



CALCASA
CALIFORNIA COALITION
AGAINST SEXUAL ASSAULT

Support FOR Survivors

Training for Sexual Assault Counselors

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Introduction

An estimated 302,100 women and 92,700 men are forcibly raped each year in the United States (Tjaden and Thoennes, 2000)¹.

Sexual assault is a problem of sweeping proportions in California and across the nation.

Welcome to CALCASA's Support for Survivors Guide. Thank you for joining with us to end sexual violence. Serving survivors is a critical part of our work, and we are honored to have you join us. As you embark on this journey to learn more about sexual violence, how to advocate and support survivors, and what you can do to end sexual violence in your community, we are hopeful that this guide can provide you with important resources along the way.

CALCASA is proud to support the journey of so many counselors. This guide was originally produced in 1999, thanks to the many friends, supporters, and colleagues who wrote the original pieces contained within it. These articles are still useful today, nearly 10 years after they were written, to support another decade of folks coming up through trainings across the state and across the country. Where we are in the field now is different from where we were 10 years ago; though these articles are still important and relevant, the context in which we're operating as rape crisis centers and coalitions is in many ways quite different.

In order to provide some information about that context to you as you read these articles, we've written introductory pieces to support the individual articles within each section of this guide. These section introductions are intended to explain the themes of the sections, help you understand why they are relevant to today's rape crisis centers and counselors, and to help you understand the philosophical approach CALCASA supports relative to sexual assault counseling and advocacy. It is our hope that this guide will give you the tools you need to be an effective counselor, but also that it will help connect you to the larger anti-rape movement and to the philosophy upon which CALCASA bases its work.

Sexual Violence (from CALCASA's Strategic Vision Report)

The American Medical Association (1995) has called sexual assault the "silent, violent epidemic."² For the individual victim, rape and other forms of sexual violence are the degradation of the soul. For society as a whole, however, rape is the degradation of the human race. Sexual assault contributes to the deterioration of community well-being and impacts everyone. This traumatic crime, all too often accepted in American culture, affects women, men, children, families, economic progress, and our national pride.

Sexual assault exists as a continuum of violence that includes the exploitation of women and girls; sexual harassment; molestation; incest; rape

of children; and rape by dates, acquaintances, spouses, significant others, and strangers. Sexual violence permeates our society; it can be found in our families and our marriages, throughout the media and the workplace, on school yards and college campuses, and in collective attitudes that blame the victim and excuse the perpetrator. Sexual assault has demonstrated links to other forms of violence such as gang violence, domestic violence and violence related to drug and alcohol use. Rape occurs routinely in prison life and remains a despicable, yet universal, aspect of war.

Sexual violence represents the ultimate wielding of power and control. It constitutes a violation of a sacred place that is the intimate, soulful core of the self. So long as sexual violence exists and little girls grow up in fear, rape will continue to limit the freedom of women and profoundly divide women and men. Putting an end to rape will mean the beginning of the end for all forms of oppression.

About this manual

The contents of the manual are set up to provide you with a narrative background on topics that are critical to sexual assault counseling and advocacy.

The manual is broken up into six sections: Violence Against Women, Sexual Assault, Crisis Intervention, Medical and Legal Systems, and Continued Healing. These sections take the reader through the background and root causes of all forms of violence against women, to the specific phenomenon of sexual assault and its impact on individual victims. The sections on the service systems (e.g. criminal legal, medical) and continued healing provide specific information about how counselors can support and advocate for survivors at any point in their recovery processes. There are resources and tools in all of these sections to build your skills to work with any survivor, at any time.

Just as it is important to understand the factors that make up the unique experience of each individual survivor, it is also important to understand the cultural dynamics and attitudes that perpetuate sexual violence.

CALCASA		
We Are... The California Coalition Against Sexual Assault, a statewide coalition of rape crisis centers and prevention programs founded in 1980.	Our Mission... The California Coalition Against Sexual Assault provides leadership, vision and resources to rape crisis centers, individuals and other entities committed to ending sexual violence.	Our Vision... A world free from sexual violence.

The California Coalition Against Sexual Assault (CALCASA) provides the unifying vision and voice to all Californians speaking out against sexual violence. CALCASA's leadership at both the state and national level brings support, justice, and hope to victim/survivors of sexual assault, and to those who work to eradicate this pervasive problem in our communities. The needs of sexual violence victim/survivors as well as the prevention approaches designed to stop sexual assault, guide CALCASA as it works to impact public policy, educate the public, and provide resources to all those working to end sexual violence

Founded in 1980, CALCASA is the only statewide organization in California whose sole purpose is to promote public policy, advocacy, training and technical assistance on the issue of sexual assault. CALCASA's primary membership is the 92 rape crisis centers and rape prevention programs in the state. CALCASA affiliate membership category is for organizations, businesses, individuals and others committed to our mission and our vision of the elimination of sexual violence.

CALCASA works closely with rape crisis centers, government agencies, campuses, institutions, lawmakers, the criminal justice system, medical personnel, community-based organizations and business leaders providing a central resource for improving society's response to sexual violence by supplying knowledge and expertise on a wide range of issues.

References

1. American Medical Association. (1995). *Stratagies for the treatment and prevention of sexual assault*. Washington, DC: American Medical Association.
2. Tjaden P, Thoennes N. (2000). *Full report of the prevalence, incidence, and consequences of violence againse women: findings from the national violence against women survey*. (Report for grant 93-IJ-CX-0012, funded by the National Institute of Justice and the Centers for Disease Control and Prevention). Washington, D.C.: National Institute of Justice.

1

Violence Against Women

Violence Against Women

As you begin to read this manual, you'll be oriented to the broad topic of violence against women. Rape and sexual violence are of course specific kinds of violence against women, but rape and sexual violence are also types of violence used against children and men. Sexual violence sits in a place in our society that's in the middle of a number of other forces; it's a byproduct of a society that values women; people of color; people with disabilities; children; people who are gay, lesbian, bi-sexual; people who are transgender; and people from other marginalized groups all less than it values people from dominant social groups. And as a result of its reinforcing the notion that some people are more valuable than others, generation after generation, sexual violence has become one of the ways of people in power (positional, social, familial) maintain control over people who have less.

Now, certainly this analysis is political in nature. In fact, the term "violence against women" comes from federal legislation that was originally passed in 1994, the Violence Against Women Act (VAWA). VAWA has been valuable to our work, though the limitations of the terminology have in some ways shaped our practice. The words "violence against women" do not begin to capture the full breadth and depth of the multitudinous forms of violence intended under that umbrella; after all, there is no one form of violence that only impacts women. Certainly women are more often victimized by sexual assault, domestic violence, and stalking than men are, but children are frequently victimized and this term leaves them out of the discussion altogether. The term "violence against women" captures a piece of our discussion in the anti-rape movement, but the phrase itself, the three words we use, are terribly inadequate to express the nature, consequences, and impact of sexual violence has had on multitudes of survivors.

The political nature of violence against women may not be the first thought that comes into our mind when we read about rape or sexual assault. After all, we've been taught to worry about "stranger in the bushes" and that there isn't much more to consider regarding rape than our own personal safety (hence the push for self-defense classes, safety call boxes, etc). However, statistically we know that the "stranger in the bushes" isn't the one who's most likely to commit these acts. As we learn in the myths and facts section, assailants are most likely to be someone whom we know and trust.

If we understand that people we know and trust are the ones who rape, then we must ask ourselves what is it that leads them to do so? It would be easy to think that assailants are driven by an uncontrollable desire for sex, but we know that that isn't true either. In fact, rapists often have consenting, monogamous sexual partners. In fact, men (and women) can control their sexuality. Rape is absolutely an intentional act. So why rape?

As this section explains what the broad term "violence against women" represents it also establishes why such violence exists in our society.

The various forms of violence against women are often broken down into three main categories: domestic violence, sexual assault, and stalking. And

There are a number of societal and cultural factors that allow offenders to perpetrate violence against women without being held accountable, and it's critical to understand what helps support this culture as you begin to work with survivors and to support sexual violence prevention.

within these categories there are many different types of violence, which will be explained more on the following pages. Women and men can both be victims of any of these crimes, but women are more frequently victimized (insert stat) so therefore they are considered violence against women. Violence committed against children is often addressed as child abuse, but sexual violence against children looks a lot more like rape against women, and those two things are tied together statistically as well (women who were first abused as children are more likely to be raped as adults). The intersections are complicated, but important to understand to fully comprehend the scope of sexual violence in our society.

The phenomenon of rape is triggered by an individual behavior, but it is bigger than that. It is a result of larger forces within our culture, such as sexism, racism, homophobia, ablebodyism, classism, to name a few. Together these “isms,” this set of cultural values and dynamics, creates an environment that allows rape to thrive and allows perpetrators to avoid accountability.

Is rape inevitable? In this her article “Rape Culture,” Gillian Greensite brings to our attention that there were times in history when men and women lived in harmony. Anthropological Indicators imply that their culture was one with no aggression and no war (page xx) which helps support the idea that violence is not a given among humans. In fact, it is possible for us to create a society that does not use violence (and that can be our goal in our work). We are reminded that it is not only our goal to reduce the rates of rape, but in fact our goal is to eliminate rape in its entirety because it is within our control to do so. That is a powerful start to our work.

Dismantling the culture that supports rape requires that we work on many different fronts, from providing front line support to victims and survivors, to developing violence prevention initiatives, to working together to eliminate oppression in all of its forms. We are a movement dedicated to serving survivors, their friends, and their families, but we are also a movement driven to eliminate sexual violence from all communities, everywhere.

As Greensite says in her article “History of the Rape Crisis Movement,” “a knowledge of the history of this movement will help you deal...with the ever present outrage...An awareness that you are part of a movement will connect you with a broader perspective and will challenge you to keep the movement alive.” (page xx) We must understand how brave our foremothers were, and how many different voices with different experiences, and from vastly different backgrounds, have spoken out about rape over time. Our ability as advocates and counselors to work in partnership with so many folks is as a direct result of the hard work of those who went before us, those who had to fight to be taken seriously, and those who had to be brave in the face of adversity. And for all of the ground they and we have covered, there are still miles to go before we're though.

In the past fifteen years, we've addressed a number of issues as they've emerged. Rape has been brought into the public policy arena, we've expanded our understanding of what sexual violence is (to include sexual harassment, for example), we've built multiple levels of prevention work, and continue to learn about the full range of ways sexual violence impacts the lives of survivors. We've learned that our solutions and remedies can not be narrowly focused on one system or set of systems (e.g, criminal legal system, health care) but instead we should focus our solutions on every facet of our

As sexual assault counselors, we are a part of a larger movement to end sexual violence, and our work each individual client is informed by the legacy of the counselors, advocates, leaders, and educators who went before us.

Believing that rape is not inevitable gives us hope that we can share with the survivors we meet. Part of our legacy in the anti-sexual violence movement is to share that hope.

society - because, as sexual violence is a trauma that impacts the survivor's body, mind, and soul, so too are the remedies survivors seek. Our legal remedies continue to grow, but we must also grow other systems as well.

We're continuing to add new dimensions to our work, such as building a collaborative approach to sex offender management, supporting victims of sex trafficking, supporting services by and for marginalized communities, examining the intersections of health issues and sexual assault history, and others. There aren't easy answers for us as we build new solutions, and we may disagree and debate what those solutions are. No matter the debates and disagreements among us, it's absolutely critical that we continue to push ourselves to find solutions that work for everyone.

By developing our understanding of sexual violence and the people who have worked for so long to end it, we are opening up avenues to figure how to end the violence once and for all. Survivors deserve they deserve counselors who are compassionate and caring, but who are also dedicated to understanding what brought them to us in the first place.

2

Sexual Assault

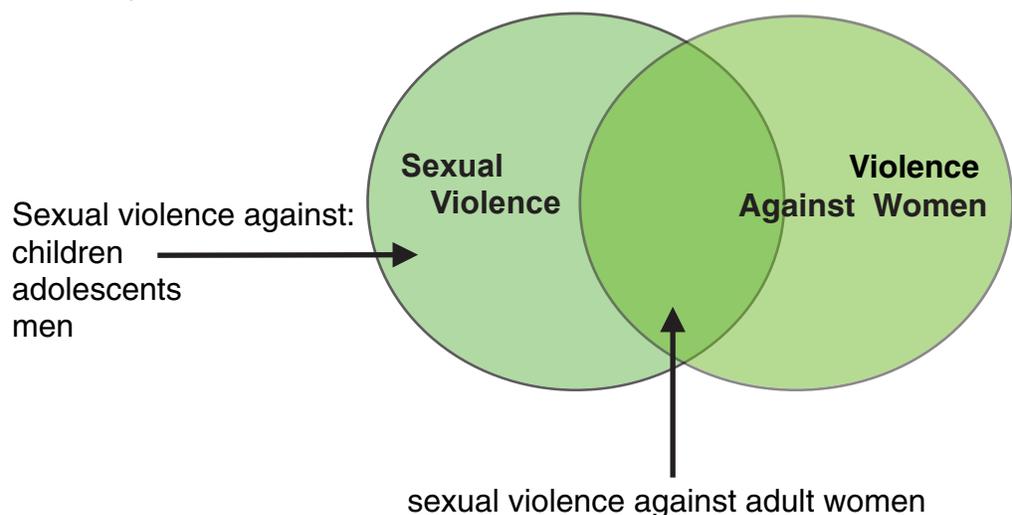


Sexual Assault

Understanding the root causes of violence against women is a critical component of being a counselor for a sexual assault victim. However, understanding violence against women does not by itself prepare you for the full spectrum of behaviors and attitudes that make up the specific phenomenon of sexual violence.

Sexual violence is a form of violence against women, but is not a single subset within it.

Instead, the full continuum of sexual violence includes behaviors and attitudes that condone unwanted or not-agreed-to sexual conduct. Because all forms of sexual violence are not only perpetrated against women - assailants perpetrate against children and men as well - there is also a range of responses to the kinds of sexual violence. In this section, we explore the various forms of sexual violence and to begin to understand the types of impacts it has on victims.



Specifically, the information in this section will give you in-depth information about many of the forms of sexual violence, including:

- stranger rape,
- date and acquaintance rape,
- drug facilitated sexual assault,
- child sexual abuse,
- sexual harassment,
- intimate partner sexual violence, and
- same-sex sexual assault.

Other forms of sexual violence are not included in this chapter, but should be recognized as forms of sexual violence that exist in our communities and may impact the survivors who seek our services. These include:

- stalking,
- sex trafficking,
- genital mutilation,
- forced participation in pornography,
- forced prostitution, and
- sexual slavery.

Additionally, there are environments in which assailants rape their victims that have distinct characteristics and dynamics that profoundly impact the experience of victims, such as rape as a crime of war, rape inside the military, and prison rape. These topics warrant further discussion as well, and resources can be found at the end of this section.

Understanding the range of behaviors that make up the spectrum of sexual violence is important to help you see the depth and breadth of the problem of sexual violence; it is also important to help you understand the specific types of experiences the survivors whom you support have had. However, though the circumstances and details about each type of sexual violence may be distinct, it is critical to note that each type of victimization does not correspond to a specific impact or type of recovery for each victim. Though there are some generalities, the impact sexual violence has on its victims varies from victim to victim. The impact and consequences of the violence vary widely, but not necessarily in direct relationship to the form the violence has taken.

In other words, one victim might have a profound, intense response to a rape while another victim may not - both reactions are normal, they are just different reactions. Similarly, sexual harassment may have a profound impact on a specific victim but not on another. The type of violence does not affect each victim in the same way - instead, each victim experiences violence through the lens of her own individual life experiences, and it's important to know that there is no 'appropriate reaction' to sexual assault. Each survivor you work with at any point in her recovery may experience an entirely new set of emotions and/or reactions. Types of reactions and responses are discussed in this section and can help provide you with a framework to use to understand what each survivor you meet may be experiencing.

Because we know that sexual violence does not happen in a vacuum, that it is a result of set of cultural beliefs and attitudes supporting such violence (see introduction to the Violence Against Women section), we should note that each survivor's experience is also coming from her experience in this culture before the sexual violence happened to her. Each survivor's experience is informed by her experience in our society that condones sexist, heterosexist, racist, classist, able-bodyist attitudes and behavior, which may impact both her recovery and her interest in seeking support services.

Anne King and Jamie Lee Evans' article on Same Sex Abuse challenges any analysis that holds that sexual violence is purely and act of misogyny. They state, "...it is vital to recognize that sexual violence is not just a

phenomenon of male supremacy but is also used as a tool of control and domination by women over other women and men over other men” (page xx). They provide invaluable information about both woman-to-woman and male-to-male sexual assault. They call for counselors to learn more about same-sex sexual assault to develop more effective intervention and prevention strategies. (For more information about the ways sexual violence impacts victims from marginalized groups, see the section in this guide on Cultural Awareness.)

Though individual survivors experience differ, there are some generalities we can discuss regarding specific types of sexual violence. For example, the article “Child Sexual Abuse” discusses the specific dynamics that can affect survivors of childhood abuse. This piece describes the prevalence of child sexual abuse; characteristics of child sexual abuse experiences, including incest and ritual abuse; later problems related to child sexual abuse; and discusses children’s experience of trauma. Though every child’s experience is unique, there is information in this article about how being abused as a child can impact an adult survivor.

As counselors we know that there is no “one size fits all” approach to our work, so we remember that it is the survivor who guides in learning about her experience and providing her with the support she needs.

Similarly, because we know that all survivors do not seek support and services in the immediate aftermath of an assault, we can prepare ourselves for the range of needs survivors may have in the many years after the violence. Because of this wide range in timing for seeking support services, counselors should be prepared to provide support at any point in a survivor’s healing process. The idea of long-term healing is clearly discussed in the article “Adult Survivors of Child Sexual Abuse.” This article also discusses the fact that women and men who were sexually abused as children are at greater risk for experiencing other forms of sexual violence as adults - another important topic for counselors to understand.

There are countless ways sexual violence impacts survivors and communities, a few of which are outlined in the pages that follow. Most importantly, this section establishes the notion that there is a wide spectrum of types of sexual violence and a similarly wide range of reactions and responses that survivors each have. The dynamics of victimization are complex and multifaceted, and can fill textbooks with analysis. Knowing that these dynamics are complex can directly inform how we can support an individual survivor looking for support.

3

Crisis Intervention



Crisis Intervention

Survivors who call our hotlines are often in a state of crisis. They might be in crisis for a variety of reasons, such as being in the immediate aftermath of an assault or by having experienced a triggering event many years after a rape. No matter the cause, survivors may look to us for help in managing and surviving while in a state of crisis.

Sexual assault is a crime that impacts survivors on multiple levels. It's a violation of the survivor's body that also affects her emotional and even spiritual well-being. As we learned in the previous section on Sexual Assault, the impacts of sexual violence can be far-reaching.

As the survivor manages those multiple levels of impact, her usual coping system may not be sufficient to support her as it would without such an intense and violent event. At those times, the survivor may be in a state of crisis.

Crisis is defined by Lee Ann Hoff (as quoted in the first article within this section) as “an acute emotional upset arising from situational, development, or social sources and resulting in a temporary inability to cope by means of one's usual problem-solving devices.” For a survivor of sexual violence, the crisis could come from any number of sources, including the assault itself, a triggering episode, a flashback, or an external event related (or perhaps not related) to the assault itself - such as losing one's job as a result of taking too much time off of work postassault.

Counselors who work with survivors need to have the skills to provide support and assistance during times of crisis. We use a crisis intervention model to guide our work as sexual assault counselors to support survivors to empower and connect them in a way that alleviates the crisis and supports their recovery. This section includes articles on the principles of crisis intervention, the techniques of crisis intervention, and the applications of crisis intervention.

From the article “Principles of Crisis Intervention” by Annabel Prins and Josef Ruzek, here's an explanation about we approach crisis intervention work:

In her influential book Trauma and Recovery, Judith Herman suggests that the “core experiences of psychological trauma are disempowerment and disconnection”. Disempowerment refers to a decreased sense of personal control or power over one's life and environment. Disconnection refers to a sense of difference or alienation from others. Herman argues that the guiding principles behind all recovery efforts must therefore be reempowerment and the establishment of new and meaningful relationships. Consequently, these are the two main goals of crisis intervention.

Building your counseling tools takes time and practice, and though this section is quite informative about what solid crisis intervention skills are, it is necessary to use your news skills and seek feedback on your work in order to improve your techniques.

The following articles will help you understand the basis and application of crisis intervention theory. The articles provide detailed information about how to support survivors and how to hone your counseling skills.

Crisis intervention skills are useful throughout your work with survivors. Crisis calls on the hotline certainly require this skill set, but so do in person contacts in a variety of settings. The listening skills included in this section will also help you provide support to the friends and family members who surround the survivor. The survivor is not the only person who might have an experience of crisis in the aftermath of an assault.

Also included in this section is an article on vicarious trauma by Sharon Koski - a topic important to counselors to help them see the potential impact sexual assault support and advocacy work can have on their own lives. Koski defines vicarious trauma as “the transformation of a helper’s inner being as a result of working with people who are trauma victims”(page xx). She proposes that counselors “by being aware of this condition...can start to develop [their] own safety system of support, nurturing, and care” (page xx).

Vicarious trauma can impact any counselor or advocate. It would be nearly impossible for someone who hears many individuals’ experiences of trauma to remain unaffected by their work. Similarly, because sexual violence is wide-reaching problem deeply embedded in our culture, it’s quite difficult for counselors to return to their “regular lives” after supporting an individual survivor and not see signs of the rape culture everywhere. Quite bluntly, sexual assault advocacy is nearly impossible to turn off mentally once you understand all of the components of it.

The vicarious trauma article provides detailed information about how vicarious trauma impacts counselors and includes tools and resources about how to manage its potential impact. It’s critical that counselors pay attention to how their work affects them and their lives in order to help them best take care of themselves. After all, we want to make sure those who support survivors are able to sustain themselves; we need everyone to help us end sexual violence and support survivors.

4

Cultural Awareness



4

Cultural Awareness

Oppression and Victimization

Survivors in the Military

Survivors Behind Bars

Oppression and Victimization

Before reading the next section, it's important to understand a few key terms that are used in the upcoming articles. They are as follows:

Oppression is the systemic and pervasive mistreatment of individuals on the basis of their membership in a disadvantaged group. Institutional and interpersonal imbalances in power contribute to this mistreatment.

An Ally is one whose personal commitment to dismantling oppression is reflected in a willingness to become educated about all forms of oppression and social justice, challenge one's own prejudices, learn and practice the skills of an anti-oppression activist, interrupt oppressive statements, behaviors, policies, and institutional structures. An ally is someone who recognizes and utilizes his or her privilege to promote justice for others.

Privilege is a set of unearned advantages, benefits, assumptions and expectations granted based on membership in a culturally dominant group.

Our cultural values and norms support the oppression of groups of people which allows sexual violence to be used as a tool to keep power and control over them.

As outlined in the prior sections, the roots of sexual violence are deeply entrenched in our cultural values. As a result, sexual violence impacts the people who have the least power in our culture more than those from more dominant groups. Women, children, people of color, people with disabilities, people who are gay/lesbian/bisexual, people who are transgender, and people who are from many other historically marginalized groups are more often victimized than men in dominant culture groups.

To eliminate sexual violence altogether, we must end all of these forms of oppression. Simultaneously, we must ensure the provision of culturally and linguistically appropriate services to survivors. These are both not small charges for us in the anti-sexual violence movement, but yet they are two responsibilities that we must work together to fulfill. This section outlines several elements of these two themes, including:

- **how oppression and sexual violence are related,**
- **what it means to be an ally, and**
- **what to consider when providing services to individuals from a variety of backgrounds.**

These pieces together help to build a holistic approach to changing our culture from one that cultivates attitudes and behaviors that promote sexual violence to one that values each individual and all of the differences between us. To create that environment, we must use the power that we do have to leverage it on behalf of those who don't have access to power. Leveraging that power is a part of our ally work.

Being an ally is a critical component of anti-oppression work. As Susan Mooney explains in her article "Being an Ally," it is important for us all to

It is the responsibility of those with power and privilege to leverage their power in a way that benefits people who have less.

recognize the ways in which we have privilege and to use our power to bring more voices to the table in a meaningful way. There are many ways individuals who have privilege can use that privilege in ways that benefit others (instead of abusing their privilege to maintain power over others) and this article outlines some of the ways we can begin to do so. Being an ally, or becoming an ally, requires ongoing learning, practice, and support. With the information in Mooney's article, new counselors will be able to start along the journey to becoming an ally and therefore can, in one more way, contribute to eliminating the power structures that reinforce and validate sexual violence.

As we pursue our own forms of ally work, we are also charged with responding to the individual needs of sexual assault survivors. Earlier sections have discussed how survivors' needs vary from individual based on life experiences, and this section specifically discusses how those experiences may be informed by the survivor's membership in specific cultural groups. Each survivor's experience is unique to her, but the information on the pages that follow outlines what might be relevant for survivors from different marginalized communities. It is important to understand that these are not checklists of what will work for each survivor - instead, these articles are intended to be used as a framework for you to think about cultural differences and how those impact a survivor's victimization and recovery experience.

Ending sexual violence, eliminating oppression, and serving all survivors of sexual violence with cultural and linguistically appropriate programming is a complex formula for anti-sexual violence work. By educating ourselves about the needs of individual survivors, the dynamics of oppression and power in our culture, and the need to create social change, we are aiming for success.

Survivors in the Military

BY TIFFANI COLLIER, UNITED STATES COAST GUARD

A good working relationship between a rape crisis center and the local military installation insures that military survivors of sexual assault are aware of advocacy services available in the surrounding community.

If there is a military installation in your community, it is likely that you will at some time provide services to a military survivor: Many military communities rely on “civilian” (non-military) hospitals to provide forensic rape exams, and seek support services from civilian sexual assault crisis agencies.

In spirit, the military system manages sexual assaults in much the same way as the non-military community: military survivors may choose whether they wish to report the assault, and may determine the level of intervention or support they desire. However, it is important to understand key differences between civilian and military reporting systems, judicial processes, and terminology.

Military Culture and Sexual Assault

Many who are attracted to military careers find safety and security in the predictable routine and structure of military service. In the armed services, lines of power and control are clearly drawn — rank (one’s position within the organization) is literally worn on one’s sleeve, and determines not only pay but social and political access and influence. Systems are in place to provide for basic needs such as food, shelter, and medical care. Response to crises in general (including sexual assaults) are spelled out in detailed directives to ensure that pre-established protocols are observed. After a sexual assault – the ultimate loss of power and control -- individuals who thrive within the military culture are particularly vulnerable. Thus, just as returning some semblance of order and control to the civilian survivor of sexual assault is a primary goal, it is of particular importance to a military survivor.

In many cases, service members are assaulted by perpetrators within their organization. This is particularly devastating in military communities where fellow service members not only work together, but may also live together in military housing or aboard ship. The structure of a military community is much like the structure of a traditional family: patriarchal and self-supporting by nature, its members are taught to protect and rely upon leadership and one another at all costs. Thus, member-on-member sexual assault may have an extremely devastating impact – both personally and professionally, as these cases result in the destruction of multiple layers of trust.

Until recently, service members who had been sexually assaulted were required to report the assault to their military installation. Just as you might hesitate to tell your employer about a crisis of such an intimate nature, service members may hesitate to reveal their military status due to fear of professional repercussions, embarrassment, or lack of understanding about reporting requirements. Although your interaction with a service member will be no different than that of a civilian victim of sexual assault in terms of the advocacy you provide, your understanding of the options available to military survivors through military policy on sexual assault will go a long way in relieving his or her stress.

The Military Response to Sexual Assault

On military installations, Sexual Assault Response Coordinators (SARCs) and Employee Assistance Program Administrator/Coordinator (EAPA/Cs – the Coast Guard SARC-equivalent) serve as the single point of contact for sexual assault victim services. A SARC or EAPA/C coordinates crisis intervention services, advocacy, referrals and on-going care for military survivors of sexual assault to insure that members receive all necessary services and responsive care from the moment they report being sexually assaulted.

Recent US Coast Guard and Department of Defense policy provides service members the option to receive medical treatment and counseling with or without reporting their sexual assault to their commands or law enforcement. **Restricted Reporting** allows a sexual assault survivor to disclose confidentially the details of his or her assault to specified individuals in order to receive medical treatment and counseling, **without** needing to notify command officials or law enforcement. Service members who are sexually assaulted and desire Restricted Reporting under this policy may report the assault **only** to their SARC or (EAPA/C – the Coast Guard SARC-equivalent), a military Victim Advocate, a military health care provider, a military chaplain – or to a civilian sexual assault crisis agency.

A service member can choose to move from a Restricted Report to an Unrestricted Report at any time.

Upon notification of a restricted report of sexual assault, military healthcare providers will initiate the appropriate care and treatment, and report the sexual assault to the SARC or EAPA/C in lieu of reporting the assault to law enforcement or the service member's military command. The SARC or EAPA/C will immediately assign a military or civilian victim advocate to the survivor, who can discuss restricted and unrestricted reporting options with the service member.

If the service member chooses, he or she can request to have evidence collected through a forensic examination conducted by either a military or civilian medical examiner. The collected forensic evidence will be marked with a non-identifying number assigned by the SARC or EAPA/C and stored for a period of up to one year (time periods are specific to the branch of service). In the event the service member wishes to officially report the assault to law enforcement, the evidence may then be used in the investigation and/or prosecution of the crime.

There are, however, exceptions. Restricted Reporting may not be an option if:

- there is imminent danger to the survivor or others;
- the survivor is incapacitated/incompetent;
- the assault is disclosed by a third party.
- the survivor seeks services from a civilian healthcare provider who is mandated to report the assault to local law enforcement

Unrestricted Reporting

Unrestricted Reporting is recommended for survivors of sexual assault who, in addition to medical treatment and counseling, desire an official investigation of the crime. If a service member elects Unrestricted Reporting, advise the service member to use current (and the most expeditious)

reporting channels, including his or her own chain of command, or law enforcement; or he or she can report the incident to the SARC or EAPA/C, or request healthcare providers to notify law enforcement. Upon notification of a reported sexual assault, the SARC or EAPA/C will immediately assign a victim advocate. At the survivor's discretion/request, the healthcare provider will conduct a sexual assault forensic examination which may include the collection of evidence. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.

UNRESTRICTED REPORTS	RESTRICTED REPORTS
<p>The military member has the right to:</p> <ul style="list-style-type: none"> • Medical treatment • Counseling • Advocacy • SAFE (sexual assault forensic exam) • Legal support from the military • Military command support <ul style="list-style-type: none"> ▶ Issuance of a military protective order, which is the equivalent of a civilian restraining order for protection on federal property (if needed) ▶ Accommodation of any physical or emotional disability caused by the assault ▶ Permission to attend counseling, legal, or other appointments related to the assault during the workday. 	<p>The military member has the right to:</p> <ul style="list-style-type: none"> • Medical treatment • Counseling • Advocacy • SAFE <p><i>The service member may change to an Unrestricted Report at any time.</i></p>

Military Justice Procedures

When a rape or sexual assault occurs, jurisdiction determines whether the military justice system will be involved. In general:

- If the assault occurs on military or federal property, or on property controlled by the military (such as an apartment leased by a military agency for a service member) military police/investigators will likely assert jurisdiction over the investigation.
- If the assault occurs on non-military property, it is likely that the investigation will be managed by local law enforcement.

The military justice process consists of eight elements:

1. Investigation and evidence collection by military investigators. This report is submitted to the perpetrator's military unit commanding officer.

2. The Commander's Decision to Search, Detain, and Prosecute. The commanding officer, or court martial convening authority, in consultation with military attorneys, decides if the case will "go to court."
3. Article 32 Investigation and Hearing. Required to proceed with a General (highest) level Court Martial, this process serves the same purpose as a civilian Preliminary Hearing and Grand Jury, ensuring there is enough evidence to proceed to trial.
4. Pretrial Restraint (may include restriction to the unit, confinement in a military prison – rare -- or an order to refrain from specific acts, when certain enumerated conditions are met).
5. Convening the Court Martial. A General or Special Court Martial is composed of a military judge, a trial counsel (prosecutor), defense counsel, and (usually) service members who act as the jury.
6. Pretrial Agreement (plea bargain).
7. Trial (trial procedures are similar to those of a civilian court).
8. Court-Martial Verdict and Sentencing. The verdict and sentence are reviewed by the Convening Authority who may approve, disapprove, or reduce the sentence imposed by the military judge. Sentencing may include confinement, forfeiture of pay and allowances, reduction in rank, hard labor, discharge from the military, or some combination of the above. Survivors may present Impact Statements at this time.

Military Member Rights

Military members have the right to a monthly update regarding the status of any on-going investigative, medical, legal, or command proceeding regarding the sexual assault. This requirement is in addition to those established by the Victim-Witness Assistance Program. Monthly updates are required until the final disposition of the reported assault. "Final disposition" means the conclusion of any judicial, non-judicial, and administrative actions (including no action).

Considerations for Counselors

Collateral Misconduct

One of the most significant barriers to reporting sexual assault in the military is the survivor's fear of punishment for his or her own actions which may be associated with the sexual assault, referred to as "collateral misconduct" (i.e. underage drinking, adultery, fraternization or other violations of military regulations).

The survivor's unit commander has authority to determine how to address alleged misconduct, and may decide to ignore much of the alleged misconduct, or defer disciplinary action until after the final disposition of the sexual assault case.

Sexual Orientation

Gay, lesbian and bisexual military survivors are typically reluctant to report sexual assault for fear of exposure of their orientation. While the military policy

A military survivor may have more concerns about the ramifications of activities he or she engaged in at the time of the assault than the assault itself.

on sexual orientation is “don’t ask, don’t tell, don’t pursue, don’t harass,” each branch of the armed services interprets policy enforcement differently. As a general rule, advise gay, lesbian or bisexual survivors to consult with the SARC or EAPA/C prior to filing an Unrestricted Report of sexual assault.

Helpful Links and Resources:

Recommended: [Sexual Assault Prevention and Response \(SAPR\) Pocket Guide for Advocates](#) (available from the local military SARC or EAPA/C).

Military One Source

<http://www.militaryonesource.com>

Military Mental Health

<http://www.militarymentalhealth.org>

The Miles Foundation

<http://www.milesfoundation.org>

Department of Defense Sexual Assault Response Program

<http://www.sapr.mil>

California National Guard

<http://www.calguard.ca.gov/j1/Pages/SAPRP>

Military Sexual Trauma

<http://www.ncptsd.va.gov>

Army Sexual Assault Response

<http://www.sexualassault.army.mil>

Air Force Sexual Assault Response

<http://www.losangeles.af.mil/sarc>

Marine Corps Sexual Assault Response

<http://www.usmc-mccs.org/sapro>

Navy Sexual Assault Response

<http://www.npc.navy.mil/commandsupport>

Coast Guard Sexual Assault

<http://www.uscg.mil>

References

1. Department of Defense Instruction Number 6495.02, Sexual Assault Prevention and Response Program Procedures, dated 23 Jun 2003. Available at <http://www.sapr.mil/contents/references/DODI649502p.pdf>.
2. Marine Corps Order 1752.5A, Sexual Assault Prevention and Response (SAPR) Program, dated 05 Feb 2008. Available from the U.S. Marine Corps.
3. Military Definition of Sexual Assault: JTF-SAPR-006. Available at <http://www.sapr.mil/contents/references/jtf-sapr-006%20definition.pdf>.
4. Uniform Code of Military Justice (UCMJ): Military law and punishment related to sex crimes. Available at <http://www.sapr.mil/contents/News/NewLaw.pdf>.
5. U.S. Coast Guard COMDTINST 1754.10C, Sexual Assault Prevention and Response Program (SAPRP), dated 20 Dec 2007. Available from the U.S. Coast Guard.
6. U.S. Coast Guard Sexual Assault Policy. Available at www.uscg.mil/hq/g-w/g-wk/wkh/pubs/pdf/Sexual%2520Assault%2520COMDTINST%2520FINAL.pdf

Survivors Behind Bars

BY LINDA MCFARLANE AND MELISSA ROTHSTEIN, STOP PRISONER RAPE

“They put me in a large cell with a bunch of guys...two men started demanding cigarettes from me, which I didn’t have...they started slapping me around...a guard walked by the cell and told them to quiet down. I might have been able to defend myself against one...the bigger guy told me that if I sucked his dick he would leave me alone...I decided that it would be better to do that than to be beaten by these guys more...I was scared as hell and didn’t know what else to do. It got more and more brutal and humiliating. I was forced to perform oral sex on the other one while the big one sat on me. He lifted my legs and I was penetrated anally...more than once, and I can never be sure, but I believe there was a third man...my eyes and lips were swollen...I was bleeding...they finally stopped when I vomited after one of them men ejaculated and urinated in my mouth.

The next day I was supposed to see the judge. For some reason I was still afraid to call my parents. A corrections officer, who I’m sure knew I was raped, helped me clean up. At the courthouse I spoke with my court appointed lawyer and told him the story—but he didn’t seem to care. When I got into the courtroom my lawyer asked for bail. It was set at \$500 and my friend bailed me out...the judge gave me 2 years probation and ordered me to a rehab. A month later I tried to kill myself and was confined to a psychiatric hospital. I joined AA and got on with my life.

I denied the incident for more than 11 years, until something my girlfriend told me triggered everything. For the past two years I have been in therapy (I have been hospitalized 3 times). I found a very compassionate psychiatrist who has extensive dealings with prisoner rape, as well as a psychologist who wrote a book on Traumatic Stress Disorder. In my recovery I have decided that I will lend whatever help I can to other male rape survivors.

*My name is Bill.
I am a rape survivor.”*

Survivor letter received at Stop Prisoner Rape

Dynamics of Prisoner Rape

Sexual violence in detention is arguably the most neglected form of human rights abuse in the U.S. today. According to the best available research, 20 percent of male **inmates** in the U.S. are sexually abused at some point during their incarceration.¹ The rate for women varies dramatically from one facility to another, with one in four inmates being sexually abused at the worst facilities.² The Department of Justice Bureau of Justice Statistics (BJS), in its first national inmate survey, published in December 2007, estimated that some 4.5 percent (or 60,500) of the more than 1.3 million inmates held in federal and state prisons had been sexually abused in the previous year alone.³ A subsequent report that focused on county jails was just as troubling; nearly

25,000 jail detainees had been sexually abused in the past six months.⁴ Nationally, the estimates of actual sexual assaults in detention facilities are some fifteen times higher than the number of official reports filed for the same time period.⁵

With few resources and little or no institutional protection, survivors endure physical injuries, become pregnant, contract HIV and other sexually transmitted diseases, and suffer severe psychological harm.⁷ The long-term emotional impact of sexual abuse in detention often includes Post-Traumatic Stress Disorder and Rape Trauma Syndrome,⁸ unresolved anger, drug addiction, other self-defeating behaviors, and the effects of long periods in isolation.⁹ At least 95 percent of inmates are ultimately released from prison,¹⁰ and they bring their medical and emotional issues home with them.

Just as in the community, rape in detention – whether perpetrated by staff or by other inmates – is a means to achieve power and control. Prisoner rape survivors come from all demographic groups and walks of life. However, members of marginalized groups, such as people who identify as lesbian, gay, bisexual or transgender (LGBT)¹¹ and people with mental illness, are disproportionately targeted. Youth are also at heightened risk, particularly when housed with adults.¹² Likewise, inmates who are non-violent, inexperienced in the ways of prison life, gender non-conforming, and small in stature are vulnerable to sexual abuse.

Prisoner rape occurs most frequently when no one is around to see or hear it, particularly at night and in areas that are difficult to monitor. Upon arrival at a detention facility, prisoners are sized up for vulnerabilities by other detainees and by predatory staff. Very often, a violent sexual assault occurs during the first hours, days or weeks of imprisonment; the prelude to a long battle for safety. Male inmates who are assaulted in this manner are considered “turned out,” perceived to have been turned into a victim, a woman, or to have been “made gay.” Inmates who have been victimized once are likely to be sexually assaulted multiple times during the course of their incarceration. Sometimes, survivors are marked as property by gang members or serve as likely targets for future attacks. Many survivors are forced into servitude, including prostitution arrangements with other prisoners or staff.¹³

The phenomenon of “protective pairing” (also called “hooking-up”) mimics the dynamics of domestic violence, both in the behavior of the perpetrator and the impact on the survivor. In protective pairings, a more powerful prisoner offers protection to a less powerful prisoner in exchange for sex. These relationships are often overtly abusive or violent, but still may seem like the safest option for an inmate attempting to avoid more violent assaults or gang rapes. One survivor in a protective pairing relationship described his situation in the following manner:

In many instances, perpetrators use coercion, grooming, entrapment into debt, and opportunity as means of accomplishing sexual abuse.

“If you gotta have a man, you should pick carefully. Pick one that don’t rent you out, or at least keeps your ass for himself, and one that lets you say you won’t do certain stuff. I have a decent one right now. It’s not all bad and he’s enough of a shot-caller that all I have to say if anyone else starts hassling me is, “got a problem? Talk to my husband.””

Survivor in a men’s institution, told to Stop Prisoner Rape staff

In women's prisons, a significant danger stems from the unchecked power of corrections staff. Male officials are often allowed to watch female inmates when they dress, shower, and use the toilet. Some staff members routinely engage in verbal degradation of prisoners under their supervision, while others abuse their authority by offering privileges for sexual favors, coercing vulnerable inmates, or raping prisoners whose safety they are supposed to protect.¹⁴ Staff members may use visits with children, the need for hygiene products or food, access to schooling or employment, and threats about release dates to coerce women inmates into unwanted sexual contact. These encounters are often cast as consensual relationships, or worse, considered to be the result of inmates manipulating staff into sexual activity.

Inmate on inmate sexual abuse in women's prisons is also common, albeit largely invisible. Similar to domestic violence in lesbian relationships, such assaults are often minimized or eroticized. Perpetrators hide behind the perception that women in prison simply form their own family structures, without regard to the abusive nature of many such relationships.¹⁵

Procedures for reporting sexual abuse in detention are often ineffectual and complicated. Complaints by prisoners are routinely ignored by corrections staff and government authorities,¹⁶ or worse, are met with hostile, misogynistic, or homophobic attitudes, implying that the survivor somehow deserved the abuse, or secretly enjoyed it.

To be labeled a "snitch" in prison is dangerous, and survivors who file formal complaints often face intense retaliation from perpetrators and their associates. Such dangers are especially troubling as survivors only are given access to follow-up services – such as crisis counseling, medical care, timely testing and treatment for sexually transmitted infections and pregnancy – if they are willing to file a sexual abuse complaint. For the most part, medical and mental health staff members are not permitted to maintain confidentiality regarding sexual assaults, increasing the likelihood that a survivor will be too scared to seek help. Likewise, inmate communication with outside agencies tends to be monitored, sometimes by the very staff that perpetrated the abuse.

Seeking assistance and reporting sexual abuse in detention are associated with significant safety considerations.

Barriers to Healing

“My name is R.G. Every night I lie awake and listen to my friend being raped by his cellie. His cell is right on top of mine, so I can hear every detail. I can't do anything to help him. That drives me crazy. The other thing driving me crazy is the memories. I was raped in the reception center and every time I hear my friend getting it, I go into these memories of what happened to me. It's like it's happening all over again. I feel like I'm going over some edge.

I told the people here that I got raped before, I didn't tell them it was at their reception center, and that I knew that meant I would be raped again. They didn't do anything different and I'm in general population. One of the big people in here approached me last week. I know what's coming, so I slit my wrists to get out of here. Some people will say that I did it to get attention. That's not true. I did it because I know what's coming. Today I got placed in a cell with one of the biggest drug dealers

and gang leaders up in here. He told me he paid for me already and I'm his slave. I tried to kill myself again, unfortunately I didn't succeed. I don't know what else to do."

Survivor letter received at Stop Prisoner Rape

Survivors of sexual assault in detention experience the symptoms and reactions of Rape Trauma Syndrome in much the same way as survivors in the community. However, the violent and dehumanizing environment in which they live poses additional challenges.

The daily trauma of being behind bars exacerbates the stress of the aftermath of rape. An incarcerated survivor is unable to move about freely, has little to no privacy, and may have to live with the perpetrator.

Inmates typically shower, dress, and use the toilet in front of other inmates and staff and are subject to pat and strip searches on a regular basis. They also have very little control over things to which most sexual abuse survivors are sensitive, such as noise, light, and the level of crowding or isolation. To make matters worse, survivors who report abuse are often placed in isolation immediately after an assault, ostensibly for their own protection. This protective custody is generally no different from punitive segregation, with little to no access to programs and services.

Many prisoner rape survivors are not only dealing with the recent trauma of their sexual assault, but with a pre-existing mental illness, alcohol or drug addiction, and/or prior trauma as well. A 2006 study reported that people with mental illnesses make up a majority of the U.S. prison population, and few of these individuals have received treatment since admission. Moreover, nearly three-quarters of state prisoners with a mental health problem (and 56 percent of those without) have a drug or alcohol dependency or addiction. Estimates of sexual assault or domestic violence among women inmates prior to their incarceration range from 44 percent to 80 percent.¹⁹

Some survivors respond to crisis in ways that may create disciplinary problems. For example, while prisoners are expected to appear calm and follow directions without question, a survivor in crisis may feel disoriented, irritable or anxious. In addition, survivors sometimes feel so desperate and out of control that they behave in provocative or dangerous ways, such as making suicidal gestures, picking a fight with a powerful prisoner or disregarding a staff direction, in order to break the tension.

Dangerous myths – including that prisoners who are raped must have deserved it, that only child molesters are sexually assaulted in prison, that a gay man cannot really be raped, that transgender women and feminine men like the attention, that women do not sexually assault other women – contribute to self-blame among survivors of sexual abuse in detention and effectively halt the healing process.

Despite these barriers, many prisoner rape survivors do reach out for help. Like all survivors, most need to hear that the abuse was not their fault, that they can heal, and that someone believes them. A simple response from a trained rape crisis advocate, whether during a SART accompaniment, via written correspondence or through a call to a crisis line, may be the only supportive feedback a survivor receives. As such, it can provide the spark of hope needed to believe that healing is possible.

Considerations for Counselors

It was the anger. It's so important to be able to vent without being penalized for the way you feel, let go of baggage, learning to get rid of this shit, decrease anxiety and paranoia, because, you know, I got really paranoid at times. It was really chaotic up there [points to her head]; there was no room for anything else, no room for anything positive.

When I first started coming, I was so angry and I didn't know I could feel different. But now I'm learning to forgive myself. I started noticing that I was feeling something I had never felt before and that was peace. The voices went away. I could lie back on my bunk and think about what happened, how I dealt, and how I feel now, and it's really different.

This is my second time in and it's so much better because this time I got to work on me. I got to find my boundaries, learn about trust, and now I can step out of myself. The most important part about this program is that the prison can't use it against us.

Interview with participant in a Stop Prisoner Rape/Riverside Area Rape Crisis Center pilot counseling program at a woman's prison

The rape crisis counseling model of survivor-centered empowerment and crisis intervention techniques is as effective with survivors of sexual violence behind bars as it is with any other survivor. With a few minor alterations, the skills that community rape crisis counselors already use will serve them well with this population. Consider the following nuances when working with survivors of prisoner rape:

- A survivor needs to regain a sense of control to begin healing, but incarcerated survivors have no control over even the most mundane aspects of their lives. Encourage survivors in detention to decide for themselves whether or not to report the assault, to reach out for help, support other survivors, plan for their future, reinvest in school or work, write to loved ones, and become activists.
- Survivors in detention live in an environment where aspects of the trauma are triggered every day. In the aftermath of sexual abuse or of a reactivation of crisis, a person's usual ways of coping tend to be overwhelmed. However, anyone who has spent any length of time in prison has developed significant coping skills, and crisis intervention counseling should include: exploring how the survivor has handled her or his time in prison; reminding her or him of the coping and survival skills she or he possesses; and helping to draw on or modify those skills.
- When brainstorming coping skills for issues such as panic attacks, nightmares, flashbacks or generalized fear, remember that an incarcerated survivor cannot call a hotline, go for a walk or ask a loved one to stay with him or her. Focus on available coping tools, such as journaling, guided imagery, and breathing techniques.²⁰
- Rape crisis center policies around reporting suicidal or homicidal ideations

should still be observed. However, be cognizant of the fact that the institutional response to a survivor may be extremely punitive. Informed consent can be a life or death matter, and survivor decisions about disclosure should always be respected.

- As a counselor, cultivate a relationship with someone at the institution, perhaps an investigator or mental health staff, with whom you can talk about delicate situations. Learn the language and rules of the institution. For example, it is generally considered disrespectful to call officers “guards.” Instead, pay attention to how they introduce themselves and refer to them accordingly.
- Providing support to incarcerated survivors requires working with staff members in charge of custody. These officials are primarily concerned about the safety and security of the institution and may have different perceptions about confidentiality, privacy, and access to resources.
- Be creative and flexible about providing follow-up care. If the survivor is in a state prison, much of the follow-up will have to be done by mail. Make certain to ask the survivor how best to provide him or her with additional information, support or referrals. Also check that the survivor believes it is safe for him or her to receive information or follow-up. Many survivors have very realistic fears about retaliation and should be given the opportunity to decide what feels safest for them.
- Any continuity you can provide – such as referrals to community resources or tips for how to transition new coping skills to the community context – may help a survivor succeed upon release.
- Self-care and vigilance about compassion fatigue is crucial when working with survivors of sexual abuse in detention. The experiences of prisoner rape survivors are often horrifying, and the ability to provide support and crisis intervention may be limited to letters or a single telephone or face-to-face encounter. However, the simplicity of the rape crisis counseling model does make a significant difference. Do not underestimate the power of being the one person from which a survivor hears: It was not your fault; I believe you; healing is possible.

Definitions:

Administrative Segregation: A high security, isolative environment where inmates who are removed from the general population are temporarily placed. It is used for inmates who have committed crimes within the institution, and is also often used to isolate rape survivors and sometimes transgender inmates from potential perpetrators.

Corrections Officers: Staff members in any type of detention facility who are responsible for the custody of inmates. In California, staff members at the state prisons are peace officers, meaning they have the same status and responsibilities as community law enforcement officials.

Inmate: Any person who is under the custody and control of a law enforcement or corrections agency, this can include: federal or state prisons; county or city jails; immigration detention facilities; juvenile institutions; and police lock-ups. In this chapter, the term “inmate” is used interchangeably with the term “prisoner.”

Jail: A detention facility run by a city or county to hold people who are awaiting trial, awaiting sentencing, and sentenced prisoners serving short sentences (usually a year or less).

Prison: Detention facilities run by the federal or state government to incarcerate people convicted of felonies and generally serving sentences of more than one year.

Prisoner Rape: Sexual violence perpetrated against an inmate. This term is more expansive than the traditional definitions of prisoner or rape.

Protective Custody: Housing within a detention facility that is designed for inmates with specific safety concerns. Protective custody can range from a permanent placement in administrative segregation to living in a discrete unit designed for people who are considered to be vulnerable to sexual abuse.

Protective Pairing: An arrangement in which a more powerful prisoner exchanges protection for sex and other services with a less powerful prisoner, sometimes including forced prostitution. Protective pairing is not a consensual arrangement. The perpetrator is in charge, sets the terms of the relationship, and can change the terms at any time.

Turned Out: The process by which an inmate is marked as a victim of sexual assault. It usually begins with rape and may constitute the beginning of a protective pairing arrangement or being owned by a gang. Sometimes male inmates who have been “turned out” are forced to adopt feminine clothing and stereotypically feminine behaviors. Some of the terms used to describe an inmate who has been “turned out” are: punk, bitch, kid, queen, fag, wife, girl, or boy.

Notes

1. Struckman-Johnson, Cindy, et al. "Sexual Coercion Reported by Men and Women in Prison." *Journal of Sexual Research* 33 (1996): 67. Struckman-Johnson, Cindy & Struckman-Johnson, David. "Sexual Coercion Rates in Seven Midwestern Prison Facilities for Men." *Prison Journal* 80 (2000):379.
2. Struckman-Johnson, Cindy & Struckman-Johnson, David. "Sexual Coercion Reported by Women in Three Midwestern Prison," *Journal of Sexual Research* 30 (2002): 217.
3. Beck, Allen J. & Harrison, Paige M., Bureau of Justice Statistics. *Sexual Victimization in State and Federal Prisons Reported by Inmates, 2007* (2007).
4. Beck, Allen J. & Harrison, Paige M., Bureau of Justice Statistics. *Sexual Victimization in Local Jails Reported by Inmates, 2007* (2008).
5. Beck, Allen J. & Harrison, Paige M., Bureau of Justice Statistics. *Sexual Violence Reported by Correctional Authorities, 2006* (2007).
6. The HIV prevalence inside U.S. prisons is more than three times higher than in American society overall. See Human Rights Watch, *Ensure Access to Condoms in US Prisons and Jails* (2007); LAURA M. MARUSCHAK, U.S. DEP'T OF JUSTICE, *HIV IN PRISONS 2003* (2005). For more information, see *Stop Prisoner Rape, Fact Sheet, Prisoner Rape Spreads Disease* (2007).
7. Dumond, Robert W. & Dumond, Doris A. "The Treatment of Sexual Assault Victims." *Prison Sex Policy and Practice* (Christopher Hensley ed., 2002): 67. Kupers, Terry A. "Mental Health in Men's Prisons." *Prison Masculinities* (Don Sabo, Terry A. Kupers & Willie London eds., 2001): 192.
8. Dumond, Robert W. & Dumond, Doris A. "The Treatment of Sexual Assault Victims." *Prison Sex: Practice & Policy* (Christopher Hensley ed., 2002): 82.
9. Kupers, Terry A. "Rape and the Prison Code." *Prison Masculinities* (Don Sabo, Terry A. Kupers & Willie London eds., 2001): 113.
10. Hughes, Timothy & Wilson Doris J., Bureau of Justice Statistics. *Reentry Trends in the United States* (revised 2003).
11. In a recent study funded by the California Department of Corrections and Rehabilitation and conducted at six men's prisons, 65 percent of gay and transgender inmates reported having been sexually assaulted by another inmate during their incarceration. Jenness, Valerie, et al., *Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault* (2007). For more information, see *Stop Prisoner Rape, Fact Sheet, Sexual Violence Against LGBTQ Detainees* (May 2007).
12. In a 2004 study of official complaints about sexual assault, the Bureau of Justice Statistics (BJS) found that the rate of reported sexual violence was nearly ten times higher in juvenile facilities than in adult prisons. Beck, Allen J. & Hughes, Timothy A., Bureau of Justice Statistics. *Sexual Violence Reported by Correctional Authorities, 2004* (2005). In a 2005 survey focused solely on reports of sexual abuse filed in adult prisons and jails, BJS found that young inmates were at heightened risk for abuse in such facilities as well. Beck, Allen J. & Harrison, Paige M., Bureau of Justice Statistics. *Sexual Violence Reported by Correctional Authorities, 2005* (2006).

13. Struckman-Johnson, Cindy & Struckman-Johnson, David. A Comparison of Sexual Coercion Experiences Reported by Men and Women in Prison. *Journal of Interpersonal Violence* 21 (2006): 1531. Man, Christopher D. & Cronan, John P. "Forecasting Sexual Abuse in Prisons: The Prison Subculture of Masculinity as a Backdrop for 'Deliberate Indifference.'" *Journal of Crime & Criminology* (2001): 127, 153-54.
14. Human Rights Watch. *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996).
15. Greer, Kimberly R. "The Changing Nature of Women's Relationships in a Women's Prison." *The Prison Journal* 80, No. 4, (2000): 442-468.
16. Human Rights Watch, *No Escape Male Rape in U.s. Prisons* (2001): 151.
17. According to the study, 73 percent of female state prisons and 55 percent of male state prisoners were diagnosed with or treated for a mental illness in a twelve month period and only one-third of them received mental health treatment while at the facility. James, Doris J. & Glaze, Lauren E., Bureau of Justice Statistics. *Mental Health Problems of Prison and Jail Inmates* (2006). The study found similar statistics for people detained in federal prisons and county jails. *Ibid.*
18. *Ibid.*
19. Greenfield, Lawrence A., & Snell, Tracy L., Bureau of Justice Statistics. Women Offenders (1999): 7-8, Tables 17-18. Browne, A, Miller, B., & Maguin, E. "Prevalence and Severity of Lifetime Physical and Sexual victimization Among Incarcerated Women." *International Journal of Law and Psychiatry* 22 (1999): 3-4.
20. Some suggestions for the use of such techniques are listed in SPR's publication *Hope for Healing*, available on-line at [http://www.spr.org/pdf/ HopeforHealingweb.pdf](http://www.spr.org/pdf/HopeforHealingweb.pdf).

5

Medical & Legal Systems

5

Medical & Legal Systems

Medical & Legal Systems/Systems Advocacy

The Workplace Rights of Sexual Assault Survivors

Medical & Legal Systems/ Systems Advocacy

The previous sections of this manual have focused on the phenomenology of sexual assault, what it means to work to end sexual assault, and how to support survivors in ways that are culturally relevant to each individual. While providing individual support is critical to a survivor's healing, it's also important for sexual assault counselors to understand the myriad of statewide and local service systems with which survivors may choose to interact.

The number of systems that can provide support to survivors is unlimited. Because sexual assault is a crime that can interrupt many components of a survivor's life, there is room for every system with which she interacts regularly (education, housing, welfare, employment, etc.) to provide her with some form of support. Sexual assault advocates have been working with a variety of these systems over the past decades and in many instances have helped create remedies for survivors who are facing challenges within each of them. Depending on what is available in a survivor's local community, sexual assault counselors and advocates may be able to help her interact with these as necessary.

Due to the physical and criminal nature of sexual assault, some victims choose to seek medical attention and potentially report their experiences to law enforcement authorities. Advocates focus on both the medical and legal systems across the country with the goal of having these systems become victim-centered and user friendly. Though every jurisdiction is different, the authors of the following articles have provided information about the basic steps involved in each of these systems and what a survivor's experience may include.

For some survivors, participating in these systems seems like an attractive option while for many others it does not.

As we further discuss a survivor's participation in these systems, it is important to note that this discussion pertains to adult survivors, as they have choices about how they want to pursue medical and legal remedies. Child victims do not have these choices, but are instead covered under mandatory reporting laws (see article in the Sexual Assault section "Child Sexual Abuse").

While not all survivors report their sexual assaults to law enforcement, those who choose to do so often face a complex, multi-step investigation process that begins at the time of the survivor making her report. The articles that follow contain information on what is entailed in filing a report, how law enforcement proceeds (or doesn't) with an investigation, and what a survivor might face if her assailant is apprehended and faces prosecution.

Survivors who choose to make a police report can be accompanied throughout the process by a sexual assault counselor or advocate. The role of the counselor or advocate in these processes is two-fold: they are present to assist and emotionally support the survivor as she navigates the complexity of

A sexual assault counselor or advocate can help survivors weigh their options and make informed decisions about how to move forward in both the short and long-term.

the legal system and also to advocate for her interests and in defense of her rights along the way.

Similarly, advocates and counselors can serve in those two roles in the medical system. A survivor may choose to seek medical attention in the aftermath of an assault. A medical exam can be helpful for a survivor for a variety of reasons, including to access treatment for any injuries, preventative treatment for sexually transmitted diseases and pregnancy, and potentially to collect evidence of the assault. Seeking medical attention and access a sexual assault evidentiary exam are two different processes; a survivor who seeks medical attention after an assault does not have to have evidence collected, but may choose to do so in case she decides to report the assault to law enforcement. The article “Medical Issues” explains those processes in greater detail.

Other systems are currently growing their opportunities for victim and survivor input and participation. For example, advocates can work with survivors to identify ways to influence sentencing (such as victim impact statements) or how an offender is managed once he returns to the community after completing his prison sentence. (Kecia: can we add some content about these areas?)

Other remedies that intersect with participation in these systems are described in this section, such as accessing Victims of Crime Compensation and initiating a civil case against a perpetrator.

Some of these options are available to a survivor whenever she chooses, others are useful in the immediate aftermath of an assault. Understanding the specific nature of these systems will help counselors present the appropriate options to survivors at any point in time.

Advocates and counselors who are prepared to present informed options to survivors will be able to support survivors in accessing appropriate resources.

In any instance, the role of the counselor or advocate in the realm of systems advocacy includes opportunities to:

- 1) learn about and help shape the systems available to help support survivors, and
- 2) support and advocate for individual survivors as they use those systems.

The specific information on the following pages will provide information about current practices, relevant laws, victims’ rights, and available remedies. These articles are reference points and will co

The Workplace Rights of Sexual Assault Survivors

BY ANYA LAKNER, THE LEGAL AID SOCIETY EMPLOYMENT LAW CENTER

Survivors of sexual assault are frequently forced to quit their jobs or are fired for needing time off to meet with lawyers, sexual assault advocates, law enforcement, or medical professionals. Yet maintaining employment may be vital to a survivor's ability to heal and recover from an assault. Recovery can be costly as visits to the doctor and therapist are expensive, and potentially prohibitively so if a survivor becomes unemployed and uninsured. Many survivors need to care for family members who experience trauma as a result of the assault; the entire family's insurance may be tied to the same job. Survivors and their advocates are devastatingly unaware of the existing state and federal employment laws that allow them to hold onto jobs while seeking medical care, legal advice, or safety planning. Many survivors are forced to sacrifice economic security in order to protect themselves and their family members, and consequently face a cascade of dire consequences including homelessness. The goal of this chapter is to educate advocates about the workplace rights and options of sexual assault survivors.

The Baseline: At-Will Employment

Most California workers are employees "at-will." At-will employment is the default relationship between an employee and employer when no employment contract exists. An at-will employee has the right to quit her or his job at any time, for any reason. Similarly, an employer can fire an at-will employee at any time for a good reason, a bad reason, or even for no reason at all. It is imperative to find out if a survivor is a member of a union or if the survivor has an employee handbook, because the union contract or employee handbook may provide more protections than those required by law. The laws outlined below are exceptions to the "at-will" rule.

Time off From Work

Sexual assault survivors often need time off from work to prepare for and attend court appearances and/or medical or counseling appointments. Yet, many survivors are unaware of their leave rights, and either forgo important services, or are fired from their jobs for "excessive absenteeism" or misconduct for taking unapproved leaves of absence. There are legally protected leaves that a survivor is entitled to utilize to get the care and services necessary for healing from trauma.

Time Off For Court-Related Matters and Services

California Labor Code Sections 230 & 230.1 address domestic and sexual violence survivors' needs for time off and prohibit discharge, retaliation, and

discrimination. Section 230 protects survivors who take time off from work to comply with a subpoena, obtain a protection order, or obtain any other injunctive relief that would help ensure the health, safety, or welfare of the survivor and/or the survivor's child(ren). Section 230 applies to all California employees.

Section 230.1 provides unpaid, job-protected leave to survivors to seek medical services and counseling for injuries caused by an assault; to obtain services from a domestic violence shelter, program or rape crisis center; and to participate in safety planning or take other action to enhance safety from future violence, including moving. Section 230.1 applies to survivors who work for employers with 25 or more employees. Survivors must disclose that they are "sexual assault" or "domestic violence" victims to be covered by Sections 230 and 230.1.

Time Off For Medical Care

The California Family Rights Act (CFRA) and the federal Family Medical Leave Act (FMLA) allow eligible employees to take up to 12 weeks of job-protected and unpaid leave from work, with benefits continuation, to care for their own serious health condition(s) or that of a family member (parent or guardian, child under the age of 18, adult dependant child, spouse, and under CFRA, registered domestic partner or same-sex spouse). Serious health conditions include an overnight stay at the hospital; leave for multiple medical treatments (including therapy or psychotherapy); a need to care for chronic conditions (such as asthma or epilepsy), which may be triggered by sexual assault and its aftermath; and under federal law pregnancy-related conditions. To be eligible for FMLA/CFRA leave, an employee must have worked for their employer for at least 1 year, worked at least 1250 hours (a little over half-time) in the year prior to the time the leave is to begin; and must work for an employer with at least 50 employees within a 75 mile geographic radius.

Unlike Section 230.1, leave taken for a serious health condition under CFRA does not require disclosure of the assault or medical condition, and thus provides significant privacy protections. Be wary of employers that require employees to "release" their medical histories in order to obtain leave; this is an unlawful request. Although employers can ask for medical certification, in California employers are not entitled to the employee's diagnosis and/or medical history.

Although FMLA/CFRA leave is unpaid, a survivor may be able to use paid vacation or sick time. Also, survivors taking time off for their own health reasons may be eligible for up to 52 weeks of State Disability Insurance through the California Employment Development Department. Those taking time off to care for family members may be eligible for six weeks of partially paid leave.

Reasonable Accommodations, Including Time Off, for Survivors With Disabilities

Physical disabilities, as well as "hidden" disabilities, such as Post-Traumatic-Stress-Disorder (PTSD), anxiety disorder, and depression, can affect a survivor's job performance. Survivors may experience physical injury (lacerations, bruises, broken bones, head injuries, internal bleeding), chronic pelvic pain, abdominal and gastrointestinal complaints, frequent vaginal and urinary tract infections, sexually transmitted diseases, and HIV. The psychological effects of sexual assault are great and can include depression,

attempted suicide and PTSD (characterized by symptoms such as flashbacks, intrusive imagery, nightmares, anxiety, emotional numbing, insomnia, hyper-vigilance, and avoidance of traumatic triggers). Studies show that over 30 percent of survivors develop PTSD.

The federal Americans with Disabilities Act (ADA) and California's Fair Employment and Housing Act (FEHA) prohibit disability-based discrimination at work and require employers to reasonably accommodate employees with disabilities. The ADA applies to employers with 15 or more employees, while the FEHA covers employers with 5 or more employees.

Survivors who have disabilities are entitled to seek "reasonable accommodations" that enable them to work. Reasonable accommodations are changes or modifications to an employee's workplace or job that accommodate the employee's disability. Accommodations may include job restructuring, part-time or modified work schedules, leaves of absence, or reassignment to a vacant position. A survivor with an anxiety disorder that is exacerbated by extensive contact with the public may be entitled to job restructuring such that public interactions are limited. A survivor with depression may be entitled to an unpaid leave of absence for treatment and recovery, or periodic time off for therapy appointments. A survivor with PTSD, struggling with fear of assault and stalking, may be entitled to enhanced security measures. Employers who refuse to accommodate survivors with disabilities may be in violation of the law.

Anti-Discrimination and Harassment Principles

Survivors may experience discrimination and harassment because of race, sex, national origin, marital status, sex, sexual orientation, or gender identity. While this section focuses on sex- or gender-based discrimination and harassment, survivors may face multiple forms of prohibited discrimination. For example, a survivor may be fired when her employer learns that she is a lesbian or because he is in an interracial relationship. Survivors can, however, utilize key legal protections against employment-related discrimination and harassment.

Sex discrimination and Sexual Harassment

Title VII of the Civil Rights Act of 1964 ("Title VII") forbids employers with 15 or more employees from discriminating against an employee because of the employee's sex or pregnancy. In California, the FEHA prohibits discrimination by employers with 5 or more employees, and also includes protections against marital status and sexual orientation discrimination. The FEHA also explicitly prohibits discrimination and harassment based on a person's gender, which is defined as the employee's actual or perceived sex or gender identity.

"Sex discrimination" occurs when an employer provides privileges to a certain gender and denies those privileges to a different gender. For example, an employer may fire a female survivor of assault, while allowing the male perpetrator to work. Or, an employer may have a gender-neutral policy of terminating employees involved in a criminal matter, which can have a disparate impact on women.

One specific form of sex discrimination is "sexual harassment." Sexual harassment occurs when an employee or applicant is exposed to unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature.

Sexual harassment can range from comments about a person's body or sexual activity, sexual jokes, requests for sexual favors, touching or grabbing, to leering, gestures, posters which degrade a particular sex, and sexual assault or rape. Behavior need not be explicitly sexual in nature nor directed at a person. A harasser can be an employer, supervisor, co-worker, or customer, and can be of the opposite or same sex.

An important note is that survivors of harassment should document any and all harassing conduct they experience and should report the harassing conduct internally, in accordance with any type of workplace harassment policy.

Wrongful Termination in Violation of Public Policy

Some survivors are fired when their employer finds out that they were sexually assaulted, and not because they are requesting any type of leave or reasonable accommodation. In this case, the survivor may have a tort claim for wrongful termination in violation of public policy. It is important to consult an employment law attorney if this situation arises.

Other Important Employment Issues To Note

Workplace protection orders

California's permits an employer to obtain a protection order and injunction if an employee has suffered unlawful violence or a credible threat of violence that has occurred or may reasonably occur at work (Cal. Code. Civ. Pro. 527.8). Employers who obtain protection orders may improve the safety of their workplace and potentially comply with their obligations under state and federal Occupational Safety and Health Acts. Of course, employers should not obtain these orders without consulting survivors, as doing so may jeopardize the safety of survivors.

Unemployment Insurance

Employees in California who leave their jobs to protect themselves or their families from domestic violence have "good cause" for quitting their jobs and may be eligible for unemployment insurance compensation, provided that they meet the other eligibility requirements. Sexual assault survivors may be able to establish "good cause" for leaving a job for a number of reasons, including safety concerns in the workplace. It may also be good cause if a survivors quits to avoid discrimination or harassment.

Undocumented Survivors

All of the laws described in this chapter apply equally to "documented" and "undocumented" workers, with the exception of unemployment insurance. Although there may be grave consequences for "undocumented" workers who choose to enforce their legal rights, such as retaliatory reporting to immigration authorities, many survivors choose to go forward on their claims and are successful. Also, as described in another chapter in this manual, there are a number of potential forms of immigration relief for "undocumented" survivors of violence.

Considerations for Counselors

Get it in writing!

It is important for sexual assault survivors to document any requests for leave or accommodations in the workplace, and to do so in writing. A survivor may request time off or a reasonable accommodation from work verbally, but must then follow-up in writing. If using email as a means of communication, survivors should print out their emails, as they may be denied access to work email accounts post-termination. Also, survivors should keep journals of any harassing or discriminatory conduct, recording dates, times, and potential witnesses.

6

Continued Healing



Continued Healing

What is healing? For survivors of sexual violence, there is no one answer.

In this section, when we refer to “healing,” we use the word to capture a spectrum of ways in which survivors regain control over their lives, manage the immediate trauma and aftermath of the violence, and begin to feel like the assault is something that is a part of their life experience, but is not the only experience that defines them.

Healing may include physical, emotional, spiritual, economic, social types of recovery. All types of healing may require specific remedies along the way, many of which advocates and counselors can help survivors find. Each piece of a survivor’s life can get put back to where it was; or, if that old place is no longer useful, healthy, or productive, then those pieces can find new grounding in a healthier overall life view.

Healing after sexual violence may also take different forms for each survivor over the course of her lifetime. Healing can begin immediately after an assault and can continue throughout one’s entire life or, conversely, a survivor may not begin healing until many years after the assault. As advocates and counselors, it’s important that we recognize the opportunities for healing, the potential set-backs survivors may face along the way, that that we see how healing is not a linear, step-by-step process. In fact, healing for some survivors may always feel out of reach.

This section provides information about a few types of healing resources. Specifically, in these pages you can find information about a range of healing opportunities, from self-defense classes to how advocates can make a referral to ongoing mental health services. It’s important to recognize that opportunities for healing can be as varied as survivors: there is no one way for a survivor to heal. As advocates and counselors, it’s important to help the survivor see some of the resources available to her and help her determine what might be useful to her as she wants or needs it.

The survivors with whom we work may look to us for a variety of healing resources. Some of these we will be able to provide and others we may not. It is our responsibility to educate ourselves about the resources and opportunities that are available and to get as much information about them as we can so we can help survivors make informed decisions about what they might want to do.

Appendix



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