



Beyond the Criminal Justice System

INTRODUCTION TO REPRESENTING SURVIVORS OF SEXUAL ASSAULT

© 2025 by Victim Rights Law Center.

This project was supported by Grant No. 15JOVW-21-GK-02205-MUMU awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.

ISSUED 2026

Introduction to Representing Survivors of Sexual Assault

- I. Introduction
- II. Survivor-Centered Advocacy
- III. Socio-Economic and Personal Harms
- IV. Privacy
- V. Criminal Justice System
- VI. Safety and Protection Remedies
- VII. Housing
- VIII. Employment
- IX. Immigrant Clients
- X. Conclusion

I. INTRODUCTION

Welcome to Victim Rights Law Center's (VRLC's) revised and updated Legal Practice Manual. This Manual is a resource for attorneys and legal program staff who represent survivors of sexual assault in civil legal matters. The Manual provides an overview of issues attorneys need to address and key practice areas. The content is intended to be accessible for new attorneys or more experienced attorneys who are new to the legal practice area covered. Legal experts and other specialists from around the country contributed to this manual. See our chapter Acknowledgements for a complete list of the Manual contributors. The chapters' content and voices reflect the contributors' various experiences and perspectives.

The chapters covering intake, privacy, and safety are umbrella chapters because they address issues that impact most clients. The chapters addressing immigration, employment, housing, survivors with disabilities, and the criminal legal system, will only be relevant for attorneys whose clients have legal needs in those practice areas.

Civil and administrative remedies may provide a forum for sexual assault survivors to pursue legal outcomes that meet their human needs. Civil and administrative legal remedies can help secure survivors' safety, employment, housing, healthcare, immigration status, school enrollment, etc. To mitigate the myriad of personal and social harms following a sexual assault, we must ensure survivors' access to civil courts and relevant administrative proceedings. Survivors need to fashion an approach to civil legal practice that incorporates all that civil and administrative law can offer to support them.

II. SURVIVOR-CENTERED ADVOCACY

Attorneys who represent survivors of sexual assault are part of a professional tapestry of advocates, nurses, mental health providers, law enforcement staff, school administrators, and others who may support survivors along with the survivors' friends, family members, and other community members. The survivors of sexual assault must be centered in this collective response.

Survivor-centered civil legal representation requires that every survivor decide how best to heal, whom to tell, when to disclose, and what legal

actions to pursue. Survivors need more than just new or better laws to protect their options for legal recourse; they also need lawyers to defend and advance those options. Even the strongest laws and most protective provisions are meaningless if survivors are unaware of them or do not have access to the lawyers necessary to enforce them.

An individual's experience of sexual assault and its aftermath is both personal *and* affected by their identity and the context in which the assault occurs. Attorneys need to understand the distinct legal and cultural norms of the survivor's community. For instance, if your client is Native American, in prison or juvenile detention, a student, LGBTQ+, a person with a disability, or a recent immigrant, you need to be mindful of the social, cultural, institutional, and community values that inform your client's needs and the available remedies. We must integrate survivors' identities into our legal representation.

Attorneys need to establish a practice that accounts for and mitigates both the trauma experienced by clients and the traumatic impact of their work on themselves. Sexual assault has physical, neurological, and psychological effects on survivors and those who serve them. These can include depression, anxiety, PTSD, headaches, difficulty sleeping, chronic pain, and other physical symptoms. Sexual assault can also have social and economic consequences for survivors, such as loss of income, difficulty being in intimate relationships, and housing or job loss.

Attorneys representing survivors can provide a trauma-informed response throughout their representation. When someone experiences a sexual assault, their bodily autonomy is violated. After having been denied such autonomy, survivors need to be given as much choice and control as possible over their situation. Survivors may feel more comfortable if they feel prepared and they know what to expect when they talk to a lawyer or enter a courtroom.

III. SOCIO-ECONOMIC AND PERSONAL HARMS

Sexual assault can destabilize every aspect of a survivor's life, including their housing, employment, education, privacy, immigration status, physical and mental health, financial stability and safety and well-being. Sexual assault can cause survivors to suffer from PTSD, depression, insomnia, panic attacks, and memory impairment. It may also lead to increased drug

and alcohol use, avoidance of sexual assault-related places and objects, rejection by peers, colleagues, and family, or suicidal ideation and self-harm. Pregnancy, lack of access to abortions, and sexually transmitted infections may further harm a survivor.

Although how any individual survivor responds to the trauma of sexual assault will vary, for most survivors there is a hierarchy of needs. The most urgent needs include physical safety, emotional well-being, economic security, and educational stability. These needs are most acute in the first six months following an assault,¹ but may persist and shift over time.

A sexual assault may also destabilize a client's financial supports. The assault's secondary effects on the client's housing, employment, educational, or immigration status may diminish their ability to support themselves. Costs of responsive medical care alone may be prohibitive. Related expenses may include counseling, pregnancy, abortion, prescription drugs, and treatment for sexually transmitted infections. Even if a survivor has medical insurance, they may opt not to bill the insurer for the cost of care for privacy reasons. If reimbursement is requested, treatment for depression, PTSD or other mental health diagnoses may lead to escalating insurance rates, coverage exclusions in future plans, and premiums associated with an elevated risk group. Crime victim compensation ("CVC") funds may not cover the victim's costs because CVC is the payor of last resort. Sexual assault survivors should have access to the medical and counseling care they need, but many survivors do not.

¹ In the current dominant legal paradigm, such needs are placed at the periphery of our legal response to sexual assault, or, at worst, are conceptualized as a personal rather than legal problem. This acute disjuncture between what victims seek and what the criminal justice system offers likely accounts for some of the failures of sexual assault law reform over the last thirty years. Because the criminal justice system offers remedies such as vindication, meaning, and a sense of justice that are consistent with higher-level needs, and fails to offer solutions for more basic needs, it makes sense that many victims do not make a criminal complaint immediately after an assault. See generally Pearl Goldman & Leslie Larkin Cooney, *Beyond Core Skills and Values: Integrating Therapeutic Jurisprudence and Preventative Law Into Law School Curriculum*, 5 PSYCHOL. PUB. POL'Y & L. 1123 (1999) (describing victims' use of the criminal justice system).

IV. PRIVACY

Clients need to consent to all aspects of their legal representation, including who will have access to their personal and identifying information. Therefore, protecting their privacy and the confidentiality of communications is one of an attorney's primary responsibilities.

Attorneys may face additional challenges protecting clients' privacy and confidentiality in institutions, (e.g., prison, hospitals, juvenile detention, and other institutions), in small, insular, and/or remote communities (e.g., campuses, tribes or Native Villages, immigrant communities, or rural communities), or clients in high-profile cases. Once a sexual assault is disclosed publicly or reported to criminal, civil, or administrative authorities, the survivor's privacy is even more vulnerable. For example, clients' medical, mental health, and sexual assault crisis center records must be safeguarded. Although challenging, attorneys need to work with every sexual assault client to protect their specific privacy needs.

Outside of the criminal justice process, privacy violations may easily occur in relation to employment, education, housing, and financial compensation. For example, in a suspected drug facilitated sexual assault, toxicology testing can be vital. At the same time, comprehensive testing may disclose a survivor's use of illegal substances. This may expose the survivor to unintended consequences, such as criminal prosecution, or jeopardize their employment, housing, etc.

See *Protecting Sexual Assault Survivors' Privacy* for a more comprehensive discussion of this issue.

V. CRIMINAL JUSTICE SYSTEM

Victims of crime are provided with various rights to restitution, privacy, to be informed in matters of trial and sentencing, and to make victim impact statements at sentencing. (These crime victims' rights are not sexual assault specific but may provide rights and remedies for sexual assault victims.) If victims are going to succeed in enforcing their current rights under these laws, they need informed and assertive legal representation.

Attorneys are critical to the effort to help victims enforce their statutory and constitutional crime victims' rights.²

Navigating the criminal legal system is a difficult and complex task for any crime victim. Victims' and prosecutors' interests intersect but are not always aligned. This lack of alignment is most apparent with sexual assault survivors' privacy rights. For example, the prosecution may want evidence from the survivor's personal life to strengthen their case, while the survivor may wish to keep that information private, despite the impact on prosecution. Or, a prosecutor may gather extensive medical, counseling, and other private information about the survivor which must then be disclosed to the defense pursuant to the prosecutor's obligation under *Brady v. Maryland*.³ Often, sexual assault crisis center advocates struggle alone to protect sexual assault victims once the criminal process had begun.⁴ Legal advocacy for the survivor can improve their experience during criminal proceedings and ensure their information is protected whenever possible. See *Criminal Justice and Sexual Assault Survivors* for an overview of the criminal justice process, survivor's rights and remedies, and how attorneys can help to implement and enforce them.

VI. SAFETY AND PROTECTION REMEDIES

Survivor clients' safety should be an initial and ongoing issue that attorneys address through safety planning and other approaches. Survivors need to know about civil protection orders, criminal no-contact provisions, and other legal tools that can proscribe harmful contact between the client and the person who harmed them.

Civil protection orders may help enhance survivor safety. In some jurisdictions, these orders can award relocation costs, payment for medical expenses, and other financial assistance. Safety remedies may also be

² The Violence Against Women Act of 2005 amended the definition of civil legal assistance to include "criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy." PUB. L. No. 109-162, section 40002(a)(16)(B).

³ 373 U.S. 83 (1963).

⁴ See generally Lois Kanter, *Invisible Clients: Exploring Our Failure to Provide Civil Legal Services to Rape Victims*, 38 SUFFOLK U. L. REV. 253 (2005).

sought at educational, residential, and other institutions where a perpetrator and survivor may intersect (e.g., school, office, factory, apartment building, nursing facility, reservation, and place of worship). Finally, criminal courts may issue stay-away or no-contact orders at the time of a defendant's arrest or arraignment. See *Safety and Protection Orders* for a discussion of these remedies in greater depth.

VII. HOUSING

Many sexual assaults take place in or near where the survivor, or the survivor's friend, relative, or neighbor, resides. Some survivors want to move after an assault whether for safety, mental health, financial or other reasons. An attorney may be able to help the survivor terminate their lease or rental agreement and aid them in accessing public or subsidized housing, securing a housing transfer, or evicting a perpetrator. For survivors who want to remain in their current housing, security enhancements (e.g., motion detectors, alarm system, bars on windows or doors, enhanced locks and lighting, cardkey entry), reasonable accommodations (for survivors with certain disabilities), or other modifications may be requested. See *Housing Considerations for Survivors of Sexual Assault* for a more detailed discussion of survivors' housing rights and remedies.

VIII. EMPLOYMENT

A sexual assault survivor's employment is likely to be disrupted by a sexual assault. Absenteeism may skyrocket and productivity often plummets. An assault by a co-worker or at a work location will usually trigger a more acute employment crisis that, without legal intervention, will likely result in the survivor's resignation or termination. Thus, legal interventions are critical to help a survivor remain employed and/or receive employment leave benefits and to protect their privacy in the workplace. The federal Family and Medical Leave Act (FMLA) and its state counterparts, Title VII, and other jurisdictions' anti-discrimination and employment laws provide potential sources of employment protection rights. Unions, too, may have negotiated worker protections. If a survivor becomes disabled because of a sexual assault, they may be entitled to reasonable accommodations and protection from discrimination under the Americans with Disabilities Act. See *Representing Survivors of Sexual Assault with Disabilities* for a

discussion of disability-related legal protections. Survivors who are terminated or leave their job due to a sexual assault may also qualify for unemployment compensation.

If the assault is directly related to employment (*i.e.*, when the perpetrator is a co-worker or the assault takes place at work), a survivor may need and be entitled to additional protection in their work environment. A sexual assault at work, and an employer's failure to appropriately address or protect against that assault, may constitute sexual harassment in violation of federal and state law prohibiting sex discrimination in the workplace. See *Sexual Assault Survivors' Employment Rights* for a more detailed discussion of employment-related considerations for survivors.

IX. IMMIGRANT CLIENTS

Clients who are not United States citizens face significant barriers to obtaining legal remedies. Fear and misinformation prevent many immigrant survivors from applying for and receiving the safety protections, medical assistance, counseling, housing, and employment benefits they are qualified to receive.⁵

A sexual assault may also affect a survivor's immigration status. For example, if a survivor is in the U.S. on a student visa and drops out of school following the assault, they may lose their legal status. Survivors with employment-based visas are similarly at risk of being deported or losing legal status if they are dismissed from or quit work due to an assault. See *Serving Immigrant Survivors of Sexual Assault* for further discussion on serving immigrant survivors.

⁵ Despite perception and information to the contrary, some public services may be available to individuals without any status qualification; however, accessing certain services may impact their immigration options. See *Serving Immigrant Survivors of Sexual Assault* for detailed information about public services for immigrant survivors.

X. CONCLUSION

For more than one hundred and fifty years, sexual assault survivors have sought redress in criminal courts.⁶ Too often, their efforts have not led to justice. The criminal justice system is not designed to – or capable of – meeting the full range of survivors’ legal needs. For a multitude of reasons, only a minority of survivors achieve the criminal justice outcomes they initially seek.

An array of civil rights and remedies may ensure that survivors secure the recovery, stability, and support they need. But survivors cannot navigate the legal system on their own. We hope that this manual will guide attorneys in this effort. Sexual assault survivors’ rights and remedies are symbolic, but not substantive, unless we have attorneys to help achieve them. For questions or consultations about any of the content within the Manual, reach out to TA@victimrights.org.

⁶ See, e.g., *People v. Benson*, 18 Wis. 502 (1856) (“no case has ever gone to the jury, upon the sole testimony of the prosecutrix unsustained by facts and circumstances corroborating it, with[out] the Court warning them of the danger of a conviction on such testimony”); *State v. Dowell*, 11 S.E. 525 (N.C. 1890) (husband may “enforce sexual connection; and in the exercise of this marital right, it is held that he cannot be guilty of sexual assault,” but he may be liable “as if a stranger” if he helps another “ravish his wife”).