several distinct populations, including racial, ethnic and religious groups, lesbians and gays, military and individuals with disabilities. The *Inventory of Existing Services* conducted by the Interagency Council will help identify distinct populations that are most affected by sexual assault in its jurisdiction. Organizations that represent these significant constituencies should be invited by the Interagency Council to appoint a representative and to enter into the same written inter-agency agreement as other member agencies. Generally, individual membership should be discouraged because it is difficult, if not impossible, to incorporate an individual into a system composed of organizations and agencies. Individual contributions are best made through participation in Advisory Committees.

Advisory Committees

The Interagency Council can benefit from the establishment of Advisory Committees for several reasons. Advisory Committees:

- Provide counsel and support on issues pertaining to the Interagency Council's overall mission *and* specific objectives;
- Provide knowledgeable experts and input for protocol development and implementation from both individuals and special interest groups; and
- Can review and make suggestions relevant to specific sections of the Interagency Council's protocol in which the Advisory Committee has expertise.

A variety of populations should be considered for Interagency Council Advisory Committees, including but *not* limited to: crime victims, the media, elected officials and religious leaders. These are discussed below.

Crime Victims

Interagency Councils should consider establishing a Victims' Advisory Committee. This group of sexual assault victims can review protocol and advise the Interagency Council about its impact on their needs. Its members are also in the unique position of providing first-hand, personal experiences that can help "fine-tune" the protocol. Victims selected for the Advisory Committee should meet qualifications formulated by the Interagency Council. Victim advocacy organizations may be good sources to nominate individuals who are sufficiently recovered from their sexual assault that serving on the Advisory Committee would benefit both themselves and the Interagency Council.

Media

Media involvement is critical to the ultimate success of the Interagency Council. Media participation, however, does not involve providing direct services to sexual assault victims, but rather, helps inform the community about the Interagency Council and educate the public about efforts to treat victims more empathetically in the criminal justice system.

The media should participate in the development of protocol that addresses the confidentiality of sexual assault victims' identities. Training sessions for media representatives, conducted by members of the Interagency Council, can help reporters understand that freedom of the press is not compromised by protecting the identity of a victim. Conversely, inviting media representatives to provide training to Interagency Council personnel can provide a foundation for understanding media concerns.

A Media Advisory Committee can also help Interagency Council members understand *how the news media work*. A basic understanding of news media relations -- including how media operations are structured, deadlines and the types of information the media deem "newsworthy" -- can help the Interagency Council achieve maximum public relations and community outreach impact with limited time and resources.

Elected Officials

There are many elected officials who play significant roles in developing and implementing public policies that affect sexual assault victims and those who serve them. Federal, state and local officials make important decisions relevant to program funding, program development and implementation. They also have significant concerns about any activities, programs and services that might improve the jurisdictions they were elected to serve and, in particular, their specific constituents.

An Advisory Committee of elected officials can keep the Interagency Council apprised of how its protocol and related programs relate to "the bigger picture" of the community it serves. Information about community awareness efforts, funding available for sexual assault victim services, and public policy affecting sexual assault victims and the agencies that serve them, can be provided to the Interagency Council by an Advisory Committee of elected officials.

The Religious Community

As highlighted in *Chapter III: Interagency Council Representation and Community Participation*, members of the clergy and their congregations are often key players in a sexual assault victim's emotional and spiritual recovery. Through the efforts of organizations like The Spiritual Dimension in Victim Services of Sacramento, California, representatives of America's religious

community are receiving training and technical assistance to help them better meet the needs of victims of crime.

An Advisory Committee composed of representatives from the religious community can help clarify the important roles that members of the clergy have in aiding sexual assault victims, and recommend ways that religious congregations can support the efforts of the Interagency Council.

CONCLUSION

Each community Sexual Assault Interagency Council must be configured to meet the needs of the jurisdiction. The Inventory of Existing Services described in *Chapter IV: Interagency Council Protocol Development* will assist the Interagency Council in identifying additional organizations for membership. Any organization or agency with a responsibility for sexual assault cases or sexual assault victims should be considered for membership on the Interagency Council or an Advisory Committee.

The Interagency Council consists of organizations with major responsibilities for responding to sexual assault victims. These include law enforcement agencies, prosecutors' offices, victim service organizations and medical care providers. The Interagency Council may also include social service agencies, school systems, colleges and universities, mental health organizations, and other similar agencies or organizations.

Advisory Committee members may include organizational representatives as well as individuals who have relevant expertise or experience the Interagency Council needs in order to be responsive to the needs of all sexual assault victims. Advisory Committees may be needed to provide the Interagency Council with unique insights into the problems of a specific victim population such as individuals with disabilities or gay and lesbian sexual assault victims. An Advisory Committee can also provide guidance for the Interagency Council in such areas as dealing with the media or drawing on the resources available through religious institutions.

Interagency Council members are agencies or organizations with an express commitment to implement victim-centered protocol. Advisory Committees to the Interagency Council assist by providing unique insights and broadening the resources upon which the Interagency Council may depend for helping sexual assault victims.

NOTES

1. Koss and Harvey, 1991, p. 155.
2. National Victim Center and National Crime Victims Research and Treatment Center, 1992, p. 7.
3. Koss and Harvey, 1991, p. 156.
4. U.S. Department of Justice, Bureau of Justice Statistics, 1991, p. 12.
5. National Victim Center, National Victim Center Survey of Adult and Juvenile Corrections and Parole Agencies: Final Report, 1991, p. 3.



**National
Victim Center**

**CHAPTER X:
IMPLEMENTATION ISSUES FOR THE
INTERAGENCY COUNCIL**

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CHAPTER X:

IMPLEMENTATION ISSUES FOR THE INTERAGENCY COUNCIL

INTRODUCTION

The premise for this chapter is that the Interagency Council should establish an organizational structure to support the transition to full implementation of the multi-disciplinary protocol. Once the organizational structure is in place, a series of incremental steps should be followed until the protocol are implemented fully.

Previous chapters of this guidebook discuss the eight-step process for developing the Interagency Council's protocol. *Chapter IV: Interagency Council Protocol Development* introduces, in a general way, the training requirements for protocol implementation; it also touches on evaluation as a part of the eight-step process. In addition, *Chapter IV* addresses conflict resolution techniques that may be useful in building a consensus among members of the Interagency Council when disagreements threaten group cohesiveness (the conflict resolution section should be reviewed by Interagency Council members during protocol implementation when conflicts are likely to arise due to membership diversity). This chapter contains additional information about training, evaluation and other implementation issues.

One of the primary advantages for developing protocol that encompass law enforcement, prosecution, medical and victim services is that when confronted by community emergencies -- for example, a serial rapist -- the crisis caused in the community may be dealt with more effectively. The role of the Interagency Council in handling community crises is discussed in this chapter.

ORGANIZATIONAL STRUCTURE

The fulfillment of the on-going tasks of the Interagency Council may be facilitated by assigning tasks to committees or other organizational subunits. Training, monitoring and evaluation are especially well suited for delegation to committees for oversight and supervision.

Committees of the Interagency Council should reflect the membership of the council and include law enforcement, prosecution, medical and victim services personnel. Chairpersons for committees should be members of the Interagency Council and provide it with reports of committee activities. Members of the committees should be agency staff -- not necessarily Interagency Council representatives -- who have experience and expertise in the areas assigned to the committee.

When committees are formed by the Interagency Council, their responsibilities should be described in writing; a time-frame should set for the committees' tasks; and the desired products should be specified, *e.g.*, reports, training curricula, site visits, etc.

Having an effective organizational structure in place will assist the Interagency Council to handle community emergencies as described in the following section.

Emergency Response

The Interagency Council should be prepared to respond to emergencies in its jurisdiction. The following are two possible scenarios that an emergency response plan should address:

- What happens if several persons are sexually assaulted over a period of time by the same assailant? How does the Interagency Council inform the community about the crimes without creating public panic?
- If there are several children who have been sexually molested at a daycare facility, how does the Interagency Council mobilize to address the concerns of parents, while preserving the integrity of possible criminal prosecution(s)?

These and other potential crisis situations should be addressed in a comprehensive *emergency response plan* developed by the Interagency Council. The key to such a plan is to develop it as a component of the overall protocol *before* such an emergency occurs.

The Interagency Council's emergency response plan should include, but not be limited to, the appointment of an emergency response committee to:

- Coordinate the emergency response to the community;
- Coordinate the emergency response to the news media, and serve as the designated media spokesperson(s); and
- Coordinate activities pertaining to public safety (usually law enforcement), victim crisis intervention (usually victim service providers), and public information about the Interagency Council's activities relevant to the emergency.

The emergency response plan should involve not only members of the Interagency Council, but also their respective staffs (from receptionists to top officials). A coordinated emergency response cannot be accomplished without the participation of *all* Interagency Council or agency staff members who might be contacted when an emergency strikes.

The emergency response plan should be clarified in writing, and modified as needed depending on the needs of the sexual assault victims, Interagency Council *and* the community.

Developing additional committees and delegating their responsibilities will be determined, to a certain degree, by the *implementation strategies* selected by the Interagency Council.

IMPLEMENTATION STRATEGIES

The Interagency Council should consider the following implementation strategies: pilot programs, system phase-in, geographic implementation, and "just doing it." The specific strategy -- or combinations of strategies -- selected by the Interagency Council depends upon the nature of the jurisdiction and the resources available. Interagency Councils may develop other implementation strategies appropriate to their jurisdictions. It is important, however, that the Interagency Council develop, at the outset, a step-by-step plan with target dates for the full implementation process.

Pilot Programs

Pilot programs enable the protocol to be field tested prior to full implementation by the Interagency Council. It can then adjust the protocol to address concerns that surface during the test period. Evaluation of the pilot program can be formal or informal. Irrespective of the degree of formality used to evaluate results of the pilot program, the Interagency Council needs to have a clear understanding of the goals of the pilot program, and the criteria by which success will be measured. These factors are discussed more fully in the *Evaluation* section of this chapter.

Interagency Councils should consider using pilot programs in large systems and when protocol are so complex that they may contain errors which need to be corrected prior to total implementation.

System Phase-In

A *system phase-in* strategy involves "layering" the response system into several components, and implementing the protocol in one component before beginning to implement it in the next. For example, the protocol could be implemented by law enforcement dispatchers, patrol officers and victim advocates as a first phase. The next phase may be medical personnel, investigators and finally prosecutors. This strategy is useful when an Interagency Council has a high level of confidence in its protocol, but lacks the resources necessary for a system-wide training program.

When using a system phase-in strategy, the Interagency Council should establish a timetable/time task line so that each component of the sexual assault response system is prepared to implement relevant protocol at a designated time. Without such a timetable, *organizational inertia* may set in and delay full protocol implementation.

Geographic Implementation

As indicated by its title, *geographic implementation* is a strategy in which the jurisdiction is divided into sections by location, and the protocol is implemented fully in one area before being initiated into the next one. This strategy should be considered by Interagency Councils serving large geographic (possibly rural) areas. Geographic implementation enables the Interagency

Council to provide training for all personnel in a specific location at one time. As with the system phase-in strategy, the Interagency Council should establish the implementation schedule for all geographic areas they serve. By establishing the schedule at the outset, the Interagency Council reaffirms its commitment to creating a multi-disciplinary, victim-centered system.

Just Doing It

"Just doing it" is an implementation strategy of going from protocol development to full implementation in one step. This strategy has a comparatively high level of risk for the Interagency Council. It may be an appropriate strategy in areas served by Interagency Councils accustomed to working together in multi-disciplinary, multi-agency endeavors, and for which the implementation of victim-centered protocol does not represent significant changes in responding to sexual assault victims. The "just doing it" strategy can disrupt the functions of participating agencies if the Interagency Council errs in formulating the protocol. Since the "just doing it" strategy does not permit protocol adjustments to be made, the transition from system-centered to victim-centered responses may be irreparably harmed.

Any implementation strategy, including "just doing it," requires trained staff to properly interpret the protocol's intent and fulfill its requirements. Interagency Councils that consider using this implementation strategy should not overlook the training requirements.

Combining Implementation Strategies

Interagency Councils may use combinations of strategies to implement protocol. For example, the protocol could be field tested in a particular segment of the sexual assault response system using both the *pilot program* and *system phase-in* strategies. This might occur in a large, complex system where law enforcement and victim service protocol could be field tested first with dispatchers, then with patrol officers and finally with investigators. Any glitches during the field tests would be discovered and corrected before full implementation.

The Interagency Council should select the strategy, or combination of strategies, that will provide full implementation of the protocol within a reasonable time-frame and with the least disruption of services.

TRAINING PROGRAM

The Interagency Council must not only develop a multi-disciplinary, victim-centered protocol, it also has responsibilities to analyze each point of the protocol, and define the knowledge and skills necessary to perform the specified tasks in accordance with the established guidelines. Then, the Interagency Council must develop a training program designed to ensure that personnel implementing the protocol have the requisite knowledge and skills. Appointment of a training committee will facilitate the formulation of this program.

Training Needs Assessment

The protocol provides the cornerstone of the training needs assessment. The purpose of the training program is to impart the knowledge and skills necessary for full implementation of the Interagency Council's protocol. It is these areas that should become the principle focus of training.

The assessment should address the following issues: what training needs to be provided; who (specific to each position in each agency) needs to receive training; how much training does each individual need; and how should training be evaluated? Each of these issues is discussed in the following sections.

Training Curricula

The Interagency Council's training program should include the following elements:

- **Legal** - Statutory provisions defining sexual assault and related crimes; procedures for protecting the rights of victims as well as suspects; state crime victims' compensation provisions; and rules of evidence and other relevant procedural requirements.
- **Technical** - Scientific and medical evidence collection procedures; HIV/AIDS; DNA evidence; post-traumatic stress disorder; and rape trauma syndrome.
- **Victims** - Sensitivity to needs of distinct populations, including individuals who are developmentally or physically disabled, members of minority groups, and gays/lesbians; and accommodating the needs of sexual assault victims, including

emotional security; separation from accused assailant; non-judgmental interviewing; confidentiality and identity protection; case status information and community resources; and victim input and involvement in the criminal justice system.

- **Systems** - Agency responsibilities; interagency cooperation; multi-disciplinary team tasks; and conflict resolution.

The preceding list of possible training topics is not all-inclusive. Each Interagency Council should focus on training required to implement its protocol in its own jurisdiction.

In addition, personnel assigned to the Interagency Council should complete advanced training designed to keep their knowledge and skills current with changes in laws and technology. Advanced training also ensures that personnel will be aware of any changes in the protocol made by the Interagency Council.

The Interagency Council protocol is essentially a "blueprint" for determining training needs and relevant curricula. The Interagency Council does not need to "reinvent the wheel" as there may be existing training programs that are adaptable to meet the training needs in each jurisdiction. Sources for such curricula include law enforcement academies, the National District Attorneys' Association and the National Criminal Justice Reference Service, just to mention a few.

The Interagency Council should submit its training curricula to agencies responsible for awarding continuing education credits, such as POST credits for law enforcement officers or training required by attorneys by state bar associations. Accreditation by an outside organization not only helps to validate the training program; it also provides an incentive to participate for professionals with limited amounts of time.

Trainers

The Interagency Council must establish criteria for trainers to ensure quality control. These criteria can include: academic credentials; length of practice; past experience in training, research or practice; and other areas relevant to the training topics. The Interagency Council should also consider involving sexual assault victims in training modules. Victim Impact Panels, for example, are a time-honored and highly effective tool to help professionals understand firsthand the plight of the victim.

Interagency Councils may need to consider conducting a "training for trainers" program. The goal is to expand training capability by broadening the knowledge base of potential trainers, and increasing the number of qualified instructors. An additional benefit of "training for trainers" programs is to ensure quality control over the curricula content and parameters of related training programs.

Recipients of Training

The Interagency Council protocol establishes clear parameters for the scope and types of services necessary to meet the needs of sexual assault victims. The Interagency Council or its training committee must examine the protocol and determine who, from each agency, will be responsible for implementing the protocol. The committee must also determine specific training areas for each position to strengthen their ability to follow the protocol, and coordinate their responsibilities with other agencies represented on the Interagency Council.

Time Requirements

The amount of time required for training personnel for protocol implementation could represent a substantial investment by the participating agencies on the Interagency Council. The Interagency Council should establish training criteria based upon its members' resources, and also the amount of time available from members of the target audience to be trained. One option is to offer training programs structured as "basic training" (which includes the most important curricula), with more advanced training programs provided based upon the availability of both trainers and training participants.

The Interagency Council should approve a training schedule that establishes the length of specific training modules, how often the module should be offered, *e.g.*, monthly, quarterly, annually, etc., and how often modules should be updated and offered again to participants.

Training Evaluation

The Interagency Council's training program must include feedback mechanisms on two levels:

1. Assessment of participants' understanding of their roles and responsibilities in implementing the victim-centered protocol; and
2. Evaluation of the training program's impact on field operations and direct victim services.

Written tests and performance measurements can assess the participants' understanding of their roles and responsibilities. Trainers should consider using simulations of typical sexual assault cases to measure trainee performance in circumstances not suitable for written tests. Such assessments help to bridge the gap between what participants know, and how they apply their knowledge. In addition, participants should complete a written evaluation of their training experience, the training curricula, *and* the trainers to help the Interagency Council measure its training effectiveness.

After completing the training program, personnel should be evaluated by their supervisors to determine how the training program affected the subsequent implementation of their responsibilities as defined in the protocol.

PROTOCOL EVALUATION ISSUES

Chapter 1: Looking Back -- Moving Forward states that the ideal system has the following characteristics:

- The needs of sexual assault victims to assume control over their own lives is recognized and supported;
- Cases are vigorously investigated;
- Offenders are apprehended and aggressively prosecuted in a timely fashion;
- Victims are kept informed at each stage of the proceedings; and
- Victims are given an opportunity to express a preference for what they would like to see happen.

Each of these characteristics is an objective for the Interagency Council's protocol. The resultant impact or *goal* of attaining these objectives is to facilitate victim recovery from the trauma of sexual assault.

In addition to the victim-centered goals and objectives, there are also system-centered objectives:

A multi-disciplinary team provides a method of coordinating all the agencies into a cohesive, well-defined, cooperative process that results in more successful investigations and prosecutions. Multi-disciplinary teams are intended to strengthen and build interagency and professional relationships.¹

Each Interagency Council must first determine the goals and objectives that are significant to its community. The Interagency Council must then establish the criteria against which the attainment of the goals and objectives can be measured.

Evaluation Criteria

Evaluation criteria must be defined in measurable terms. Common criteria include:

- **Time** - A process takes a measurable amount of time, such as running the mile under four minutes.
- **Quantity** - The measurement consists of counting something, such as the score of a football game.
- **Rate** - The measurement is made in terms of a quantity per designated amount of time, such as miles per hour.
- **Quality** - Subjective measurements of peoples' attitudes, and opinions and may be stated in terms of degrees of good or bad; satisfactory or unsatisfactory.

Examples of *system-centered* criteria include:

- Conviction rates;
- Case clearance rates;
- Recidivism rates;
- Case-load numbers or work hours; and
- Number of continuances.

Examples of *victim-centered* criteria include:

- Percent of victims receiving victim advocacy services;
- Number of personal contacts to inform victims of case progress; and
- Results of victim satisfaction surveys.

Some criteria may relate to both system-centered and victim-centered criteria, *e.g.*, time elapsed between the initial report and the conclusion of the trial.

Comparisons

Measurement criteria have no value by themselves; there must be a standard against which the criteria can be evaluated. Some states have incorporated criteria in their statutes such as *speedy trial laws* specifying that a case must be prosecuted within a specific time-frame unless the court grants motions for continuances. The Interagency Council may create the standards by establishing goals for system performance, such as a six-month deadline for moving cases to trial (thereby opposing routine requests for continuances), or providing victim advocacy services to 80 percent of sexual assault victims making a report to any Interagency Council member agency. In jurisdictions lacking relevant data, the Interagency Council may need to set system norms to measure effectiveness.

A more effective way to measure the impact of multi-disciplinary/multi-agency, victim-centered protocol is to compare system performance *before* protocol implementation to the system performance *after* implementation. A prerequisite for this kind of evaluation is *baseline* data from records created before the implementation of victim-centered protocol. Often, however, such records do not exist. When baseline records do not exist, other evaluation techniques may be employed.

The Interagency Council may compare the performance of a test group against that of a control group to evaluate the impact of victim-centered protocol. Earlier in this chapter, there is a discussion of *pilot programs* as an implementation strategy. Pilot programs (test groups) enable direct comparison with the existing approach (control group) during the same test period. When this kind of comparison is made, the evaluation design needs to specify how the groups will be selected so that the test and control groups are comparable (otherwise the results would not be

valid -- it would be like comparing apples and oranges). The evaluation design should specify the criteria by which the evaluation will be made and how the data are to be collected from both groups.

Measurement of the effectiveness of victim-centered protocol may not be totally objective; in fact, satisfaction tends to be subjective, *i.e.*, particular to the individual. Subjective measurements become powerful evaluation tools when individual opinions are scored and combined with other individual scores. The relative level of group satisfaction can be a significant measurement when data are properly collected and analyzed.

Measurement of victim satisfaction may be through written surveys as presented in *Chapter IV: Interagency Council Protocol Development*. A comparison of the victim satisfaction survey results from both test and control groups can be used to measure differences in satisfaction between the two groups.

Another method of measuring victim satisfaction is through the use of *focus groups*. The Interagency Council can call together a small group of sexual assault victims to solicit their feedback concerning the system's response to their victimization. The person facilitating the group discussion should be trained for that purpose and have experience working with victim support groups.

Trends

Trends are defined by the same data sets collected at set intervals of time. One of the most common measurements of trends is the *Dow Jones Stock Average* reported each day. By listening to the *Dow Jones Report*, one learns whether the stock market is going up, going down or staying the same based upon the daily prices of a specified set of corporate stocks. Trend analysis can indicate if system performance is improving, declining or remaining the same. As in any evaluation, the Interagency Council needs to design its evaluation to control variables, as much as possible, between comparison groups. This enables trends to be attributed to the differences in protocol and not extraneous variables such as increases in the number of cases, changes in laws, or changes in personnel.

Evaluation Design

The Interagency Council does not have to establish a complex plan to evaluate the effectiveness of its protocol. It does, however, need to reach a consensus on the goals and objectives for the protocol and understand the criteria (the means for attaining these intents) for measuring success.

In order to identify the strengths and weaknesses of the protocol at each stage of the criminal justice process, the Interagency Council needs to address the following questions:

- **Are the new protocol being used by criminal justice system agencies?**

The Interagency Council should establish a monitoring committee as discussed in the *Organizational Structure* section earlier in this chapter. This committee would establish monitoring teams to make on-site visits to each agency for the purpose of determining the degree of protocol implementation. The monitoring team should also discuss the new protocol with personnel from the agencies visited to determine if there are operational problems.

Monitoring teams operate best when they have from three to five members. The monitoring committee should develop a comprehensive checklist so that each team looks for the same kinds of information. Monitoring team members should receive an orientation regarding their function and site-visit protocol.

- **In criminal justice system agencies that are fully implementing the victim-centered protocol, are there points in the process which seem to cause glitches?**

Only after the Interagency Council has confirmed that victim-centered protocol is being implemented by relevant agencies at particular stages of the criminal justice process, can they make inferences about the effectiveness of the protocol, effectiveness measured by victim satisfaction surveys, interviews or written surveys of agency personnel, and data about system performance.

The Interagency Council can adjust the protocol based upon the feedback from their monitoring teams and information gathered through other forms of ongoing evaluation.

Possible Sources of Help

Colleges or universities in the jurisdiction served by the Interagency Council are potential sources of assistance for designing and implementing evaluations. Students and other volunteers can provide valuable help in gathering, organizing and interpreting information. The best

assistance may come from academic disciplines such as sociology, criminal justice, social work and other behavioral sciences. Such disciplines are accustomed to collecting and interpreting the kinds of data -- quantitative and qualitative, systems-centered and victim centered -- that are appropriate for evaluating the impact of the Interagency Council's protocol.

ANNUAL PROTOCOL REVIEW

The Interagency Council should formally review their protocol on an annual basis. They should up-date the information specified in *Chapter III: Interagency Council Representation and Community Participation*, and review all evaluative data concerning both system-centered and victim-centered responses to sexual assault victims. Based upon these data, the Interagency Council should amend its protocol to address system deficiencies as well as technological and legal developments. All changes should be formally integrated into the protocol and their acceptance documented by the signatures of authorized officials from the member agencies.

CONCLUSION

The ongoing work of the Interagency Council may be facilitated by developing an organizational structure and delegating some tasks to committees or other subunits. Training, monitoring and evaluation are examples of tasks that may be delegated to committees. Having an organizational structure in place will also enable the Interagency Council to respond appropriately if confronted by multiple sexual assaults that create community-wide anxiety.

The community Sexual Assault Interagency Council will enhance its chances for success by selecting an appropriate implementation strategy for its victim-centered protocol. In addition, Interagency Council members must carefully analyze the requirements of personnel for training to ensure that each staff member has the necessary skills and knowledge to fulfill the requirements of the protocol.

The case for clearly stated goals and objectives is succinctly posed: *Unless you know where you are going, how will you know when you get there?* The Interagency Council not only has to know what it wants to accomplish, its members also need to select criteria that will effectively measure progress toward their goals.

NOTES

1. Steele, 1992, p. 1.

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VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX

Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	M E D I A
Receive Victim Report of Sexual Assault												
First Responder												

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX

Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	M E D I A
Medical Intake												
Forensic Examination												
Medical Concerns Related to Sexual Assault												

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M S E R V I C E S	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L S E R V I C E	M E N T A L H E A L T H	S C H O O L S	C O U R T S	P R O B A T I O N P A R O L E	C O R R E C T I O N S I N S T	O T H E R	M E D I A
Crime Victims' Compensation												
Initial Interview												
Investigation												

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX

Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M S E R V I C E S	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L S E R V I C E	M E N T A L H E A L T H	S C H O O L S	C O U R T S	P R O B A T I O N P A R O L E	C O R R E C T I O N S I N S T	O T H E R	M E D I A
Arrest												
Arraignment/Initial Appearance												
Pre-Trial												

VICTIM-CENTERED SYSTEM – RESPONSIBILITY MATRIX												
Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N S	O T H E R	M E D I A
Plea Negotiations												
Trial												
Sentencing												
Probation/Community Corrections/Parole												

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX

Key to symbols: P = Primary Responsibility S = Secondary Responsibility L = Communications Linkage	V I C T I M	P O L I C E	P R O S E C U T O R	M E D I C A L	S O C I A L	M E N T A L	S C H O O L S	C O U R T S	P R O B A T I O N	C O R R E C T I O N	O T H E R	M E D I A
Incarceration												
Appeals												
Post-Sentencing												

VICTIM-CENTERED SYSTEM -- RESPONSIBILITY MATRIX

[illegible]

VICTIM-CENTERED SYSTEM – RESPONSIBILITY MATRIX

[illegible]

Rape-related Post-traumatic Stress Disorder

- An estimated 683,000 forcible rapes occur each year.¹
- *Nearly one-third of all rape victims* develop Rape-related Post-traumatic Stress Disorder (RR-PTSD) sometime in their lifetimes, and more than eleven percent suffer from RR-PTSD at the present time.²
- In addition, violence-related trauma affects not only direct victims, but those who care deeply about them.

Overview

The study of traumatic stress has strongly emerged within the last decade. Scholars have traced its roots to the earliest medical writings in 1900 B.C.; there have been many concepts to emerge which describe the same phenomenon. However, beginning in the early 1980s, for the first time, the symptoms which are now called "Post-traumatic Stress Disorders" (PTSD) began to take form. The concept of PTSD emerged and was used to describe a set of symptoms that was known in the past as *Railway Spine* or *Shell Shock*, *Acute Battle Reaction*, *Combat Fatigue*, *Combat Exhaustion*, *Battered Women's Syndrome*, *Disaster Victims Disorder* or *Concentration Camp Syndrome*, as well as *Rape Trauma Syndrome*.³

PTSD is defined as an emotional state of discomfort and stress resulting from memories of an extraordinarily catastrophic experience which shattered the survivor's sense of invulnerability to harm. Characteristics of PTSD are the helplessness and vulnerability that survivors feel. This *Infolink*

bulletin will discuss Rape-related Post-traumatic Stress Disorder (RR-PTSD), a form of PTSD specifically resulting from experiencing a sexual assault or rape.

“*The victim is essentially unable to stop remembering the incident. This translates for many rape victims into nightmares and dreams which are usually not metaphorical, but closely approximate the rape itself.*”

Four Major Symptoms of Rape-related Post-traumatic Stress Disorder

The first symptom of RR-PTSD is the reliving or re-experiencing of the trauma which is characterized by intrusive thoughts about the rape that the victim cannot control. The victim is essentially unable to stop remembering the incident. This translates for many rape victims into

nightmares and dreams which are usually not metaphorical, but closely approximate the rape itself. In addition, victims may relive the event through flashbacks which are similar to remembering scenes in a movie, except that the victim of rape experiences the flashbacks as if they were happening now. Additionally, victims are distressed by any event that symbolizes the trauma of rape. Victims avoid talking

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about the event and will avoid any stimuli or situations which remind them of the rape.

The second major RR-PTSD symptom for rape survivors is social withdrawal. It has been described as psychic numbing, denial, and a feeling of being emotionally dead. They do not experience feelings of any kind. One way it shows up in the lives of survivors is as a diminished interest in living. It is not that they are suicidal, but they have no interest in their children, in their jobs, and what feelings they do experience have a very narrow range. Victims experiencing RR-PTSD may not feel joy, pain, or much of anything; many experience a kind of amnesia. In addition, victims with RR-PTSD may not remember the details of what happened to them.

The third set of symptoms of RR-PTSD are avoidance behaviors and actions. Victims may experience a general tendency to avoid any thoughts, feelings, or cues which could bring up the catastrophic and most traumatizing elements of the rape. This may be characterized by refusing to drive near the spot where the rape occurred.

Increased physiological arousal characterizes *the fourth* set of symptoms. There may be an exaggerated startle response--hyper-alertness and hypervigilance--which requires that the victim pays attention to every sound and sight in their environment. Many experience sleep disorders which result in poor sleep patterns for chronic RR-PTSD victims. In addition, memory may be impaired, and many victims have difficulties concentrat-

ing, which affects tasks that must be completed in their daily lives. Victims may exhibit a kind of irritability, hostility, rage and anger that produce further isolation.

Some disturbing new research indicates that certain physiological changes in the brain may be permanent conditions. Some survivors with RR-PTSD are unable to accurately gauge the passage of time. Consequently, they are likely to show up for appointments late, early, or not at all. Another possible permanent effect is a kind of tunnel vision. Victims may be unable to see the "big picture" which results in difficulty distinguishing between a minor crisis and a major crisis. Therefore, all events in their lives are viewed as crises.

The U.S. Census Bureau estimates that there are approximately 96.3 million adult women in the United States age 18 or older. In a recent study entitled *Rape in America: A Report to the Nation*, by the National Victim Center and the Medical University of South Carolina Crime Victim's Center, 13 percent of American women surveyed had been raped and 31 percent of these rape victims developed RR-PTSD. The study showed that with 683,000 women raped each year in this country, approximately 211,000 will develop RR-PTSD each year. In their attempts to cope with the symptoms of RR-PTSD many victims may develop major depression. The above mentioned *Report* indicates that rape victims are three times more likely than non-victims of crime to have a major depressive episode. Rape victims are 4.1 times more likely than non-crime victims to contemplate suicide. In fact, 13 percent of all rape victims actually

attempt suicide, which confirms the devastating and potentially life threatening mental health impact of rape.

In attempting to cope with the above symptoms, drug and alcohol consumption are likely to be companions in the victim's attempt to gain relief from these symptoms. Compared to non-victims of crime, rape victims in the *Report* mentioned above are:

- Over thirteen times more likely to have two or more major alcohol problems; and
- Twenty-six times more likely to have two or more major drug abuse problems.

With a growing body of knowledge about RR-PTSD, help is available through most rape crisis and trauma centers. Support groups have been established where survivors can meet regularly to share experiences to help relieve the symptoms of RR-PTSD. For some survivors, medication prescribed along with therapy is the best combination to relieve the pain.

End Notes

1. National Victim Center and Crime Victim's Research and Treatment Center, 1992.
2. *Ibid.*
3. Linda Braswell, *Mothers Against Drunk Driving*.

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**For additional information,
please contact:**

**Center For Women's Policy
Studies**
2000 P Street, N.W., Suite 508
Washington, DC 20036
(202) 872-1770

**Crime Victims Research and
Treatment Center, Medical University
of South Carolina**
171 Ashley Avenue
Charleston, SC 29425
(803) 792-2945

National Victim Center
2111 Wilson Blvd., Suite 300
Arlington, VA 22201
(703) 276-2880

Author:
Linda Braswell
Director of Field Services
MADD
511 East John Carpenter Freeway
Suite 700
Irving, TX 75062
(214) 744-6233

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HIV/AIDS AND VICTIMS

by Diane Alexander

INTRODUCTION

In just ten years, the human immunodeficiency virus (HIV), the causative agent of acquired immunodeficiency syndrome (AIDS), has claimed more American lives than the Korean and Vietnam wars combined. In time, it is estimated that everyone in America will be touched by the AIDS epidemic. This is not news to victim advocates on the front lines who have listened to the concerns regarding HIV exposure expressed by many victims. Whether or not cases of HIV transmission have been documented, the fear of exposure is very real.

HIV/AIDS and Victims provides an overview of the epidemic, explores the impact on crime victims and the responsibilities of victim service providers. Included is a brief review of the medical and legal aspects of HIV/AIDS and suggestions on how victim advocates can respond to the HIV/AIDS concern when counseling victims.

I. Overview of the Epidemic

- A. In June of 1981, the first cases of AIDS were recorded in Los Angeles with the diagnosis of five patients with *Pneumocystis carinii* pneumonia.
- B. The magnitude of the epidemic is reflected in the following statistics:
 - 1. A conservative estimate of the number of Americans infected with HIV is at least one and a half million. Over half of these individuals are not aware that they are HIV positive. The Centers for Disease Control estimates that, at present, approximately one adult male in 100 is HIV positive; one adult female in 700 is similarly infected; and one in 250 Americans is HIV positive.
 - 2. As of March 1993, 289,320 cases of people with AIDS had been reported. Of those cases, 182,275 people have died.
- C. The face of AIDS has changed from the early days of the epidemic. Gay and bisexual men were the first individuals to be infected with the disease. Now women, people of color, individuals struggling with poverty and drug use, and adolescents unaware or unfazed by the disease are sharing the burden of the epidemic. Heterosexual teenagers are the fastest growing group of individuals becoming infected with the disease.

- D. AIDS has had a disproportionate impact on some communities. Gay and bisexual men compose 57% of the AIDS cases since the beginning of the epidemic. African-Americans constitute 12% of the United States population, but nearly 30% of the AIDS cases. Hispanics comprise 9% of the population, but 16.5% of the AIDS cases.
- E. In the early years of the epidemic, approximately 80% of all reported AIDS cases came from six metropolitan cities: New York, San Francisco, Los Angeles, Miami, Newark and Houston. Now four cities, Atlanta, Chicago, Philadelphia and Washington, D.C. join these six cities as the ten cities with 5,000 or more cumulative AIDS cases. In 1992, 41 metropolitan areas and 31 states as well as the Commonwealth of Puerto Rico reported one thousand or more cumulative AIDS cases. Today, it is believed that every county in the United States has at least one case of a person living with the HIV infection.

II. Medical Aspects of HIV/AIDS

- A. Acquired immunodeficiency syndrome (AIDS) is a complex disease characterized by severe damage to the natural immune system. Once damaged, the immune system then becomes more susceptible to unusual opportunistic infections. AIDS is caused by the human immunodeficiency virus (HIV).
- B. The virus enters the blood stream and attacks white blood cells, also known as T-helper cells. The T-helper cells alert other white blood cells to the presence of foreign organisms so they can attack and destroy the foreign organism. With disabled T-helper cells, the body does not recognize and attack the foreign organisms, thereby allowing diseases the opportunity to spread.

Symptoms of HIV infection: Most people who now have the HIV infection *do not* yet have any obvious symptoms. When symptoms do develop, they are characterized by:

1. Persistent tiredness;
2. Unexplained fevers;
3. Recurring night sweats;
4. Prolonged enlargement of the lymph nodes; and
5. Weight loss.

Diagnosis of AIDS: When people with the HIV infection develop one or more of four major complications, the diagnosis is changed from HIV-infected to AIDS. The four major complications are:

1. Serious life-threatening infections which do not affect people with intact immune systems, such as *Pneumocystis carinii* pneumonia (PCP) and *Cytomegalovirus* (CMV);
 2. Certain kinds of cancer, such as Kaposi's sarcoma (KS) or lymphoma;
 3. Manifestations of HIV in the nervous system, such as loss of memory, change in sensation or movement, and seizures; and
 4. Progressive weight loss.
- C. HIV can lie dormant in the body for months or years. Yet during this time, the virus can unknowingly be transmitted to another person.
- D. **Transmission of the virus:** There are two primary ways the virus is transmitted. They include:
1. Having sexual intercourse (anal, vaginal, or oral) with an HIV positive person.
 2. Sharing drug needles or syringes with an HIV positive person.

Other individuals may become infected by;

1. Receiving blood transfusions infected with the virus.
 2. HIV positive women passing the virus to their babies before or during birth.
- E. **How HIV is not transmitted:** HIV is spread by receiving infected blood, semen, or vaginal fluids from another person. It is not transmitted by:
1. Everyday contact with HIV positive people at school, work, home, or anywhere else.
 2. Use of items like telephones, toilet seats, or eating utensils;
 3. Eating food prepared by an HIV positive person;
 4. The sweat or tears from an HIV positive person; or

5. A simple kiss, although experts are not certain about transmission through deep, prolonged or "french" kissing. Most scientists agree that it may be possible, but it would be unlikely.
- F. **Risk groups versus risky behavior:** In the early days of the epidemic, it was thought that certain *populations* were at risk of becoming infected with HIV. It is now understood that there are certain *behaviors* that place someone at risk for infection. Those behaviors are:
1. Anal sex, with or without a condom;
 2. Vaginal or oral sex with someone who shoots drugs or engages in anal sex;
 3. Sex with a person someone does not know well or with someone known to have several sex partners;
 4. Unprotected sex (without a condom) with an infected person; and
 5. Sharing drug needles and syringes.
- G. **Taking the HIV antibody test:** Deciding to be tested is a personal decision that should be made *after* there is a clear understanding of what the results mean. The following overview of the HIV antibody test is very general. Specific issues to be considered when working with sexual assault victims will be covered in Section V.
1. **What is the test?** Accurate testing for HIV antibodies requires two different tests. The screening test is called the **ELISA** (enzyme-linked immunosorbent assay) test. Positive ELISA tests are confirmed by a second test, either the **Western Blot** or the **IFA** (immunofluorescent assay) test. The ELISA test is highly accurate, but it does have some limitations. There can be both "false positive" and "false negative" results.
 - a. A **false positive test** is one that reads positive even though the blood does not really contain HIV antibodies. **Because of the risk of false positive results, a single positive ELISA test cannot determine accurately whether an individual is infected with HIV.** Two repeatedly positive reactions on the ELISA test, confirmed with a positive Western Blot or IFA, define a "positive test result."
 - b. A **false negative test** is one that fails to detect HIV antibodies in the blood of a person who actually has the HIV infection. This

usually happens when a person is tested before antibodies to HIV have appeared. If tested less than six months after possible exposure to HIV, a false negative test result may occur. If this happens, a second test should be performed after six months has elapsed. Very rarely does it take longer than six months for the antibodies to be detected, but a counselor may recommend repeated testing.

- c. A **"negative"** test result indicates the absence of HIV antibodies at the time of the test. A negative test result means that either the HIV infection is not present or that the HIV infection is present, but antibodies have not yet developed. A negative test result does not mean that a person is immune to the HIV infection, or that the person cannot become infected with HIV in the future.
- d. A **"positive"** test result indicates the presence of HIV antibodies. A confirmed positive test result means that a person has been infected with HIV and probably will remain infected. A positive result is not a diagnosis of AIDS.

2. **Making the decision to take the test:** There are several issues to be considered before taking the HIV antibody test. Prior to being tested, everyone should receive pre-test counseling from a trained HIV/AIDS counselor.

- a. Taking the test should be considered if:
 - i. The person has reason to believe he/she has been infected with HIV. Early treatment of people who have the HIV infection delays the development of serious symptoms and prevents or reduces complications.
 - ii. Knowing the results, positive or negative, will help the person adopt safer sex practices or abstain from sharing IV needles;
 - iii. The person is pregnant or is considering becoming pregnant, breast feeding, or fathering a child; and/or
 - iv. The person will be required to undergo mandatory testing and would rather receive anonymous testing before the result becomes a part of his/her permanent record.

- b. A decision to postpone taking the test may be based upon:
 - i. The unavailability of anonymous testing and fear of the potential social, legal, and economic consequences and possible discrimination if results become known;
 - ii. The unavailability of competent pre-test and post-test counseling; and/or
 - iii. Not being psychologically ready to know the test results. This is not a reason to delay testing indefinitely. It can be a good reason to seek counseling to prepare for taking the test and possibly receiving a positive result.

III. Legal Aspects of HIV/AIDS

With the onset of the epidemic, legal questions have arisen regarding testing, reporting and confidentiality. An additional question being posed is the criminal aspect of an offender committing a sexual assault knowing he or she is HIV positive.

- A. **Constitutional law:** Two amendments to the United States Constitution must be considered when discussing the legal aspects of HIV/AIDS. They include:
 - 1. The Fourth Amendment, which prohibits "unreasonable searches and seizures of persons, houses, papers and effect," has been applied to the non-consensual drawing of blood of alleged or convicted offenders.
 - 2. The Eighth Amendment prohibits "cruel and unusual punishment" and has been applied through the Fourteenth Amendment's "due process" clause. This specifically addresses the issue of housing and providing medical care for HIV positive inmates.
- B. **Public health law:** Reporting laws require medical providers to report certain events to public health agencies. Guidelines are detailed by state statute or administrative rule. All cases of communicable diseases are reported to the Centers for Disease Control (CDC). All 50 states require AIDS cases to be reported to the health department, which in turn reports the cases to CDC.
 - 1. According to the AIDS Policy Center at George Washington University, as of December 1989, 43 states had instituted reporting requirements for cases of HIV. The type of information reported consists of:

- a. **Anonymous testing:** The broad definition means the individual's name is never used and no other personal identifier is provided. The person taking the test is usually given a number by which he/she can find out the results. Fifteen states require anonymous reporting with only demographics reported and four states require anonymous reporting with names reported in special situations.
- b. **Confidential testing:** The broad definition means the identity of the person being tested is protected information as well as other parts of a medical record. The results can be released, with permission, for insurance or employment screening. They are also susceptible to being released accidentally. Nine states require confidential reporting in terms of names and identifiers, and fifteen states require names with identifiers and some anonymous testing.

There are varying viewpoints on the issue of reporting HIV cases. Most experts agree that some demographic information needs to be collected for the purpose of gathering epidemiological data.

2. Another aspect of the HIV antibody test is the problem of notification of sexual partners. Historically, public health officials have used partner notification and contact tracing when dealing with sexually transmitted diseases. Because of the severe social stigma associated with the HIV infection and AIDS cases, however, it has been recommended that partner notification be done only with the consent of the HIV-infected person. Additionally, since contact tracing is resource intensive, especially in areas with a high incidence of infection, partner notification is the most effective means of notifying individuals who may have been exposed to the virus.

C. **Criminal law:** Since HIV is spread by a sexual act, a natural outgrowth of the epidemic has been the discussion of sanctioning the purposeful spreading of the disease. This has raised the issue of consensual sex versus sexual assault.

1. **Consensual sex:** Most individuals involved with the HIV/AIDS field agree that it would be unreasonable and unproductive to criminally prosecute persons who have consensual sex without notifying their partners of their HIV status. It is also a commonly held belief that criminally sanctioning the spreading of HIV would not deter individuals. The preferred method of slowing the spread of the disease is still a serious and well-funded public education program about HIV/AIDS prevention.

2. **Sexual assault:** In sexual assault cases, the implementation of criminal sanctions does not involve the question of consent, but rather the question of the ability to successfully prosecute a case. Although criminal sanctions have a limited value in containing the spread of HIV, theoretically these laws could be used to punish certain risky behaviors. Charges of homicide, attempted murder, assault, or reckless endangerment could be prosecuted, but the requirement to prove state of mind and causation may be difficult to satisfy.

A second issue to consider is the privacy of victims as it relates to their HIV status as a result of a sexual assault. If the possibility of exposure to the virus becomes a part of the court record, victims may be reluctant to come forward and press charges.

- D. **Testing offenders for the virus:** Although the risk level for HIV transmission to sexual assault victims has not been established, rape crisis centers have reported a dramatic increase in sexual assault victims' fear of contracting the virus. This has led to the question of testing the offender, releasing the results to the victim, and testing the victim during the rape exam.

The AIDS Policy Center at George Washington University tracks current HIV/AIDS legislation relating to crime victims. Their May, 1993, report lists sixteen states that allow victims to request that the convicted or charged sex offender be tested for HIV. Furthermore, twenty-eight states allow the offender's results to be disclosed to the victim. A complete listing of statutes begins on page 16.

IV. HIV and Sexual Assault Victims

Most victim advocates have had some experience assisting sexual assault victims. With that experience comes the knowledge that victims suffer fear for their lives during the assault and fear of the still-prevalent stigma associated with being a sexual assault victim.

With the onslaught of the HIV/AIDS epidemic, the trauma of a sexual assault has evolved into a life threatening concern after the actual victimization and perhaps a more catastrophic stigma. Even after an initial negative test result, because of the unknown time period before HIV antibodies develop, a victim could be subjected to on-going testing which may trigger feelings associated with the original victimization. This section will address the issues brought about by the frequently asked question, "Have I been exposed to AIDS?"

- A. **Likelihood of transmission:** To date, there have been no documented cases of HIV transmission as a result of a sexual assault in the United States (although such cases have been documented in other countries, and there could be such cases that slip past the documentation process of the Centers for

Disease Control). This certainly does not mean that transmission is not possible. There are many factors that increase the possibility of transmission. The physical trauma to the body increases the susceptibility to infection. When the victim is a child or elderly person, the risk of infection is elevated. Due to the high-risk behavior of many sexual offenders, and the frequency with which children are molested by the same offender, the risk of infection for children dramatically increases. Former Surgeon General C. Everett Koop has stated that all child sexual assault victims must be considered at risk for exposure to HIV.

- B. Discussing HIV/AIDS with a sexual assault victim:** Trained victim advocates have developed the skills to address the normal spectrum of issues confronting victims of crime. When working with sexual assault victims, the advocate now needs to have a basic understanding of HIV/AIDS and the antibody test. It is recommended that victim service agencies arrange to be trained by professionals well versed on the topic.
1. **When is a good time to approach the subject?** There is no prescribed point at which the topic of HIV/AIDS *should* be introduced. A few suggestions are:
 - a. When the victim brings the issue up;
 - b. When talking about general health concerns, especially sexually transmitted diseases; or
 - c. During the rape exam. While accompanying the victim to the hospital, arrange with hospital personnel to provide the victim with written information about HIV/AIDS.
 2. **What can advocates do when asked about HIV/AIDS?** The National Institute of Drug Abuse suggests the following:
 - a. Review the victim's risk of infection and motivation to take the test;
 - b. Explain the test and clarify its meaning as a test only for HIV antibodies;
 - c. Explain the limitations of the test results;
 - d. Help the victim to think about possible reactions to the test result and who would need to be told if the test result is positive; and

- e. Help the victim to reach a decision about testing.
3. **What if the test is positive?** If the victim tests positive for HIV, the advocate should seek out an HIV counselor to deliver the very stressful and devastating news. Even as a backup to the AIDS counselor, the victim advocate's very best skills will need to be employed to assist the victim with emotionally processing the results. While helping the victim understand the impact of the results, the advocate should underscore the following points:
- a. **A positive test result is not a diagnosis of AIDS.** Like other people with chronic medical problems, HIV-positive people have a wide range of conditions -- from no symptoms to very serious symptoms.
 - b. With improved medical developments, the life span for HIV-positive individuals has been extended, redefining "having AIDS" from a quick death to a manageable, chronic disease.
 - c. A referral to a qualified, supportive health care provider to determine the best course of treatment.
 - d. A review of some self-controlled health alternatives, such as:
 - i. a healthy diet;
 - ii. regular exercise;
 - iii. plenty of rest and sleep;
 - iv. reduction of stress; and
 - v. avoiding alcohol and drugs, which negatively impact the immune system.
 - e. A referral to an experienced HIV/AIDS counselor and support group.
 - f. How to avoid transmitting the virus, e.g., practicing "safer sex."
4. **How do advocates assist a victim who is already HIV-positive?** As the number of people infected with HIV increases, advocates will undoubtedly encounter victims who are already HIV-positive. The following actions are suggested:
- a. Assess the individual's HIV-positive status: where, when, and how did testing occur?

- b. Review the HIV infection; a positive test result does not mean AIDS.
- c. Review the symptoms of AIDS.
- d. Remind the victim that he/she is infectious and review how to reduce the risk of transmission. **Remember, it is very important to discuss risk reduction behaviors with any victim concerned about having been exposed to the virus.**
- e. Provide information on maintaining good health so as not to further compromise the immune system.
- f. Refer the victim to a local support group or AIDS counseling program.

V. HIV and Child Sexual Assault Victims

- A. Although children are considered to be at a higher risk for infection than adults, the incidence of HIV is so low that testing is not recommended, unless there is a strong belief or evidence that the offender is HIV positive.
- B. If it is determined that a child should be tested, permission must be obtained by the parent or legal guardian. The National Commission on AIDS also recommends that test results be disclosed only to parents or legal guardians.
- C. If the test result is positive, then the *basic* counseling methods used when working with adults would apply. Some helpful techniques when counseling children are:
 - 1. Use age-appropriate language. Keep explanations simple.
 - 2. Use dolls, pictures or other aides, as children respond well to visuals.
 - 3. Children also respond well to repetition. Repeat explanations when necessary.
 - 4. Be consistent with terms. For example, if the term infection is used, always use it.
 - 5. When appropriate, ask children to repeat what they heard as a check on their level of understanding.

VI. The National Commission on AIDS: Obstacles and Recommendations

- A. In 1988, the National Commission on AIDS was established by Public Law 100-607 "for the purpose of promoting the development of a national consensus on policy concerning AIDS and the studying and making of recommendations for a consistent national policy" concerning the HIV epidemic. Since the inception of the Commission, over 20 hearings have been held and nine reports have been issued.

In May of 1988, then Director of the Office for Victims of Crime, Jane Nady Burnley, testified before the Commission on the transmission of HIV through sexual assault. The outcome of those hearings was the June 24, 1988, report to the President. Section V of Chapter 9 of the report deals with Sexual Assault and HIV Transmission.

- B. **Obstacles to progress:** The Commission has identified the following obstacles to assisting victims of sexual assault crimes in light of possible exposure to HIV.
1. HIV testing is not currently included in the routine tests for sexually transmitted diseases offered to sexual assault victims. Where testing is requested, it may be expensive. Since routine tests are usually performed as soon as the assault is known, an HIV antibody test of the victim would not reveal exposure as a consequence of the rape.
 2. There are no published studies available on the incidence of HIV infection as a result of sexual assault or among perpetrators.
 3. The criminal justice system and most state laws have not addressed fully how to approach the HIV-infected sexual offender.
 4. Mandatory testing of accused sexual offenders is not widely available.
 5. In some states, laws prohibit release of information on a sexual offender's HIV status to victims.
 6. There is no mechanism for reporting cases of HIV-infected sexual offenders once apprehended, and subsequent notifying of the victims.
 7. Most current counseling programs for victims of violent crimes do not include a component on HIV, and many counselors are not currently trained to provide such services.

8. Children typically experience problems in coming forward and making adults believe their accounts of molestation. Therefore, the possible exposure of a child to HIV may not be known.

- C. **Recommendations** [the numbering of recommendations in the Commission's original report has been retained as they appear below:]

Monitoring and Data Collection

- 9-52 Public health officials, criminal justice systems, and various organizations that deal with victims and perpetrators of sexual abuse must collect and compile data so that the scope of HIV prevalence and transmission associated with sexual assault can be determined.
- 9-53 The Centers for Disease Control should monitor and publish the number of reported cases where HIV transmission occurs through sexual assault, including geographic breakdowns of these incidents.
- 9-54 Criminal justice and victim service organizations should collect data on the frequency of sexual assault victims' requests for HIV testing and the frequency of positive results for both victims and perpetrators.
- 9-55 Support for incidence and prevalence studies of HIV among the population of sexual assault victims, such as those studies currently funded by the National Institute of Mental Health, should continue with increased funding.

Testing and Counseling

- 9-56 Programs which provide medical and counseling services to sexual assault victims should make voluntary HIV testing a part of the STD screening process free-of-charge and make appropriate counseling about assaults and HIV available by trained staff.
- 9-57 Training programs for HIV blood test counseling and partner notification techniques should include components focusing on the population of sexual assault victims.
- 9-58 Federal and state public health authorities should provide service providers and counselors who assist child and adult victims of sexual crimes with the most current information and training on HIV, along with information on the location of confidential and anonymous testing sites and funding and training for the performance of tests.
- 9-59 Model programs for the long-term follow-up care of victims who do and do not test positive initially should be developed and funded. If a victim converts

to positive infection status, there should be counseling and health care intervention provided throughout the various stages of HIV infection. These individuals should receive the highest priority for participation in clinical drug trials.

- 9-60 Social services, law enforcement, mental health, medicine and community-based services should cooperate to provide effective response to child sexual abuse by a well-coordinated, multi-disciplinary team which protects and treats victims and their families and deals effectively with perpetrators, incorporating concerns related to HIV exposure.
- 9-61 Basic curricula/training programs for health, counseling, and criminal justice professionals should include identification of undisclosed sexual trauma, dynamics of victimization, and patterns of trauma and recovery as well as HIV transmission.
- 9-62 Victim advocacy programs should increase public awareness concerning the potential impact of HIV on victims of crime through education.

Testing of Offenders and the Victims' Access to Results

- 9-63 Criminal justice authorities, under the guidance of public health officials, should develop a mechanism to order that a sexual offender submit to an HIV test at the earliest possible juncture in the criminal justice process. The results of such a test should remain confidential and be disclosed only to the victims, if they so desire, and public health officials. Where the victim of the sexual assault is a minor, the test results should be disclosed to the minor's parents and/or caretakers.
- 9-64 The criminal justice system should periodically conduct follow-up testing of convicted offenders who test HIV negative to monitor for possible development of antibodies or other evidence of infection at a later time, with notification of victims as appropriate.
- 9-65 In cases where a sexual offender is not apprehended, or where apprehended and there is a possibility of HIV infection even though current test results are negative, victims should at least be offered testing over time and counseling as to the potential for transmitting the disease and as proper precautions.
- 9-66 Adult victims who choose not to know of the sexual offender's HIV status should be informed of the possibility of infection and offered testing and counseling so that they can take appropriate precautions.

Criminal Justice System Approaches to Sexual Offenders

- 9-67 Courts should utilize restitution orders whenever possible so that sexual offenders are held directly accountable for the financial effects of their crimes.
- 9-68 State laws and federal laws (in the limited areas where federal laws preside over criminal actions, such as on Indian reservations) should include provisions for enhanced sentencing in cases where sexual offenders commit sexual crimes knowing they are HIV infected.
- 9-69 Criminal justice facilities should test all convicted sexual offenders for HIV prior to a parole hearing or release from prison. If parole is granted, a positive test result should affect the degree of supervision the sexual offender receives following release.
- 9-70 If a convicted sexual offender is HIV infected, this information should be included in the sexual offender's criminal record and used in sentencing hearings for subsequent sexual assault convictions as a basis to further enhance sentencing. The criminal justice system should restrict availability of information on HIV status to those individuals within the criminal justice system with a need to know. Under no circumstances should this information be released as general public information.
- 9-71 The criminal justice system should develop and implement sound treatment programs for sexual offenders which include an HIV prevention component.

VII. Conclusions

There are many elements to be considered when discussing possible responses to the HIV/AIDS question. First and foremost, advocates must receive HIV/AIDS training from qualified HIV/AIDS counselors. Without accurate, current information, advocates will not have the best tools available to them to provide the most comprehensive assistance to victims. This is especially critical because of the evolving nature of HIV/AIDS information, such as appropriate terminology describing medical advances. Second, advocates need to be aware of current laws regarding the testing of offenders and releasing the results to the victim. Third, advocates should strive to keep abreast of the developments made in HIV/AIDS research. By remaining informed, advocates will better serve victims.

Finally, victim service professionals across America need to carefully study the recommendations of the National Commission on AIDS. As "voices for victims," advocates can call for more research on HIV transmission and can advocate for laws in all states that require offender testing and releasing of results to victims at the request of victims. Perhaps most importantly, a multi-disciplinary approach addressing the epidemic and the impact on victims needs to be forged in every community.

The following information was provided by the AIDS Policy Center, Intergovernmental Health Policy Project, The George Washington University, May 1993.

STATE STATUTES ANNOTATED

Arizona

HB 2173 (90) - Victims (or parents or guardians, if the victim is a minor) of sexual offense or other crimes involving significant exposure may request the agency responsible for prosecuting the offense to ask arrested person to be tested for HIV and to release test results to the victim. If the person is convicted of the offense, the prosecuting attorney, if requested by the victim, must petition for a court order requiring the person to be tested for HIV. Requires notification and counseling for the victim and convicted offender. Notwithstanding other laws, results must be released only to the victim.

Arkansas

HB 1496, Act 614 (89) - Provides that if the victim or person with whom the defendant, who has been arrested and charged, engaged in sexual penetration during the course of the crime consents, the court must provide the person or agency administering the test with the name, address and telephone number of the victim or person. After the defendant is tested, the person or agency administering the test must immediately provide the defendant's test results to the victim or person with whom the defendant engaged in sexual penetration during the course of crime, and the victim must be referred for appropriate counseling.

HB 1560, Act 616 (93) - Mandates HIV testing for convicted sex offenders upon a victim's request. Test results must immediately be released to the victim and the defendant but are otherwise confidential and not subject to disclosure as public information under the Freedom of Information Act. Upon request, victims of sex offenses may receive: (1) appropriate counseling; (2) HIV testing; and (3) referral or delivery for appropriate health care and support services.

California

SB 4209, Chapter 1109 (88) - DOH must develop a brochure for victims re: exposure.

SB 1007, Chapter (88) - Requires county health officers to establish counseling programs for victims of specified sexual offenses who take HIV test.

SB 2643, Chapter 1088 (88) - Victims may request a search warrant from court to test the accused. Local health officials are responsible for disclosing results to victim and accused after counseling. Victim can disclose results as deemed necessary, but results cannot be used in criminal proceedings.

Colorado

SB 8 (88) - Test results of a defendant, subsequent to a preliminary hearing, who is bound over for trial on any sex offense, must be reported to the court; victims may decide whether or not they want to receive results.

Florida

HB 1590, Chapter 89-350 (89) - Victim may request a defendant to be tested in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily or pursuant to a court order; test results can be disclosed solely to the defendant and the victim.

HB 1115, Chapter 90-210 (90) - Persons charged with a sexual offense involving the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian or the parent or legal guardian of the victim if the victim is a minor, the court will order the person to undergo HIV testing. Upon request, test results will be disclosed to the victim or the minor's parent or legal guardian.

Georgia

HB 1281, Act 1440 (88) - Positive test results and name of person shall be reported to the victims of crime which poses a reasonable risk of transmitting HIV; counseling must be provided to victim.

HB 554, Act 411 (91) - Allows victims to request that a person arrested for a sex offense involving a significant exposure to be tested for HIV and consent to the release of results to the victim. If the arrested person declines to be tested, the court may order HIV testing upon a showing of probable cause that the person committed the crime and significant exposure occurred. The victim or arrested person must pay for testing upon the court's discretion.

Idaho

HB 638, Chapter 310 (90) - Upon the victim's application to the court, or if the victim is a minor, by the minor's parent, guardian, or legal custodian, the court may release test results of a person charged with a sex offense if it determines that the health or safety of the victim may be threatened. The court may impose conditions on the release of test results as it deems necessary and just.

SB 1022, Chapter 19 (93) - Whenever a prisoner tests positive for HIV, the victim must be entitled to referral and appropriate health care and support services. Requires the district health department to provide the victim with free counseling, HIV testing and referral services. However, the requirement to provide referral services does not, in and of itself, obligate the district health departments to provide or otherwise pay for a victim's health care or support services. Any court, when releasing test results to a victim, or if the victim is a minor, to the minor's parent, guardian or legal custodian, must explain or make these individuals aware of the services to which the victim is entitled.

Illinois

HB 4005, Public Act 85-1399 (88) - Court has the discretion to notify victim of test results.

SB 999 (91) - Authorizes a victim to request HIV testing for a person accused or indicted of a sexual offense. Under no circumstances must the victim's identity be disclosed.

HB 3185, Public Act 87-1068 (92) - Amends the law to make the prior sexual activity or reputation of an alleged victim inadmissible as evidence concerning the past sexual conduct of the alleged victim with the accused in cases involving the criminal transmission of HIV infection.

SB 1615, Public Act 87-1190 (92) - Requires the court to: (1) provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed; and (2) direct the State's Attorney to provide the information to the victim when possible.

Indiana

SB 9, Public Law 88-123 (88) - The court shall order that persons convicted of certain sex crimes be tested. Board of health shall notify victims of specified crimes offender's test results are HIV positive; counseling must be provided to victims.

Kansas

HB 2659 (88) - Victims (their guardians or parents if victim is a minor) may request that the convicted person submit to a test. Victim must designate a health care provider or counselor to receive such information. If test is negative, court shall order convicted person to be tested six months later. Results disclosed to court ordering test, convicted person, victim, designated person or parents (if person is a minor). If test is positive, results reported to secretary of health and secretary of corrections. Counseling will be provided for victim.

Louisiana

SB 379, Act 419 (91) - Requires victims to be or their parent and guardian to be notified of a convicted sex offender's test results.

SB 380, Act 316 (91) - Authorizes the court to use its discretion to provide test results to the victim of the offense and to health authorities in accordance with the law.

Maine

HB 359, Chapter 803 (92) - Allows convicted sex offenders to be tested for HIV without their consent when a victim of gross sexual assault has been exposed to the blood or bodily fluids of the convicted offender and the exposure creates a significant risk of infection. Victims of gross sexual assault who have allegedly been exposed to the blood and body fluids of the convicted offender may petition the court to require the convicted offender to be tested for HIV.

Michigan

HB 4008, Public Act 471 (88) - If the victim consents, the court shall provide the person or agency administering the test to the convicted person with the victim's name, address and telephone number; requires person or agency administering test to notify victim and refer her for appropriate counseling.

Mississippi

HB 492, Chapter 425 (91) - Requires a convicted sex offender's HIV positive results to be disclosed to a rape victim, the victim's spouse, and the convicted offenders' spouse if either or both the victim and the offender are lawfully married.

Missouri

SB 138 (89) - Requires the Department of Health to pay for the cost of conducting HIV testing for victims of rape, sodomy or incest if the person who is convicted of such crime is determined to be infected with HIV based on HIV testing conducted upon delivery to the Department of Corrections and Human Resources.

SB 638 (92) - Allows a convicted sex offender's confidential HIV test results to be disclosed to the victim of any sexual offense which includes sexual intercourse as an element of the crime. Requires the health department to inform the victim of any sexual offense which includes sexual intercourse as an element of the crime, of any confirmed positive results of HIV testing on an offender within the custody of the department.

Nevada

SB 73, Chapter 138 (89) - Requires the health authority to disclose the test results of arrested offenders to the victim or the victim's parent or legal guardian if the victim is a minor.

North Dakota

HB 1383, (93) - Authorizes a court to order defendants charged with sex offenses and alleged juvenile offenders against whom a petition has been filed to be tested for STDs, including HIV upon a victim's request. The court must determine whether probable cause exists to believe that possible transfer of an STD or HIV occurred between the defendant, alleged juvenile offender.

Ohio

SB 2 (89) - Requires the court to inform the victim that a HIV test was performed on the offender and that the victim has the right to receive the results upon request; fact that accused was tested for HIV is inadmissible in evidence over the objection of the accused, in a prosecution for any offense or a different offense arising out of same circumstances as the offense charged.

Oklahoma

HB 1012, (91) - Requires test results of persons arrested for rape, forcible sodomy to be disclosed to an alleged victim upon her request. The name of the arrested person must not be disclosed in the report. Requires the health department to provide victims with positive test results and provide free testing to the alleged victim for venereal or communicable disease testing (does not specify HIV testing) along with pre- and post-test counseling.

Oregon

HB 2030, Chapter 568 (89) - Provides that if a convicted offender fails to submit to the HIV test, the court may order the convicted person to submit to an HIV test if the victim or the victim's parent or guardian requests the court to make such order after the victim has submitted to an HIV test; requires the alleged victim of a crime likely to involve transmission of body fluids or her parents/guardian to be notified that testing and counseling is available; if test ordered, the victim shall designate an attending physician to receive test results; test results are available to the victim.

South Carolina

HB 2807, Ratification No. 547 (88) - Requires the solicitor ordering test of person convicted to notify the victim and the offender of the test results.

South Dakota

SB 77 (93) - Allows victims of violent crime or law enforcement officers to request in writing to the state's attorney that a defendant or juvenile charged with sexual assault be tested for HIV or HBV. The court must determine that there is reasonable cause to believe that an exchange of blood fluids occurred. Victims must be notified of test results within 48 hours of receipt.

Tennessee

HB 52 (91) - Requires victims to be notified that a charged defendant has been informed of the availability of HIV testing. Requires convicted sex offenders to be tested upon the victim's request. Test results are not public record but must be disclosed to the victim or her parent or guardian if she is a minor or incapacitated.

Texas

SB 66-XX, Chapter 55 (87) - Victim may request that a person indicted for sexual assault and aggravated sexual assault be tested. Results must be made available to local health authorities who must notify the victim. Prohibits evidence of the fact that the test was performed or results to be used in criminal proceedings.

Utah

HB 151 (93) - Mandates HIV testing for convicted sex offenders upon a victim's request. Allows victims to also request testing for themselves. Requires the Department of Health to provide HIV counseling and referral for appropriate health care and support services to victims requesting the status of a tested convicted offender. If the local health department where the victim resides and the Department of Health agree, the Department must forward a

report of the offender's HIV status to the local health department and the local health department must provide the victim who requests the test with the test results, counseling regarding HIV disease and referral for appropriate health care and support services. Authorizes the Department of Health and local health departments to disclose the offender's HIV test results to the victim.

Virginia

HB 815, Chapter 957 (90) - As soon as practicable following an arrest, the attorney of the Commonwealth may request after consultation with any victim, any person charged or convicted with a crime involving sexual assault or any offense against children to submit to HIV testing. Authorizes the DOH to disclose HIV test results to victims.

HB 337, Chapter 500 (92) - Upon conviction of any crime involving sexual assault or offenses against children, allows the victim to request that a court order the defendant to submit to HIV testing. Any testing conducted following conviction must be in addition to tests that may have been conducted following arrest. Requires confirmatory tests to be conducted before any test result will be determined to be positive. However, the Department of Health must also disclose test results to any victim and offer appropriate counseling.

SB 653, Public Law 93-512 (93) - Allows juveniles found delinquent for the commission of crimes involving sexual assault or offenses against children to be tested for HIV under the same circumstances as adults convicted of such crimes.

Wyoming

HB 141, Chapter 82 (92) - Requires accused sex offenders to consent to testing for sexually transmitted diseases (STDs). Mandates STD testing for accused offenders when the court has reason to believe that the crime may involve the transmission of a STD. Requires alleged victims of the offense to be notified of the test results. Bill references, and is pursuant to, existing legislation concerning STDs and HIV.

HB 156, Chapter 173 (93) - Requires convicted sex offenders and juveniles adjudicated for sex offenses to be tested for STDs upon the request of a victim. Test results must be disclosed to victims or their parents or legal guardian if they are a minor.

STATES WHERE OFFENDERS' TEST RESULTS MAY BE DISCLOSED TO VICTIMS

- AZ: HB 2173 (90)
- AR: HB 1496, Act 614 (89) - defendant;
HB 1580, Act 616 (93) - convicted
- CA: SB 2643, Chapter 1088 (88) - accused
- CO: SB 8 (88) - accused (awaiting trial)
- FL: HB 1590, Chapter 89-350 (89) - defendant;
HB 1115, Chapter 90-210 (90) - charged or convicted
- GA: HB 1281, Act 1440 (88) - defendant;
HB 554, Act 411 (91) - defendant
- ID: SB 1022, Chapter 19 (93) - charged;
- IL: HB 4005, Public Act 85-1399 (88) - court has the discretion to notify victim of test results;
SB 999 (91) - results must be personally delivered in a sealed envelope to the victim;
SB 1615, Public Act 87-1190 (92) - must notify victims "when possible"
- IN: SB 9, Public Law 88-123 (88) - convicted
- KS: HB 2659 (88) - convicted
- LA: SB 379, Act 419 (91) - convicted;
SB 380, Act 316 (91) - indicted
- ME: HB 359, Chapter 803 (92) - convicted
- MI: HB 4008, Public Act 471 (88) - convicted
- MS: HB 492, Chapter 425 (91) - convicted and sentenced to imprisonment
- MO: SB 638 (92)
- NV: SB 73, Chapter 138 (89) - arrested
- NM: SB 36, Chapter 107 (93) - convicted

National Victim Center

- ND: SB 2285 (93) - defendants charged with sex offenses and alleged juvenile officers against whom a petition has been filed
- OH: SB 2 (89) - accused
- OK: HB 1012 (91) - arrested
- OR: HB 2030, Chapter 568 (89) - convicted
- SC: HB 2807, Ratification No. 547 (88) - convicted
- SD: SB 77 (93) - defendants and juvenile offenders
- TN: HB 52 (91) - convicted
- TX: SB 66-XX, Chapter 55 (87) - indicted
- UT: HB 151 (93) - convicted
- VA: HB 815, Chapter 957 (90) - charged or convicted;
HB 337, Chapter 500 (92) - convicted;
HB 742, Chapter 587 - charged
- WY: HB 141, Chapter 82 (92) - alleged;
HB 156, Chapter 173 (93) - convicted and juvenile adjudicated

STATES WHERE VICTIMS MAY REQUEST THAT CONVICTED OR CHARGED SEX OFFENDERS BE TESTED FOR HIV

- AZ: HB 2173 (90) - arrested
- AR: HB 1560, Act 616 (93) - convicted
- CA: SB 2643, Chapter 1088 (88) - accused
- FL: HB 1590, Chapter 89-350 (89) - defendant;
HB 1115, Chapter 90-210 (90) - charged or convicted
- GA: HB 554, Act 411 (91)
- IL: SB 999 (91) - accused or indicted
- KS: HB 2659 (88) - convicted

National Victim Center

ME: HB 359, Chapter 803 (92) - convicted

ND: SB 2285 (93) - defendants charged with sex offenses and alleged juvenile officers against whom a petition has been filed

OR: HB 2030, Chapter 568 (89) - convicted

SD: SB 77 (93) - defendants and juvenile offenders

TN: HB 52 (91) - convicted

TX: SB 66-XX, Chapter 55 (87) - indicted

UT: HB 151 (93) - convicted

VA: HB 337, Chapter 500 (92) - convicted (child molesters)

WY: HB 156, Chapter 173 (93) - convicted and juveniles adjudicated for sex offenses

Dedicated to the Memory and Work of David Kamens, 1970 - 1992

David Kamens was 21 years old and HIV-positive when he died on February 28, 1992. Since being diagnosed as HIV-positive three years before, he devoted his time and energy to educating people, especially youth, about HIV/AIDS. David would speak anywhere, anytime, and often without pay. He believed that only with education would people be able to make safer choices. By his actions, he taught us not just about HIV/AIDS, but also about dedication to a goal and courage when facing life's challenges. David was excited about the opportunity to reach out to, and share information with, the victim services field. He unselfishly offered his time, knowledge and resources to the development of this chapter for *The Road to Victim Justice: Mapping Strategies for Service* - which was literally at the printer at the time of his death.

David gave so much of himself to so many people. Through his public education efforts he touch thousands of lives. It was truly a pleasure and an honor to have known David Kamens.

--Diane Alexander

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IN AMERICA

A R E P O R T T O T H E N A T I O N

April 23, 1992

By

**Dean G. Kilpatrick, Ph.D.
Christine N. Edmunds, B.A.
Anne Seymour, B.A.**

Prepared by



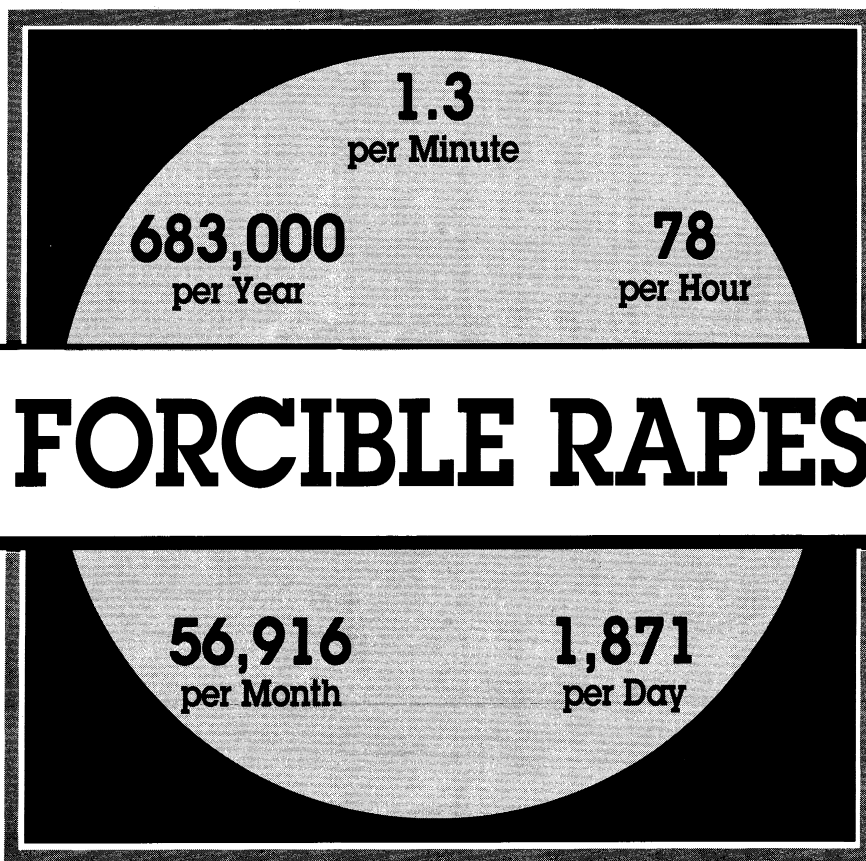
**National
Victim Center**

2111 Wilson Boulevard
Suite 300
Arlington, Virginia 22201



**Crime Victims Research and
Treatment Center**

Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
Charleston, South Carolina 29425



What is Forcible Rape?

Attempts to discuss the topic of rape are often frustrating because everyone defines rape differently. *The National Women's Study* used a very conservative definition of rape—one which would be legally defined as forcible rape or criminal sexual assault in most states. Specifically, rape was defined as "an event that occurred without the woman's consent, involved the use of force or threat of force, and involved sexual penetration of the victim's vagina, mouth or rectum."

Women were asked whether such experiences had occurred

anytime during their lifetimes, whether or not they reported it to police, and whether the attacker was a stranger, family member, boyfriend, or friend.

Clearly other types of sexual assault exist that do not involve force, threat of force, or penetration. Such sexual assaults occur frequently and often have a major negative impact on victims. However, this *Report* focuses on the forcible rape of women; other types of sexual assault (including assaults against men and boys) will not be addressed.

INTRODUCTION

Rape In America

The past year has witnessed unprecedented interest in crimes against women, from Congressional hearings to several high profile rape trials to media scrutiny of rape issues. This intense public concern has produced more questions than answers about crimes against women:

- What is forcible rape?
- How much rape is there in the United States?
- What are rape victims' key concerns?
- How many rapes are actually reported to police, and does media disclosure of rape victims' names affect such reporting?
- What has been the impact of recent high profile rape cases on reporting of rapes?

Rape In America: A Report to the Nation addresses these and other pertinent questions, providing the first national empirical data about forcible rape of women in America. The results of two nationwide studies conducted by the National Victim Center and the Crime Victims Research and Treatment Center at the Medical University of South Carolina are summarized in this *Report*.

The National Women's Study, funded by the National Institute of Drug Abuse, is a three-year longitudinal study of a national probability sample of 4,008 adult women. In *The State of Services for Victims of Rape*, sponsored by the National Victim Center, 370 agencies which provide crisis assistance to rape victims were survey respondents.

The National Women's Study is a longitudinal survey of a large national probability sample of 4,008 adult American women (age 18 or older), 2,008 of whom

represent a cross section of all adult women and 2,000 of whom are an oversample of younger women between the ages of 18 and 34. Eighty-five percent of women contacted agreed to participate and completed the initial (Wave One) telephone interview. At the one year follow-up (Wave Two), 81% of *The National Women's Study* participants (n = 3220) were located and re-interviewed. The two year follow-up (Wave Three) is currently in progress, but preliminary data from the first 2,785 women who completed the 45-minute Wave Three interview are included in this *Report*. In addition to gathering information about forcible rapes that occurred throughout women's lifetimes, *The National Women's Study* also assessed such major mental health problems as depression, Post-traumatic Stress Disorder, suicide attempts, as well as alcohol and drug-related problems and consumption. *The National Women's Study* was supported by National Institute of Drug Abuse Grant No. RO1DA05220.

The State of Services for Victims of Rape survey was conducted with respondents from a national probability sample of agencies that provide crisis counseling services to rape victims, at least some of whom have not reported rapes to police. Since police or prosecutor-based agencies have little or no contact with rape victims who decide *not* to report, they are limited in what they can say about why victims do not report or whether there has been any change in rape victims' willingness to report. In contrast, agencies that provide services to rape victims who either did *not* report or are deciding whether to report are in an excellent position to

provide information about factors related to non-reporting. Out of 498 agencies that screened eligible, 370 completed the 25 minute telephone interview. The survey collected information about: the number of rape victims served in 1990 and 1991; agency opinions about the types of rape victims' concerns they see; and agency opinions about the extent to which certain laws, services and policies could increase victims' willingness to report rapes. Agency respondents were also asked about the impact on willingness of rape victims to report after the 1991 West Palm Beach, Florida, and 1992 Indianapolis, Indiana trials. A more detailed description of the methodology of these two studies is provided in the Appendix of this *Report*.

Both studies were directed by Dr. Dean G. Kilpatrick, Director of the Crime Victims Research and Treatment Center, Chairperson of the National Victim Center's Research Advisory Committee, and co-author of this *Report*. The National Victim Center's Director of Program Development, Christine N. Edmunds, and Director of Communications, Anne Seymour, also co-authored this *Report*. In addition, both studies were conducted by Schulman, Ronca and Bucuvalas, Inc. (SRBI), a national survey research organization in New York City under the direction of Dr. John Boyle.

Together, these groundbreaking studies provide valuable information about the scope and nature of rape in America. From these remarkable findings, America can learn about what we must do to address rape victims' concerns, and how our nation can remove barriers that prevent victims from reporting rapes to police. ■

SECTION I

The National Women's Study

"...rape in America is a tragedy of youth..."

During Wave One of the study, information was gathered about forcible rape experiences occurring *any time* during a woman's lifetime. Thirteen percent of women surveyed reported having been victims of *at least one completed rape* in their lifetimes. Based on U.S. Census estimates of the number of adult women in America, one out of every eight adult women, or at least *12.1 million American women*, has been the victim of forcible rape sometime in her lifetime.

Many American women were raped more than once. While 56%, or an estimated 6.8 million women experienced only one rape, 39%, or an estimated 4.7 million women were raped more than once, and five percent were unsure as to the number of times they were raped (See Figure 1).

Prior to this study, national information about rape was limited to data on reported

rapes from the *FBI Uniform Crime Reports* or data from the *Bureau of Justice Statistics, National Crime Survey (NCS)* on reported and non-reported rapes occurring in the past year. However, the *NCS* provides no information about rapes occurring over the lifetime of a victim, and has been recently redesigned due to criticisms that it failed to detect a substantial proportion of rape cases. Therefore, the results of these two new surveys fill a large gap in current knowledge about rape at the national level.

Information from *The National Women's Study* indicates that 0.7% of all women surveyed had experienced a completed forcible rape in the past year. This equates to an estimated 683,000 adult American women who were raped during a twelve-month period (See Figure 2).

The National Women's Study estimate that 683,000 adult American women were raped in a

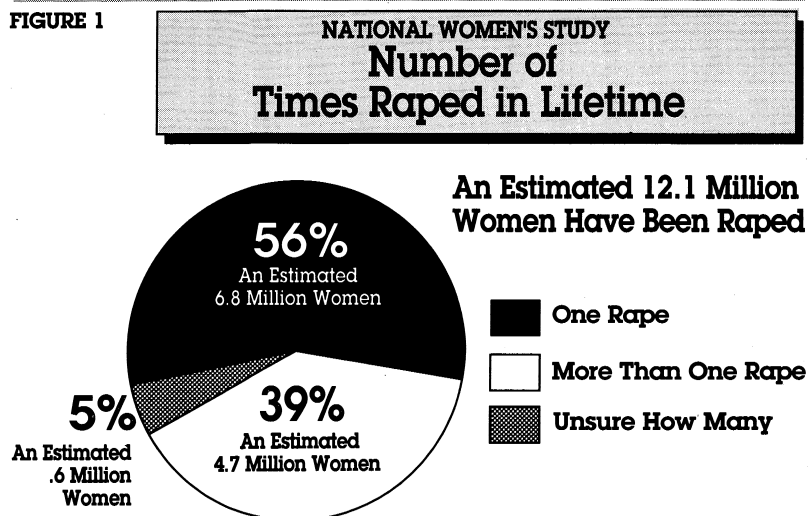
one year period *does not include all rapes that occurred in America that year*. Rapes that occurred to female children and adolescents under the age of 18—which comprised more than six out of ten of all rapes occurring over women's lifetimes—were not included, nor were any rapes of boys or men.

Thus, the 683,000 rapes of adult women probably constitute well less than half of all the rapes that were experienced by all Americans of all ages and genders during that one year period.

How do these estimates from *The National Women's Study* compare with those from the *FBI Uniform Crime Reports* and from the *National Crime Survey*? The FBI estimate of the number of attempted or completed forcible rapes that were reported to police in 1990 was 102,560. The *National Crime Survey* estimates include both reported and non-reported rapes that are either attempted or completed. The *NCS* estimate for 1990 is 130,000 attempted or completed rapes of female Americans age 12 or older. *The National Women's Study* estimate was based on completed rapes of adult women (age 18 or older) that occurred between Wave One (conducted in the fall of 1989), and Wave Two (conducted in the fall of 1990). Thus, the time periods were not identical, but were roughly comparable for these three estimates. Although it did not include attempted rapes or rapes of adolescents between the ages of 12 and 18 as did the *NCS*, *The National Women's Study* estimate was still 5.3 times larger than the *NCS* estimate.

In *The National Women's Study*, information was gathered regarding up to three rapes per person: the first rape she ever experienced, the most recent rape, and the "worst" rape if other than the first or most

FIGURE 1



recent. Information was available from Wave One about 714 such cases of rape that 507 victims of rape had experienced. The survey found that rape in America is a tragedy of youth, with the majority of rape cases occurring during childhood and adolescence. Twenty-nine percent of all forcible rapes occurred when the victim was *less than 11 years old*, while another 32% occurred *between the ages of 11 and 17*. Slightly more than one in five rapes (22%) occurred between the ages of 18 and 24; seven percent occurred between the ages of 25 and 29, with *only six percent* occurring when the victim was older than 29 years old. Three percent of the respondents were not sure or refused to answer (See Figure 3). ■

"....one out of every eight adult women, or at least 12.1 million American women, has been the victim of forcible rape sometime in her lifetime."

FIGURE 2

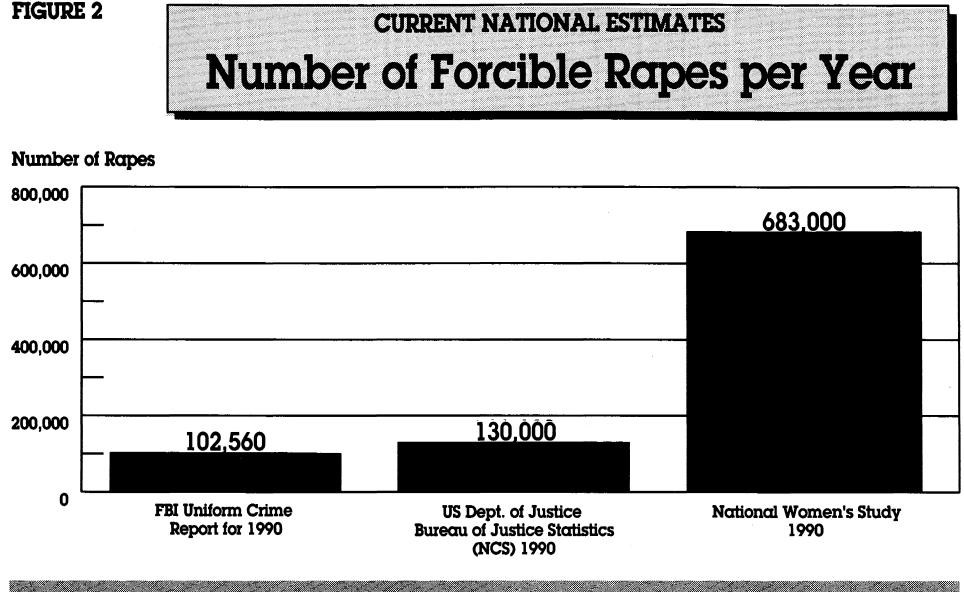
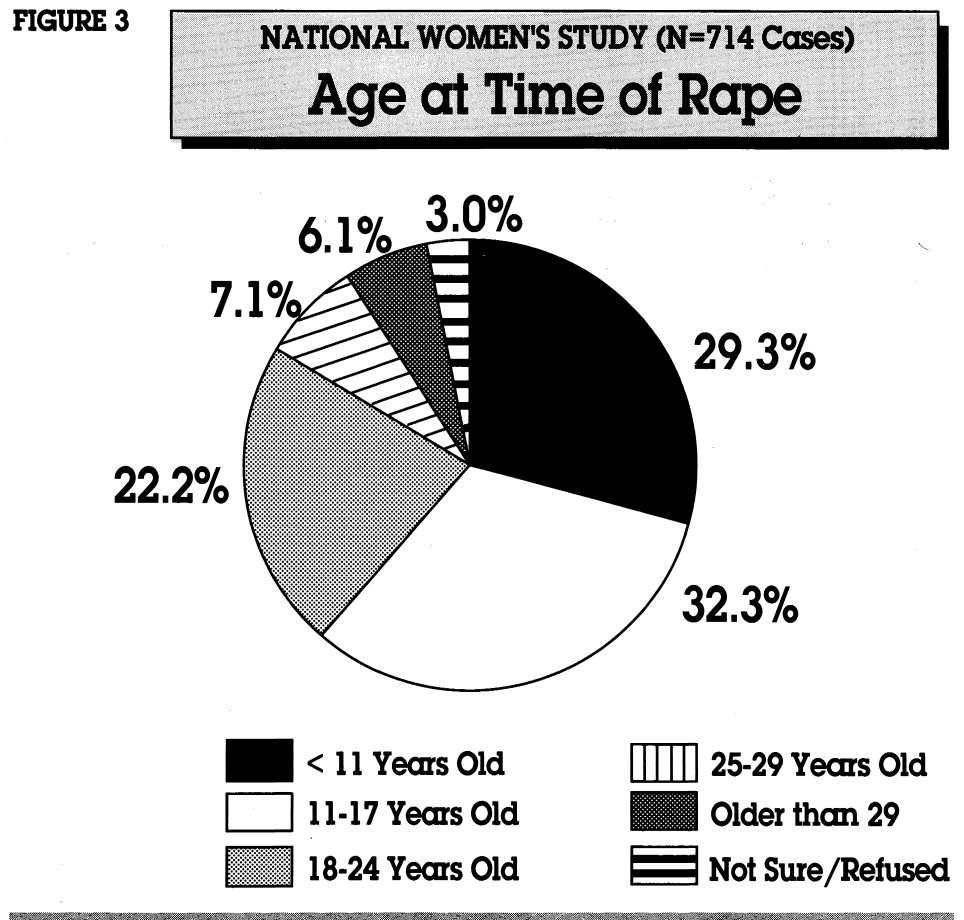


FIGURE 3



Characteristics of Rape

The National Women's Survey clearly dispels the common myth that most women are raped by strangers. To the contrary, only 22% of rape victims were assaulted by someone they had never seen before or did not know well. Nine percent of victims were raped by husbands or ex-husbands; eleven percent by their fathers or step-fathers; ten percent by boyfriends or ex-boyfriends; sixteen percent by other relatives; and twenty-nine percent by other non-relatives, such as friends and neighbors. Note: Three

percent of the respondents were not sure or refused to answer (See Figure 4).

Another common misconception about rape is that most victims sustain serious physical injuries. Over two-thirds (70%) of rape victims reported no physical injuries; only 4% sustained serious physical injuries, with 24% receiving minor physical injuries. Of considerable importance is the fact that many victims who did *not* sustain physical injuries nonetheless *feared being seriously injured or killed* during the rape. Almost half of all rape victims (49%) described being fearful of serious injury or death during the rape (See Figure 5).

The information about rape characteristics noted previously was from Wave One of the study that identified 714 rape cases. Wave Two of the study provided information about the number of new rape cases between Wave One and Wave Two. Wave Three provides more descriptive information about *all* rape cases detected in Wave One and Two, including any new rape cases that have occurred since Wave One.

Without accurate information about victims' concerns after rape, it is difficult to create and implement policies and programs to meet their most critical needs. Therefore, rape victims were asked about the extent to which they were concerned about issues specific to their personal rape experiences.

Rape victims were at least somewhat or extremely concerned about the following:

- Her family knowing she had been sexually assaulted (71%);
- People thinking it was her fault or that she was responsible (69%);
- People outside her family knowing she had been sexually assaulted (68%);
- Her name being made public by the news media (50%);
- Becoming pregnant (34%);
- Contracting a sexually transmitted disease not including HIV/AIDS (19%); and
- Contracting HIV/AIDS (10%) (See Figure 6).

The combination of concerns about being blamed (which reflect the stigma still associated with rape) and people finding out they had been victims (which reflects confidentiality concerns) may explain why more than half of rape victims in America express concern about the news media disclosing their names.

It is clear that rape victims are extremely concerned about people *finding out* and *finding reasons* to blame them for the rape. If the *stigma* of rape was not *still* a very real concern in victims' eyes, perhaps fewer rape victims in America would be concerned about invasion of their privacy and other disclosure issues.

FIGURE 4

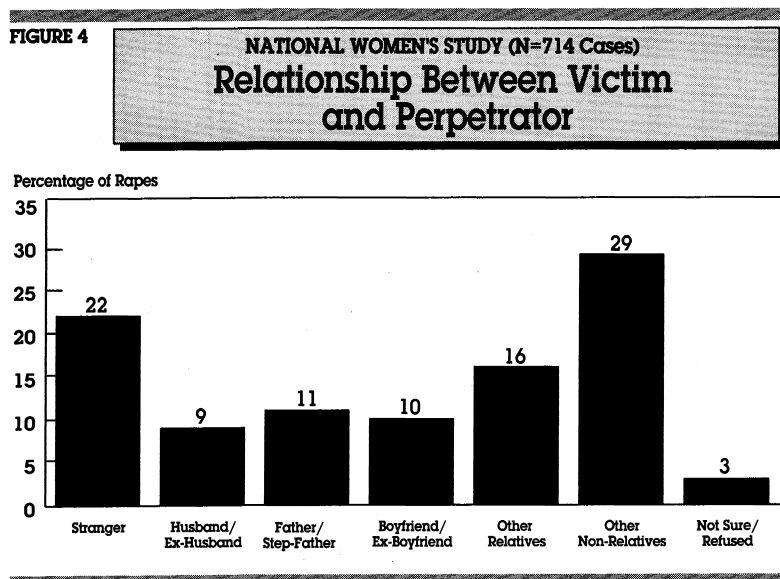
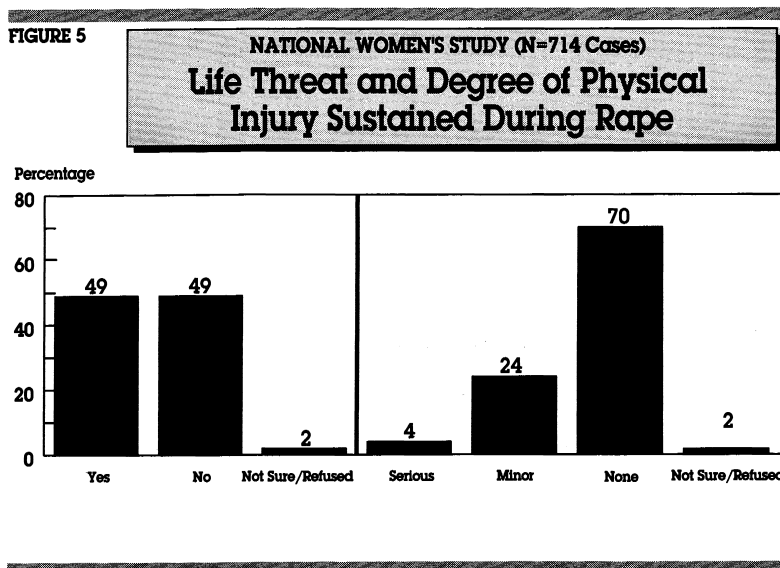


FIGURE 5



Somewhat surprisingly, concerns about exposure to sexually transmitted diseases and HIV/AIDS were lower than might be expected. However, many victims were raped years ago as children, prior to America's AIDS epidemic.

Victims were asked if they had a medical examination following the assault. In *only* 17% of all rape cases did such an exam occur. Of these, 60% of rape victims who did receive a medical examination had it within 24 hours of the assault. However, in 40% of the cases, the exam occurred more than 24 hours *after* the assault. Victims told their doctors in only two-thirds of rape cases that they had been sexually assaulted; the doctor was never told about the rape in one-third of such cases.

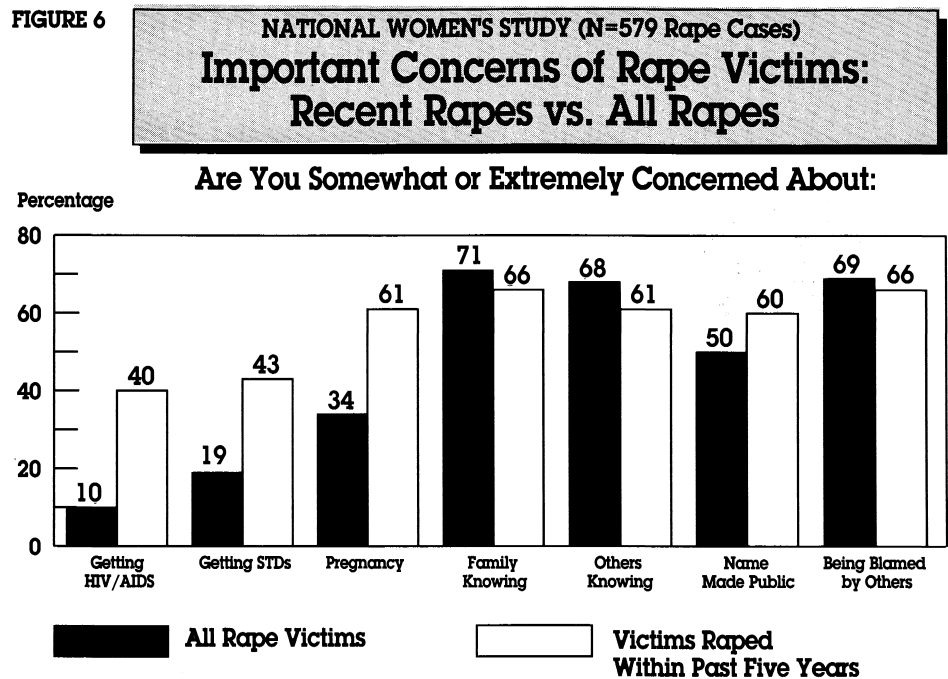
Results of the survey indicate that many recommended practices and protocol *did not* occur in all rape examinations:

- Six out of ten rape victims (60%) were *not* advised about pregnancy testing or how to prevent pregnancy;
- More than seven out of ten (73%) were *not* given information about testing for exposure to HIV/AIDS; and
- Almost four out of ten (39%) were *not* given information about testing for exposure to sexually transmitted diseases.

Concerns about HIV/AIDS are more salient in recent years as America has become aware of the prevalence of this disease and its modes of transmission. Therefore, *The National Women's Study* looked at major concerns of rape victims who had been assaulted within the five years prior to interview. In addition, the study also assessed whether a higher percentage of victims of more recent rapes was concerned about public disclosure of rape because of media attention on the recent high profile cases in West Palm Beach and Indianapolis.

- Recent rape victims were four times more likely to be concerned about getting HIV/AIDS as a result of the rape than all rape victims, regardless of the recency of the rape (40% vs. 10%);

FIGURE 6



- More than twice as many recent rape victims were concerned about the development of sexually transmitted diseases than all rape victims (43% vs. 19%); and
- Women who had been raped within the past five years were more likely to be concerned about the possibility of their names being made public than all rape victims (60% vs. 50%) (See Figure 6).

Rates of concerns about family members knowing about the rape (66% vs. 71%), people outside the family finding out (61% vs. 68%), and victims being blamed for the rape (66% vs. 69%) were similar among recent and all rape victims.

Because of the increased awareness among health professionals about HIV/AIDS and the obvious increased concern among victims within the past five years, *The National Women's Study* also examined rates of information provided during examinations for rapes within the past five years. There have been slight improvements in the dissemination of information about testing for pregnancy, HIV/AIDS and sexually transmitted diseases to rape victims; however:

- Non-provision of information about pregnancy prevention to recent rape victims

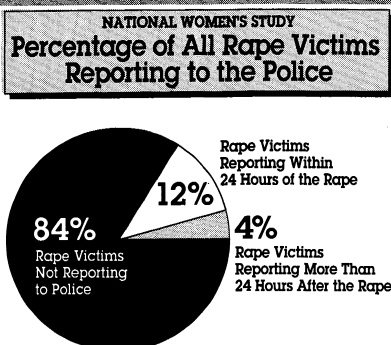
was similar to the rate reported overall (55% vs. 60%);

- One third (33%) of recent rape victims were *not* given information about testing for exposure to sexually transmitted diseases as opposed to 40% of all rape victims; and
- Five out of ten (50%) of recent rape victims were still not being given information about testing for HIV/AIDS, despite the fact that rape clearly constitutes an unprotected exposure to bodily fluids of assailants with unknown HIV/AIDS status.

Rape remains the most underreported violent crime in America. *The National Women's Study* found that only 16%, or approximately one out of every six rapes, are ever reported to police. Of reported rapes, one-quarter (25%) were reported to police more than 24 hours *after* the rape occurred (See Figure 7).

Rape victims were asked about the likelihood of reporting to police if a similar incident happened in the future. The surprising (and encouraging) responses indicated that 61% definitely would report and 25% probably would report a future rape to the police.

FIGURE 7



The *National Women's Study* findings show that 84% of rape victims do not report to the police. What implications does this have for public safety and public policy?

If the assumption is made that each rapist in America rapes only once in his life, then each unreported rape results in an injustice to that victim, but has no further impact on public safety. However, there is clear evidence that most rapists are recidivists. A respected study of unincarcerated sex offenders provides dramatic evidence of the extent of recidivism

and why it is so important for rape victims to report. Dr. Gene Abel* and his colleagues studied 561 unincarcerated sex offenders, of whom 126 admitted to having committed rape. *These 126 rapists had committed a total of 907 rapes involving 882 different victims. The average number of different victims per rapist was seven.*

Unreported rapes are a threat to public safety in America. After all, rapists cannot be apprehended, indicted, prosecuted, and incarcerated if the criminal justice system does not know that a rape has occurred. Such undetected rapists remain invisible to the criminal justice system. If rape victims are reluctant to report, then rapists will remain free to continue raping America's women, men and children.

Therefore, the dire need for public safety dictates what America's public policy should be: to do everything possible to encourage reporting of *all* alleged rapes to police.

During the past year, several high profile rape cases received vast publicity, with several respected news agencies straying from their

standard wise policies of *not* disclosing rape victims' names. The argument has been made that disclosing rape victims' names would "destigmatize" the crime of rape and encourage victims to report rapes to police. It is extremely significant that rape victims appear to strongly disagree with this argument.

Half of rape victims surveyed (50%) stated they would be *a lot more likely* to report rapes to police if there was a law prohibiting the news media from getting and disclosing their names and addresses, with an additional 16% *somewhat more likely* to report (See Figure 8).

Opposition to media disclosure of rape victims' names is *not* limited to victims themselves. All participants in *The National Women's Survey* were asked if they personally favored or opposed laws which prevent the disclosure of the names and addresses of sexual assault victims. More than three-quarters (76%) of American women strongly favor or somewhat favor such laws.

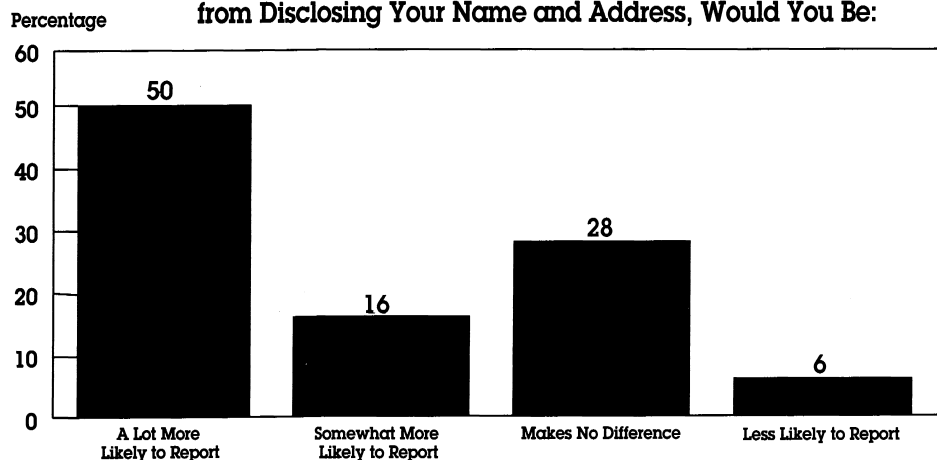
When asked how they think the risk of being identified in the news media affects rape reporting to police, almost nine out of ten American women (86%) felt victims would be *less likely* to report rapes if they felt their names would be disclosed by the news media.

A disturbing pattern emerges when one looks at shifts of concerns of rape victims over five years. It appears that women are *just as likely* in recent years to fear negative evaluation by others if a rape is disclosed, and are *more concerned* about the possibility of their names being made public. In addition, they are more likely to be concerned about their risk of developing sexually transmitted diseases and HIV/AIDS. Finally, even in the minority of cases where victims *do* seek information and health care, their legitimate concerns are frequently not addressed. At the very least, these women should be encouraged to feel comfortable and should be supported in seeking adequate health care and information to quell fears about exposure to disease, regardless of the criminal justice or civil justice consequences of cases. ■

FIGURE 8

NATIONAL WOMEN'S STUDY (N=391 Rape Victims)
Impact on Rape Reporting of Laws Prohibiting Disclosure of Victims' Names

If There Was a Law Prohibiting the News Media from Disclosing Your Name and Address, Would You Be:



*Abel G., Becker, J., Mittelman, M., Cunningham-Rathner, J., Rouleau, J., & Murphy, W. (1987). Self-reported sex crimes of nonincarcerated paraphiliacs. *Journal of Interpersonal Violence*, 2 (1), 3-25.

The Mental Health Impact of Rape

The *National Women's Study* produced dramatic confirmation of the mental health impact of rape by determining comparative rates of several mental health problems among rape victims and women who had never been victims of rape. The study ascertained whether rape victims were more likely than women who had never been crime victims to experience these devastating mental health problems.

The first mental health problem examined was Post-traumatic Stress Disorder (PTSD), an extremely debilitating mental health disorder occurring after a highly disturbing traumatic event, such as military combat or violent crime. Almost one-third (31%) of all rape victims developed PTSD sometime during their lifetimes, and more than one in ten rape victims (11%) still has PTSD at the present time. Rape victims were 6.2 times more likely to develop PTSD than women who had never been victims of crime (31% vs. 5%). Rape victims were also 5.5 times more likely to have current PTSD than their counterparts who had never been victims of crime (11% vs. 2%) (See Figure 9).

The U.S. Census Bureau estimates that there are approximately 96.3 million adult women in the United States age 18 or older. If 13% of American women have been raped and 31% of rape victims have developed PTSD, then 3.8 million adult American women have had Rape-related PTSD. Moreover, if 11% of all rape victims have current PTSD, then an estimated 1.3 million American women currently have *RR-PTSD*. Finally, if 683,000 women are raped each year, then approximately 211,000 will develop *RR-PTSD* each year.

Major depression is a mental health problem affecting many women, not just rape victims. However, 30% of rape victims had experienced at least one major depressive episode in their lifetimes, and 21% of all rape victims were experiencing a major depressive episode at the time of assessment. In contrast, only 10% of women never victimized by violent crime had ever had a major depressive episode and only six percent had a major depressive episode when assessed. Thus, rape victims were *three times more likely than non-victims of crime* to have ever had a major depressive episode (30% vs. 10%), and were 3.5 times more likely to be currently experiencing a major depressive episode (21% vs. 6%).

"...3.8 million adult American women have had Rape-related Post-traumatic Stress Disorder and an estimated 1.3 million American women currently have RR-PTSD..."

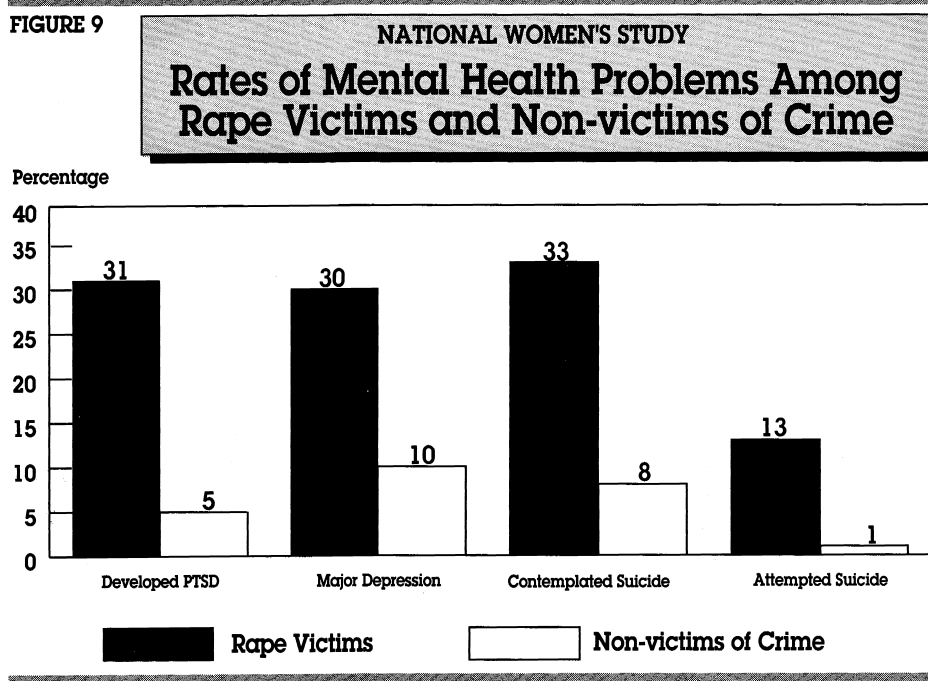
Some mental health problems are life-threatening in nature. When asked if they ever thought seriously about committing suicide, 33% of the rape victims and 8% of the non-victims of crime stated that they had seriously considered suicide. Thus, rape victims were *4.1 times more likely than non-crime victims to have contemplated suicide*. Rape victims were also *13 times more likely than non-crime victims to have actually made a suicide attempt* (13% vs. 1%). The fact that 13% of all rape victims had actually attempted suicide confirms the devastating and potentially life-threatening mental health impact of rape.

Finally, there was substantial evidence that rape victims had higher rates of drug and alcohol consumption and a greater likelihood of having drug and alcohol-related problems than non-victims of crime (See Figure 10).

Compared to non-victims of crime, rape victims were:

- 5.3 times more likely to have used prescription drugs non-medically (14.7% vs 2.8%);
- 3.4 times more likely to have used marijuana (52.2% vs 15.5%);
- Six times more likely to have used cocaine (15.5% vs 2.6%);
- 10.1 times more likely to have used hard drugs other than cocaine (12.1% vs 1.2%); and
- 6.4 times more likely to have used hard drugs or cocaine (19.2% vs 3.0%).

FIGURE 9



For most rape victims, the age at which the first rape occurred was younger than the age at which they first became intoxicated or began using marijuana or cocaine (recall that over 60% of all rapes occurred before age 18). For rape victims:

- Only 21% first became intoxicated at an earlier age than the age at which they were first raped;
- Only 32% of those having used marijuana did so earlier than their age at first rape; and
- Only 11% of those ever using cocaine did so at an age earlier than the age at which they were first raped.

American women were asked whether they had ever had the following problems because of alcohol or drug consumption: trouble at work or school; difficulties with family or friends; health problems; trouble with police; auto accidents; or accidents at home. Because many trauma victims consume alcohol or drugs to deal with their emotional pain, rape victims were separated into those who had developed RR-PTSD and those who never developed it. Next, the percentage of rape victims with and without PTSD who had two or more alcohol-related and drug-related problems was determined. Compared to rape victims without PTSD, rape victims with RR-PTSD were:

- 5.3 times more likely to have two or more major alcohol-related problems (20.1% vs 3.8%); and
- 3.7 times more likely to have two or more serious drug-related problems (7.8% vs 2.1%).

Compared to women who had *never* been crime victims, rape victims with RR-PTSD were:

- 13.4 times more likely to have two or more major alcohol problems (20.1% vs 1.5%); and
- 26 times more likely to have two or more major serious drug abuse problems (7.8% vs 0.3%) (See Figure 11).

The National Women's Study findings provide compelling evidence about the extent to

FIGURE 10

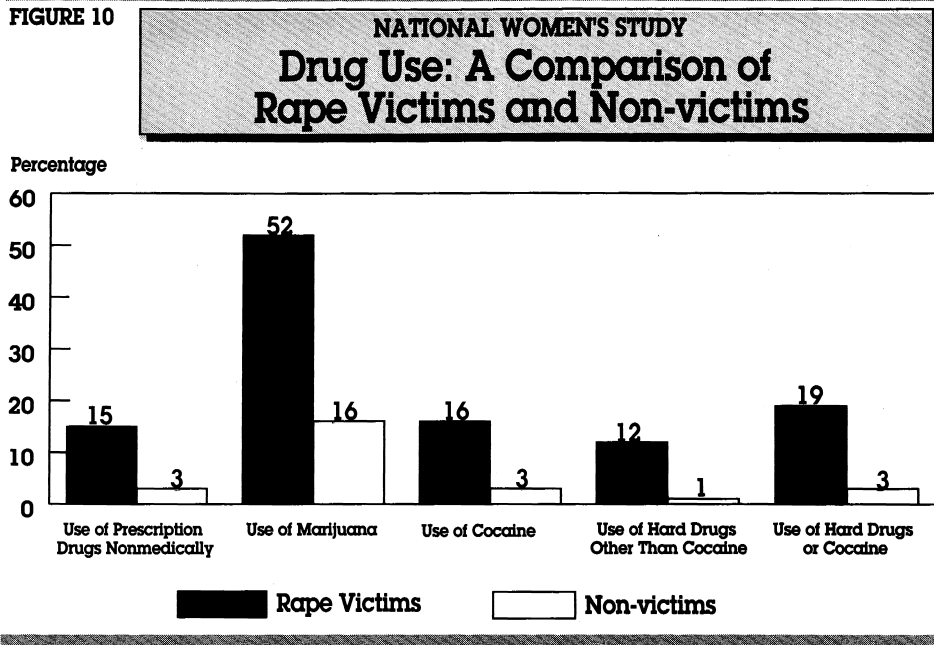
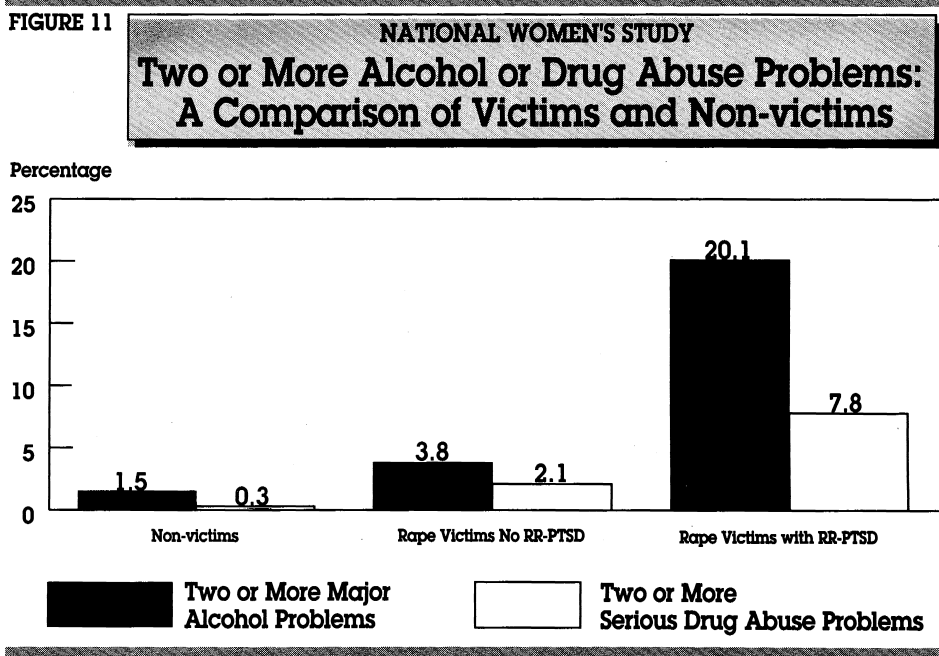


FIGURE 11



which rape poses a danger to American women's mental health and even their continued survival because of the increased suicide risk. Thus, rape is a problem for America's mental health and public health systems as well as for the criminal justice system.

The dramatically higher risk of substance abuse problems among American women who have been raped and develop PTSD suggests that America may need to commit greater resources to the war on rape, as it has to win its war on drugs. ■

SECTION II

State of Services for Victims of Rape

The tragedy of rape is confronted daily by a remarkable group of advocates nationwide who devote their collective energies to crisis intervention, victim assistance and support, and rape prevention. Over two thousand organizations have emerged in the past twenty years to support rape victims.

Often, victims rely on these agencies for advice about whether or not to report rape to police, and how to deal with the devastating physical and emotional aftermath of sexual assault. At many agencies, reporting to police is *not* a prerequisite to victims receiving support and services. Almost two-thirds (63%) either strongly or somewhat encourage victims to report; over one-third of the agencies (36%) neither encourage nor discourage victims to report their rapes to police. Furthermore, *no agencies surveyed* said they discourage victims from reporting their rapes to police.

Because of their contact with rape victims, including those who choose not to report to police, such agencies are in a unique position to help determine the scope and nature of both rape in America and, more specifically, rape victims' most prevalent concerns. *The State of Services for Victims of Rape* included responses from staff at 370 agencies that provide crisis counseling to rape victims, including those who may not report to police.

This survey asked respondents about victims' key concerns following a sexual assault. Agencies were asked about whether victims' concerns had increased over the past year (1991) about the following issues:

- Contracting HIV/AIDS (71%);
- Their names being made public (40%);
- Contracting a sexually transmitted disease (30%);
- Obtaining appropriate mental health counseling (23%);

- Persons outside their family knowing they had been sexually assaulted (17%);
- People thinking that it was their fault or that they were responsible (16%);
- Their family knowing they had been sexually assaulted (10%); and
- Becoming pregnant as a result of the assault (6%) (See Figure 12).

Parallel to the questions posed to participants in *The National Women's Study*,

agencies were asked whether they favored laws which prohibit news media disclosure of the names and addresses of sexual assault victims. More than nine out of ten agencies (91%) strongly favored or somewhat favored such legislation. Thus, model legislation proposed by the National Victim Center relevant to protecting the privacy rights of rape victims from the news media is supported by the vast majority of *American women*, *American rape victims*, and *American rape service agencies* (See Figure 13).

FIGURE 12

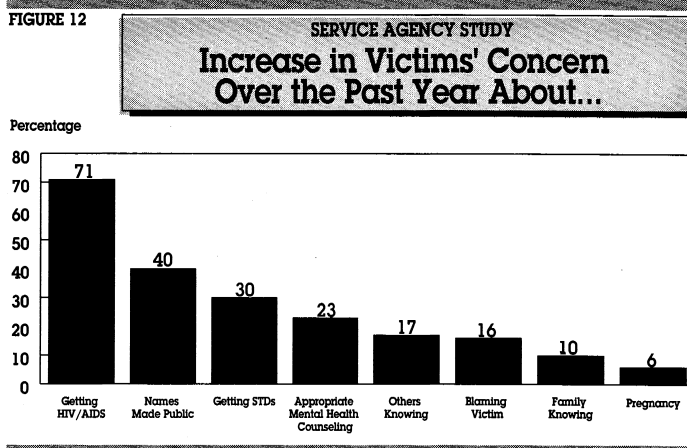
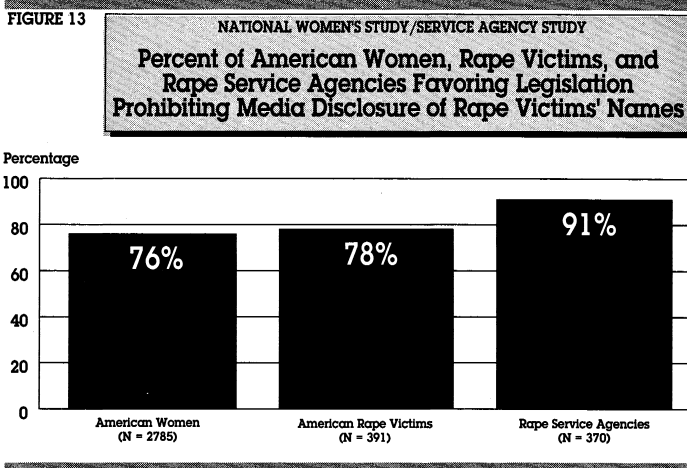


FIGURE 13



Furthermore, agencies were asked what would be the likely impact of rape victims' willingness to report the crime to police if they felt their names would be released to the news media. An overwhelming 96% of survey respondents indicated that such media disclosure would make victims *less likely* to report crimes to the police. *Not one agency* thought that involuntary media disclosure of rape victims' names would increase rape reports to police (See Figure 14).

The results of this *Report* clearly refute the assertion that media disclosure of rape victims' names would *increase* victims' willingness to report to police. To the contrary, almost all respondents to both studies highlighted in this *Report* felt that rape victims' privacy rights should not only be respected, but protected by law.

The privacy rights of persons accused of rape were also addressed in this survey. A majority of rape crisis centers (63%) favored laws that would prohibit the disclosure of the names of persons accused of rape until *after* an arrest is made. However, support for protecting the privacy of persons *indicted* for rape decreased significantly, with 40% of respondents strongly or somewhat favoring laws prohibiting media disclosure of *indicted defendants'* names. Support for protecting the privacy for persons *convicted* of rape was even less, with less than one-fourth (24%) believing that convicted rapists' privacy rights in the news media should be protected by law (See Figure 15).

Agencies were asked what percentage of rape victims they served were unwilling to report the crime to police. Forty-two percent of the agencies said that *more than half* of all their sexually assaulted clients were unwilling to report to the police.

What do agencies see as the major barriers to reporting and how effective would removing these barriers be toward increasing victims' willingness to report? Agencies indicated that the following policies, programs and services would be very effective or somewhat effective in increasing sexual assault victims' willingness to report:

FIGURE 14

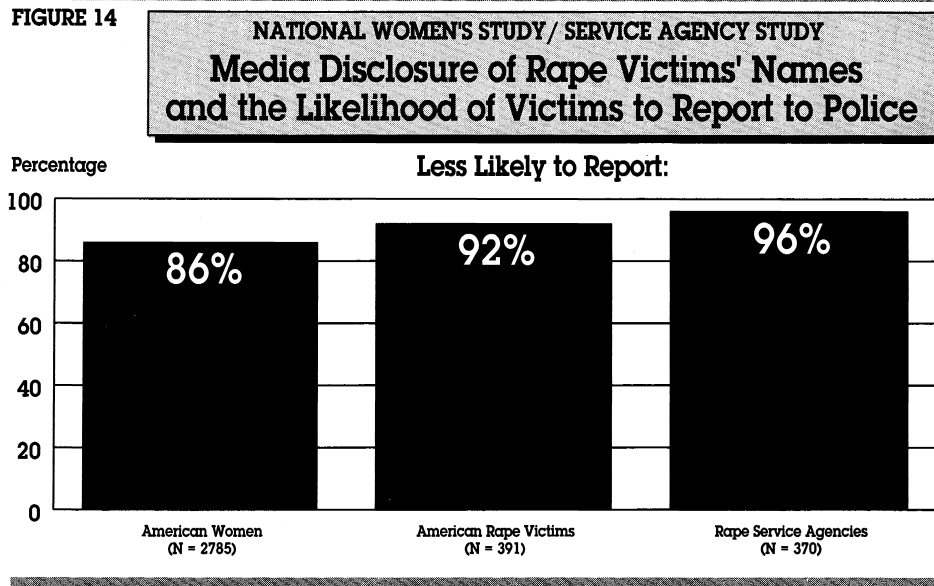
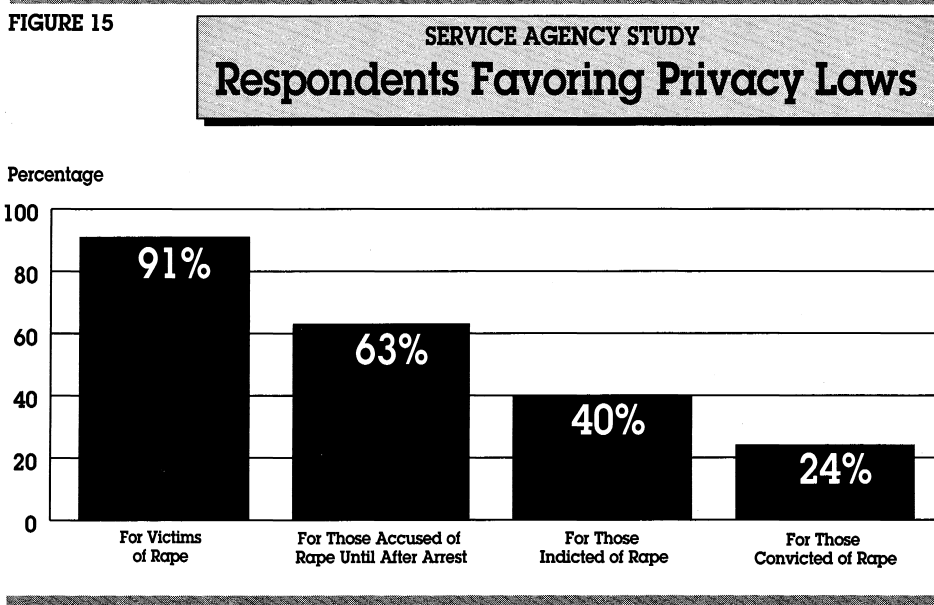


FIGURE 15



- Public education about acquaintance rape (99%);
- Laws protecting sexual assault victims' confidentiality and prohibiting disclosure of their names and addresses by the news media (97%);
- Expanding counseling and advocacy services for sexual assault victims and their family members (97%);
- Availability of free pregnancy counseling and abortion for rape victims who get pregnant (77%);
- Mandatory HIV testing of persons indicted on sexual assault charges (80%); and
- Providing confidential free testing for HIV/AIDS or sexually transmitted diseases to victims (57%) (See Figure 16).

When asked what else can be done to increase victims' willingness to report sexual assaults to the police, agencies also identified several other critical measures including:

- Increasing and improving training for police to increase sensitivity and reduce victim blaming;
- Greater sensitivity from prosecutors;
- Better treatment and better laws to protect victims in court; and
- Public education to increase awareness that rape is a crime and it is not the victim's fault.

Rape crisis agencies do *not* operate in a vacuum. The level of contact rape crisis agencies have with different criminal justice system agencies (CJS) has critical implications for victims. Equally important is how rape crisis agencies view the effectiveness and sensitivity of the criminal justice system.

Agencies report having a *great deal or moderate amount* of contact with police (95%), prosecutors (86%), judges (67%), and probation departments (52%), but less so with prisons (19%) and parole boards (19%). Not surprising, rape crisis agencies have the most interaction with police and prosecutors — the critical players in the criminal justice system who decide whether to investigate, arrest, bring charges and/or prosecute a sexual assault case.

Rape service agencies were also asked how strong their working relationships are with the same six criminal justice system agencies. With the exception of prisons and parole boards, a majority of rape service agencies said they had *excellent or good* relationships with the following agencies:

- Police 86%
- Prosecutors 79%
- Judges 68%
- Probation 61%
- Prisons 27%
- Parole Boards 18%

(See Figure 17)

FIGURE 16

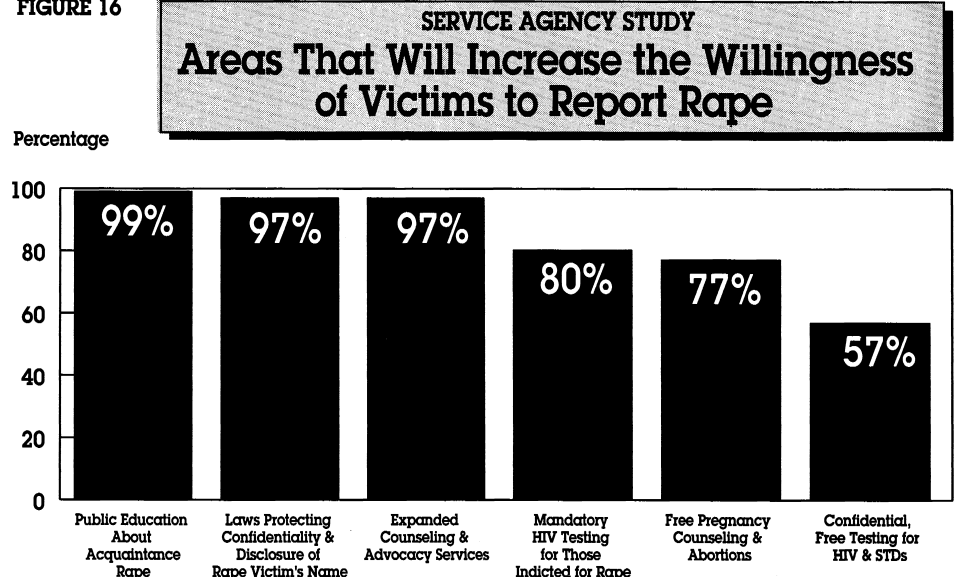
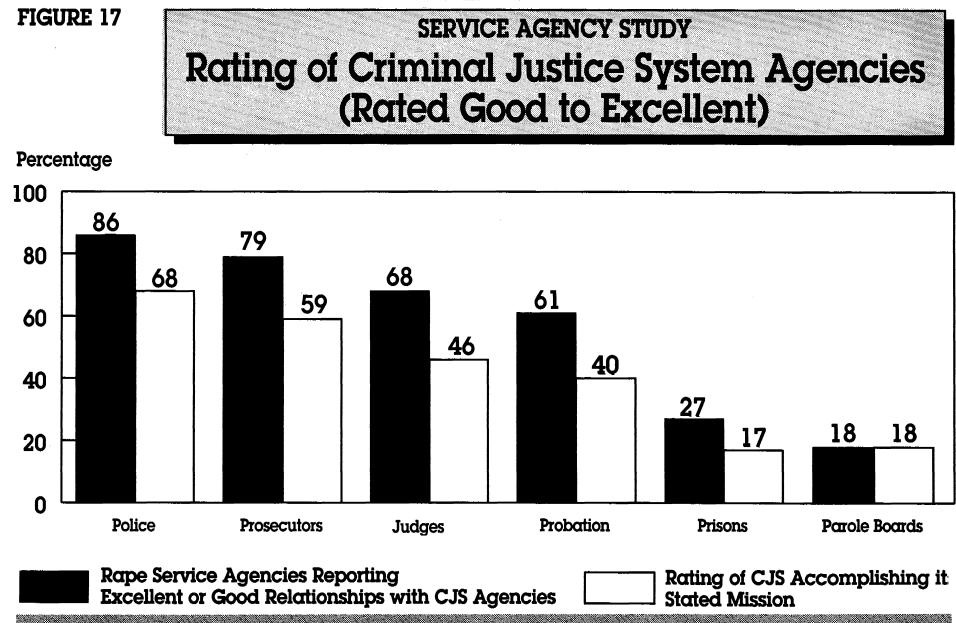


FIGURE 17



Based on their experience and what they heard from victims, rape agencies' ratings of how well CJS agencies were accomplishing their part of the CJS mission were generally positive:

- 68% had excellent or good ratings of police;
- 59% rated prosecutors as excellent or good;

- 46% rated judges as excellent or good; and
- 40% rated probation departments as excellent or good.

In stark contrast, only 17% rated prisons as excellent or good, and only 18% rated the performance of parole boards as excellent or good. ■

High Profile Rape Cases: What Is the Impact?

Based upon their personal experiences and the victims to whom they talked, agencies were asked if they thought the highly publicized West Palm Beach sexual battery trial had an effect on women's willingness to report rapes to police. Almost two-thirds (66%) of all rape service agencies thought this trial and its outcome, indeed, affected rape reporting. Of those agencies that thought the trial had an effect:

- Seven out of ten agencies (71%) thought victims would be *somewhat less likely* to report rapes to police;
- One out of five (20%) thought victims would be *much less likely* to report;
- Less than one in ten agencies (9%) thought victims would be *somewhat more likely* to report; and
- *Not one agency* thought victims would be *much more likely* to report (See Figure 18).

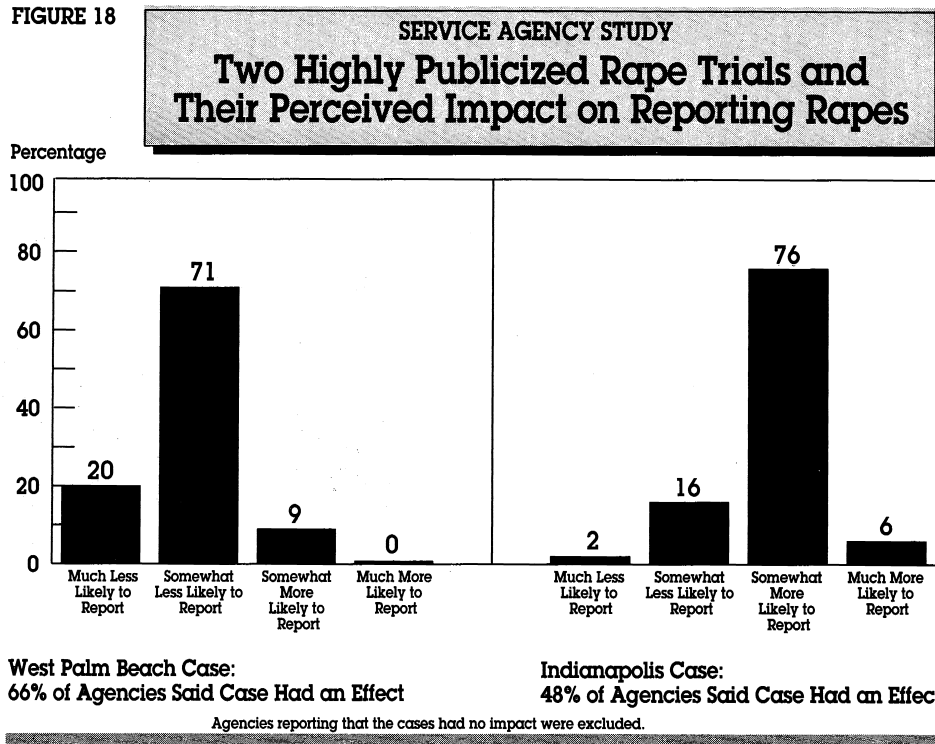
In summary, almost two-thirds of agencies thought the West Palm Beach trial made rape victims *somewhat or much less likely* to report to police.

Agencies were also asked whether they thought the highly publicized Indianapolis trial had any effect on women's willingness to report rapes to police. Almost half the agencies (48%) thought the trial had an effect on rape reporting; Of those agencies that thought the trial had an effect:

- Eighty-two percent of the agencies thought that women would be *somewhat or much more likely* to report rapes to police; and
- Eighteen percent of the agencies surveyed said that victims would be *much or somewhat less likely* to report rapes to the police.

Clearly, agencies that work directly with rape victims believe that the conviction in the Indianapolis trial had a salutary effect on a victim's likelihood to report. This is in stark contrast to their perception of the impact of the West Palm Beach trial (See Figure 18). ■

FIGURE 18



Profile of Agencies

- Eighty-six percent of agencies surveyed were non-profit organizations serving both city and county jurisdictions in all 50 states; 12% were governmental agencies and 2% were other.
- Percentage of agencies serving the following types of victims:
 - Child (under 12) 62%
 - Adolescent (12-17) 78%
 - Adult Female 95%
 - Adult Male 78%
- Services provided by agencies:
 - Crisis Intervention 98%
 - Counseling 88%
 - Court Monitoring 78%
 - Information and Referral 99%
 - Victim Support Groups 80%
 - Victim Education 89%
- Average years of service to sexual assault victims: 11 years
- Average paid staff size:
 - (1990) mean= 6.1 medium= 4.0
 - (1991) mean= 6.4 medium= 4.0
- Average number of volunteers:
 - (1990) mean= 21.5 medium= 14
 - (1991) mean= 24.2 medium= 15
- Average yearly budget:
 - (1990) mean= \$227,531 medium= \$139,692
 - (1991) mean= \$249,791 medium= \$152,645
- Average case load:
 - (1990) 507
 - (1991) 612

RECOMMENDATIONS

Rape in America

Rape in America: A Report to the Nation offers remarkable new perspectives about the crime of rape in our country. The data contained in the Report clearly validate opinions held by professionals in the field about the extent of rape and the needs and concerns of rape victims.

As a result of these data, it is imperative that rape be classified as a major public health issue in the United States. The traumatic consequences of rape – ranging from severe mental health problems, to substance abuse problems, to victims' fears about privacy, to the tragic youth of its victims – affect the long-term physical,

mental and emotional health of millions of American women. The "domino effect" rape has on victims' families and friends also contributes to detrimental public health consequences.

The startling number of rape victims, and the early age at which many of these rapes occur, are examples of a terrible truth that defies simple explanation, easy understanding, or quick remedies. These facts tear at the very fabric of our individual and collective values.

Rape in America: A Report to the Nation contains many complex implications, and raises many challenging issues that will require more rigorous thinking, research,

and discussion. The National Victim Center and the Crime Victims Research and Treatment Center believe that long-term solutions can only be developed and implemented through a comprehensive multi-disciplinary approach. Accordingly, the co-sponsors of this Report will seek advice, guidance and feedback from a variety of disciplines and experts, including but not limited to: rape victims; mental health; medicine; criminal justice; women's and men's organizations; children's rights organizations; public health officials; clergy, educators, researchers; civic leaders; public health officials; and grassroots agencies that work with rape victims.

In order to encourage immediate consideration of some of the critical issues relevant to *Rape in America: A Report to the Nation*, the National Victim Center and Crime Victims Research and Treatment Center offer the following recommendations:

- **1. Legislation should be enacted at the Federal and state level to provide sexual assault victims with effective privacy protections that prevent media disclosure of their names and addresses.**

An overwhelming majority of American women, American rape victims, and American rape service agencies supports such legislation, and thought such statutory protections would make rape victims more likely to report to police. Legally protected privacy rights for rape victims would allay their concerns about people — from family to friends to the public — finding out about their victimization and, hopefully, increase victims' willingness to report rapes to police.

The model legislation offered by the National Victim Center in conjunction with the release of "Rape in America" provides a strong foundation upon which to build increased privacy protection for rape victims in our nation.

- **2. Education about crimes against women and, in particular, crimes of rape should be provided not only in secondary and higher education, but at the grade school and junior high school levels with particular attention given to pre-teen adolescent girls and boys.**

Data from "Rape in America" conclude that the majority of American rape victims (61%) are raped before the age of 18; furthermore, an astounding 29% of all forcible rapes occurred when the victim was less than eleven years old.

Rape education for America's youth must not only address the criminal nature of assaults against women and girls. Such education must focus on the importance of reporting rapes — to a teacher, a trusted adult, or a rape service agency. Our nation must also reinforce three strong messages: that rape is a violent crime; that rape victims are not to blame for the terrible crime committed against them; and that support and services are available to all victims, regardless of their age.

- **3. To have any hope of being truly effective, rape prevention efforts should move beyond “stranger danger,” and help American women and girls protect themselves from people and situations that pose the highest risk of rape.**

“Rape in America” and other studies show that the vast majority of rape and other sexual assaults are committed by someone known to the victims. American women and girls must be made aware of this fact, and know that just because their attackers are known to them does not eliminate the fact that rape is a crime.

- **4. America’s medical community must receive comprehensive training about the appropriate treatment of rape victims.**

Victims had a medical examination in only 17% of all rape cases; in only 30% of these cases were doctors informed that a rape had occurred. Furthermore, 60% of rape victims were not advised about pregnancy testing or pregnancy prevention; 73% were not given information about HIV/AIDS testing; and 39% were not given information about testing for exposure to sexually transmitted diseases. Although information provided to victims during medical exams had improved during the past five years, 55% of recent victims were not informed about pregnancy, 30% were not informed about STD’s other than HIV/AIDS, and half of all recent rape

victims were not provided with information about HIV/AIDS.

Physicians must become knowledgeable not only about evidence collection in rape cases, but also about how to determine signs of rape when patients do not disclose their victimization. They must also recognize that many women were raped earlier in their lifetimes and, as a result, may currently be suffering physical and emotional problems related to their rape.

In addition, medical professionals should adopt standard procedures to provide rape victims with information about proper medical care, including: pregnancy testing; HIV/AIDS testing and risk reduction methods; exposure to sexually transmitted diseases; and referrals to mental health professionals with expertise in the treatment of rape victims.

A standard protocol for responding to rape victims — from the point of the assault through the criminal justice system — is currently being developed by the National Victim Center with support from the U.S. Department of Justice Office for Victims of Crime.

- **5. America’s mental health community must receive comprehensive training about the appropriate treatment of rape victims.**

The results of this study show that almost one-third of all rape victims will develop Rape-related PTSD in their lifetimes.

Mental health professionals need additional education about the mental health impact of rape, and about the mental health needs specific to rape victims. Given the high prevalence estimates for PTSD, depression, suicide, and substance abuse problems among American rape victims, it is likely that many rape victims are receiving treatment from therapists who do not know they are treating rape victims. Thus, education of mental health professionals must include how to screen present clients for rape histories, as well as how to provide effective mental health treatment to known rape victims.

- **6. Many widely held stereotypes about rape, who rape victims are, and how they respond after the assault are not accurate. The American public, our criminal justice system, and jurors in rape trials should be provided with accurate information about these topics to eliminate misconceptions about rape and its victims.**

Rape education must be systematic: from our schools to our judicial system to all citizens of America. For only when we — as individual citizens and as a nation dedicated to liberty and justice for all — understand the brutal nature of rape and its devastating after effects, will we be able to erase the stigma of rape, guarantee that rape victims are treated with dignity, and offer a concerted, appropriate criminal justice response to crimes of rape and their victims.

APPENDIX

SECTION I

The National Women's Study: An Overview of Methodology

Potential respondents for *The National Women's Study* included all women in the residential population of the United States who were 18 years and older at the time of the initial survey. A total of 2,008 interviews were conducted with a cross section of the U.S. adult female population. Another 2,000 interviews were conducted with an oversample of younger women between the ages of 18 and 34.

A two-staged area probability sampling procedure was used to identify and interview respondents. In the first stage, the United States was divided into four geographic regions and three census size-of-place strata. This yielded a total of twelve mutually exclusive and exhaustive groupings of the total U.S. population. In the next stage of sample selection, random digit dialing was used to select households within each geographic area. The number of households selected via random digit dialing was proportional to the population within each of the twelve strata. The sample construction just described yielded a population-based random digit dialing sample of households. Within households, the number of adult females was determined, and an adult woman was randomly selected.

This study was longitudinal in nature. Therefore, attempts were made to interview each of the original 4,008 respondents three times at one year intervals. All 4,008 respondents were interviewed during Wave One. Eighty-five percent of eligible respondents agreed to participate in the Wave One interview and completed the interview. Approximately 81% of the original 4,008 respondents were located and interviewed during the Wave Two, one-year follow-up.

The two year follow-up, Wave Three interviews, is still in progress. However, this *Report* includes data from the first 2,785 respondents who completed the Wave Three interviews.

Because the survey included an oversample of younger women and some attrition occurred over the two-year follow-up period of the study, the achieved sample data were weighted to U.S. Census projections of the 1990 (Wave One), 1991 (Wave Two), and 1992 (Wave Three) adult female population by age and race.

The information about the lifetime prevalence of rape (relevant to how many women have been raped one or more times throughout their lifetimes) comes from the Wave One survey, as did most of the descriptive information about rape cases. Information about the past year prevalence of rape

(how many women were raped in the one year between Wave One and Wave Two) was obtained in the Wave Two interview. Information about rape victims' concerns, medical examinations, willingness to report future rapes to police, and opinions about the impact of protection from media disclosure of their names came from the Wave Three interview. Mental health problems (i.e., Post-traumatic Stress Disorder, major depressing episodes, suicidal thoughts, suicide attempts, and substance abuse problems) were assessed during each of the three waves.

All sample selection and survey interviewing were done by female interviewers from Schulman, Ronca, and Bucuvalas, Inc. (SRBI), a national survey research organization in New York City. Dr. John Boyle directed the survey for SRBI.

By its nature, a telephone survey is limited to the population living in households with telephones. Approximately 94% of the American population lives in households with telephones. Like any sample survey, the findings of this survey are subject to sample fluctuations or sampling error. The maximum expected sampling error for a simple random sample of 4,000, 3,200, and 2,700 cases is $\pm 1.5\%$, $\pm 1.7\%$, and $\pm 1.9\%$ which is at the 95% confidence level. ■

Survey Questions

This study was designed to ask American women provocative, personal questions in order to leave no doubt or confusion as to the definition of forcible rape. The questions themselves were difficult to ask — and equally difficult for women to answer — but they provide clear answers for the first time to the critical elements of forcible rape:

- Use of force or threat of force;
- Lack of consent; and
- Sexual penetration.

Here are questions asked in *The National Women's Survey*:

"...Women do not always report such experiences to police or discuss them with family or friends. The person making the advances isn't always a stranger, but can be a friend, boyfriend, or even a family member. Such experiences can occur anytime in a woman's life — even as a child. Regardless of how long ago it happened or who made the advances..."

- Has a man or boy ever made you have sex by using force or threatening to harm you or someone close to you? Just so there is no mistake, by sex we mean putting a penis in your vagina.

- Has anyone ever made you have oral sex by force or threat of harm? Just so there is no mistake, by oral sex, we mean that a man or boy put his penis in your mouth or somebody penetrated your vagina or anus with his mouth or tongue.
- Has anyone ever made you have anal sex by force or threat of harm?
- Has anyone ever put fingers or objects in your vagina or anus against your will by using force or threat?"

APPENDIX

SECTION II

The State of Services for Victims of Rape: Data Collection Methodology

The National Victim Center (NVC) provided the research contractor, SRBI, with its listings of organizations which provide crisis counseling services to rape victims. The NVC database of 10,000 victim service organizations listed more than 1,000 agencies providing services to sexual assault victims. As the first stage in the sample constructions, the SRBI sampling staff removed the following classes of organizations from the list as ineligible for this national survey of rape service agencies:

- Mothers Against Drunk Driving (MADD) offices were removed because they would not satisfy the requirement of offering services specifically for victims of rape and sexual assault;
- Prosecutors' offices and police-based agencies were removed because they would not satisfy the requirement that services be offered to those who do not report the crime; and
- Offices located outside of the United States (50 states and the District of Columbia) were removed from the list.

A total of 853 organizations and/or offices from the NVC data base remained after these exclusionary criteria were applied. Although there were organizations among these 853 that did not appear likely to act as rape service agencies, the study protocol required a telephone screening of these offices to determine eligibility. The telephone screening of these offices was conducted by SRBI executive interviewers from February 20 to March 1, 1992. A total of 788 of these listings yielded working telephone numbers. Ninety-six percent of the offices (759) were reached during the ten-day field period. A screening interview was conducted with the

appropriate official in each office. The telephone screening identified 522 (69%) of these offices as meeting survey criteria for providing services to adult victims of rape and/or sexual assault, at least some of whom did not report their rapes to police.

The offices that met the eligibility criteria for the survey were told more about the study and the types of information required. Since some of the information would require a records review, they were told that they would be sent a worksheet to assist them in recording their information in the manner that would be most useful for the survey. A few days after they received the worksheet, they would be recontacted by an interviewer, who would ask them for the information they had recorded on the worksheet, as well as some other questions.

Worksheets were mailed to the 522 eligible rape service agencies within a day after the screening interview. The mailing included a cover letter that explained the study and procedures in a little more detail, and provided a toll-free number to call at SRBI if there were any questions.

The re-contact interview phase of the project began on March 1, approximately ten days after the first screening of centers. The schedule for the field period for the re-contact interviews was three weeks. Approximately 25 of the 522 centers that initially screened as eligible were identified as ineligible during the re-contact phase. This left a potential universe of 498 rape service agencies in the United States for the purpose of this survey.

Within the three-week field period, which ended on March 22, SRBI executive interviewers completed interviews with the appropriate officials in 370 of the 498 eligible centers. In other words, we believe that 74% of all offices in the United States which offer services to adult victims of sexual assault (other than those that are restricted to

criminal reports) are represented in the completed sample. Approximately one hundred cases were still in callback status at the end of the field period. The limited field period, coupled with the requirements of the survey for records information from the offices, meant that not every office could assemble the necessary information in time to be re-interviewed. However, only two offices refused to cooperate, compared to 370 completed interviews, which represents a survey cooperation rate of 99.5%. The sampling error for a simple random sample of 370 cases is $\pm 5.1\%$.

The survey employed a telephone-mail-telephone data collection methodology to insure the quality of both the sample and the data collected. The initial telephone phase insured that eligibility for the survey could be established, as well as reasons for non-eligibility. This helped insure the integrity of the sampling frame, and identified the appropriate persons within the office to be interviewed about services to victims of sexual assault. The mail phase of the study was designed to improve the accuracy and comparability of factual information on number of cases, staff and funding over time. The telephone re-contact phase insured the timely collection of factual information from recording forms, as well as permitting us to collect information regarding opinions in an unbiased manner.

Despite the rigor of the study procedures, a near census of the majority of rape service agencies in the United States was completed, with an extraordinarily high participation rate. The study procedures, coupled with the field outcomes, should yield reliable estimates of the characteristics, experiences and opinions of rape service agencies and their staffs in the United States. ■

Dedication

R*ape In America: A Report to the Nation* is dedicated to the millions of courageous women whose lives have been altered by rape, yet find the dignity and strength to survive. We also salute the compassion and commitment of thousands of staff and volunteers at rape service agencies across the nation.

Acknowledgements

We wish to thank the 4,008 women who made such a major contribution to our knowledge by their participation in *The National Women's Study*. A large debt of gratitude is owed to the 507 rape victim participants in *The National Women's Study* who courageously shared their painful experiences in order to enlighten America and improve the treatment of future victims. We are grateful to the *National Institute of Drug Abuse* for funding *The National Women's Study* and to Dr. Coryl Jones at NIDA who has provided encouragement and support. Drs. Connie Best, Heidi Resnick, Benjamin E. Saunders, and Julie Lipovsky at the Crime Victims Center are Co-investigators on *The National Women's Study* and have contributed greatly to its success. Special thanks is also extended to the staff of the National Victim Center, Vicky Dawson at the Crime Victims Center, and Jennifer Spalding of Park Graphics, for their tireless and superb efforts in the production of this Report. Finally, we gratefully thank the 370 rape service agencies which participated in the National Victim Center sponsored survey.

The National Victim Center

The National Victim Center was founded in 1985 to promote the rights and needs of violent crime victims, and to educate Americans about the devastating effect crime has on our society. The Center has offices in Arlington, Virginia, Fort Worth, Texas and New York, New York.

Today, there are almost 10,000 victim service and criminal justice organizations in all 50 states which benefit from the National Victim Center's programs and services. These groups serve a wide range of constituents, including victims of child abuse and neglect, sexual assault, family violence, elder abuse, drunk driving, hate violence, and survivors of homicide victims.

The Center's many programs include:

- Training and technical assistance to strengthen the abilities of victim advocates and criminal justice officials to assist and support crime victims;
- An extensive resource library which contains over 10,000 documents on every aspect of violent crime, criminal justice and victimology;
- The Crime Victims' Litigation Project with 5,000 cases and authorities to assist victims' attorneys in civil litigation cases;
- A legislative data base containing nearly 20,000 victim related statutes from all 50 states, which supports the development of policies and statutes designed to protect the rights of victims nationwide;
- A public awareness program that provides resources and experts for over 2,000 news media nationwide; and
- An information and referral data base for victim services.

In 1991, there were 35 million victims of crime, including almost six million who fell prey to violence. The U.S. Department of Justice estimates that five out of six of today's twelve-year-olds will become victims of violent crime during their lifetimes. These painful statistics represent countless individuals whose lives are irrevocably altered by violence. These innocent victims are the ultimate reason the National Victim Center exists.

PROPERTY OF

National Criminal Justice Reference Service (NCJRS)

Box 6000

Rockville, MD 20849-6000

The Crime Victims Research and Treatment Center

The Crime Victims Research and Treatment Center (CVC) is a division of the Department of Psychiatry and Behavioral Sciences at the Medical University of South Carolina (MUSC) in Charleston, South Carolina. Since 1974 the faculty and staff of the CVC have been devoted to achieving a better understanding of the impact of criminal victimization on adults, children, and their families. Dr. Dean Kilpatrick is the Director of the CVC, whose programs include activities within four major areas:

- Research: The CVC has conducted research sponsored by such organizations as the *National Institute of Mental Health*, the *National Institute on Drug Abuse*, the *U.S. Department of the Navy*, the *National Institute of Justice*, and many others.
- Professional Education: The CVC provides clinical training to clinical psychology interns, psychiatry residents, postdoctoral fellows, and social work interns at MUSC. In addition, the CVC shares its knowledge and skills with other groups of professionals in the forms of training sessions and workshops.
- Clinical Services: The CVC provides specialized clinical services to crime victims and their families and provides individual, group, and family treatment. CVC faculty members are widely regarded as experts in assessment and treatment of crime-related psychological trauma.
- Public Policy Consultation: The CVC makes a concerted effort to share its expertise with legislators, public policy-makers, and those responsible for administering victim services and related programs. Faculty members are frequently invited to testify at legislative hearings, work on task forces, and otherwise provide input on issues related to criminal victimization.



**National
Victim Center**

2111 Wilson Boulevard
Suite 300
Arlington, Virginia 22201
Tel: 703-276-2880
Fax: 703-276-2889

309 West Seventh Street
Suite 705
Fort Worth, Texas 76102
Tel: 817-877-3355
Fax: 817-877-3396

555 Madison Avenue
Suite 2001
New York, New York 10022
Tel: 212-753-6880
Fax: 212-753-0149