



## Tips from the Bench for Legal Advocates Serving Survivors of Sexual Assault, Domestic and Dating Violence, and Stalking

Not all survivors of sexual assault, dating and domestic violence, and stalking will want to pursue legal remedies. For those who do, non-attorney legal advocates can provide critical support. Each jurisdiction has its own rules about individuals' conduct in court, legal advocates' roles, witness testimony, and more. Also, judges apply their own rules and preferences in the courtrooms where they preside. These tips offer recommendations from sitting judges about how you, as a legal advocate, can best promote survivors' interests.

- 1. Respect survivors' choices.** A survivor's choices, not yours, should guide your advocacy within the legal framework. They may want criminal prosecution, "no contact" orders, money damages, restitution, or other remedies from the court. Or the survivor may want to work on their relationship and improve their safety while doing so.
- 2. Protect a survivor's confidential information.** Confidential information should be shared only with a survivor's consent or when required by law. You need to know the laws that control confidentiality and privilege in your jurisdiction. These laws include court and agency rules that allow a survivor's personally identifying or location information to be kept out of public records. Advocates may promote survivor privacy in other ways (e.g., through Address Confidentiality Programs, filing as a "Jane or John Doe," and preventing privacy breaches in person and online). Attend trainings and use materials prepared by attorneys and other privacy experts who work with survivors. Make sure a survivor knows what confidentiality protections and mandatory reporting laws might apply to their situation. Invite them to meet with a lawyer who might be available to address questions you cannot answer. Seek a lawyer's advice if you or your agency are served with a subpoena for client information; don't ignore it.
- 3. Don't give legal advice.** You, as a legal advocate, can give a survivor *general* information about legal procedures and remedies. You must not cross the line into giving legal advice or practicing law; you may not tell a survivor how the



law applies to their particular situation or case. If you do, not only may you and your program be liable for the unauthorized practice of law, but the survivor's legal situation can be harmed as a result.

- 4. Develop working relationships with attorneys who represent survivors.** Find out which attorneys in your local community regularly represent survivors. These could be lawyers who work at a legal aid, culturally specific, or other victim service organization, or who are affiliated with your domestic or sexual violence coalition. You will benefit from establishing a working relationship with a lawyer you can call for background on a legal issue.
- 5. Keep your cool.** How you act on an individual survivor's case can affect your advocacy with future survivors. You will likely interact repeatedly with some of the judges, court staff, prosecutors and other attorneys, child welfare caseworkers, probation officers, and pretrial release officers at court and in your community. No matter how unfairly you or a survivor think an outcome was, or how you or a survivor were treated, calmly discuss your options. Wait to raise concerns or ask questions until you can do so without raising your voice. Wait to send emails about your concerns until your emotions have settled.
- 6. Accompany a survivor.** One of the most helpful things you can do is to accompany a survivor to court hearings and meetings with other legal professionals. The courthouse, prosecutor's offices, and even a survivor's own lawyer's office can be very stressful places. Each of these settings has procedures and terms that are often unfamiliar; you can help by asking about anything that you or a survivor do not understand. Remote on-line hearings or appointments can also be stressful even though a survivor does not have to be there in-person. Your help navigating these settings and debriefing about them afterwards can be reassuring, and help a survivor do their best in each of them.
- 7. Expect and understand the formality and the division of roles.** Court and administrative hearings can be like plays. They have a defined stage, a set placement of actors, ritual clothing like robes and other proper dress, and scripted statements and actions. Each of the individuals involved with a court or administrative hearing has a defined role – to prosecute or defend a case,

provide sworn testimony, decide the facts, or issue rulings. But unlike plays, hearings have significant legal consequences. You must understand the formality of the proceedings and the rules that control who speaks – and when. Watching the usual types of hearings a survivor will encounter is the best way to familiarize yourself with the formality, timing, rules, and respect legal proceedings require.

- 8. Be ready for a court hearing.** Discuss safety procedures with a survivor before court, including how to enter the courthouse, where to wait and sit, how to access the restrooms, etc. Help them prepare a written list of the key points they want the judge to know. Help them organize the paperwork and other exhibits (proof) they want the judge to see. Remind the survivor that what they wrote in court papers doesn't replace the testimony and other evidence they have to give in court. Bring paper and pen to take and exchange notes. Help a survivor plan how they might stay grounded and calm in the hearing. Consider bringing water, cough drops, tissues, snacks, and quiet "fidget" items to support them. Have an exit plan for leaving the courthouse after the hearing ends.
- 9. Rely on your expertise and be transparent.** No matter how new or experienced you are as a legal advocate, you likely have more legal experience than a survivor you are helping. Focus on this survivor's situation. Share your knowledge with them, but don't promise specific outcomes. Be responsive and candid. Be honest with a survivor when you don't know the answer to a question and let them know you will try and get an answer (without giving legal advice). Follow through.
- 10. Identify systemic problems.** Keep an eye out for court practices, forms, or laws that should be revised because they are problematic for survivors. Work with other advocates and attorneys interested in change. Be respectful and persistent in raising systemic issues. Survivor and advocate voices carry significant weight in policy forums; survivors often need advocates to direct them to how they can have the most impact.



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