

Section I: Introduction

This guide to Minnesota statutes and procedures was developed by the Sexual Violence Justice Institute at the Minnesota Coalition Against Sexual Assault (MNCASA) to help those non-lawyers among us who work routinely with the issue of sexual assault. It is meant to be a resource guide and is, by no means, the definitive resource on the workings of the criminal or civil justice processes in Minnesota.

We caution the user to use care in representing the information contained in this volume. For the most accurate and complete answer to any legal question we encourage you to develop a relationship and stay in contact with the prosecutor in your county for questions regarding criminal court matters and other attorneys with questions regarding civil processes. The legal advocate's role is not to answer every question specifically, but to have a good understanding of the workings of the criminal justice process to assist victims in understanding their options. **It is imperative that non-lawyers be cautious to not step into a role that may be interpreted as giving legal advice.**

The purpose of this guide is to demystify the civil and criminal justice processes as they relate to sexual assault incidents, victim/survivors and/or offenders. Minnesota law is complicated on these issues. It is important that advocates have a good working knowledge of the law and its implications for victims. Being able to give victims accurate and useful information about what is to come can go a long way in easing the fear and trauma a victim may feel.

Above all, for local jurisdictions to respond the best they can to sexual assault victims we recommend that local coordinating councils or collaborative groups be formed and meet for the purpose of evaluating and changing the current response to victims. No resource can compare to the effectiveness of a well designed, trusting interdisciplinary team. The main mission of SVJI is to help establish and provide assistance to multi-disciplinary teams – so please contact us if you wish to discuss this work in your community.

Informed Consent

The most important job for an advocate to do is ensure that a victim of sexual assault is making well informed decisions, otherwise known as giving informed consent. While this manual has a lot of information about how the criminal justice system works, it is up to advocates to let victims know about the impact or implications of decisions and the various options at their disposal at any time. For example, because a medical evidentiary exam seems to be the best option for a victim who was recently assaulted, the victim has the right to refuse any or all of the exam - and the victim may have good reasons to do so. What an advocate can do at this point is to understand the victim's reason, process with

her/him if there are ways to handle the concerns, and then ultimately support the well-informed decision. Sometimes, victims make decisions that advocates would not choose for them. In those instances, advocates must be able to feel sure that they did everything to assist the victim in making the best decision for her/him.

Advocacy and Systems Collaboration

Advocates are in a unique position to raise questions and encourage improvement within the criminal justice system in their communities. An advocate's work sometimes involves very personal, individual attention to the needs of a particular sexual assault victim. Simultaneously, the advocate and her program are usually the only community voice on the issue of sexual violence – giving them a social leadership role on this issue. Throughout the criminal justice investigation and process, the advocate is usually the only person who has contact with the victim of a sexual assault as the victim interacts with every agency. For these reasons, the advocate and her program are often in the best position to see the entire system as victims interact with it, and to address the various agencies in the system to better respond to victims.

SVJI highly recommends that advocacy programs create and foster good working relationships with the various agencies that are involved when a crime is reported to law enforcement. Thus, the medical, law enforcement, and prosecution professionals should all know the advocacy program, and vice versa.

Here are some thoughts about building and maintaining these relationships. (These are not listed in any particular order.)

- Find and approach individuals who are progressive on this topic – those whom you feel would be open to hearing from your program
- Have an open house at your program, and invite leadership from the other agencies
- Give them brochures or literature describing your agency and what you do for victims – much of the distrust between professionals results from a lack of understanding of the various roles
- Do not be intimidated – you might be surprised at the positive response you get from other systems professionals
- Keep in mind that other systems professionals often identify that *they* are intimidated by *advocates*
- When working with these other professionals, get to know the hierarchy involved – understand who the supervisors are, and what the various roles are within the other agencies
- See yourself and your advocacy agency as *part* of this system, and represent yourself as a professional, by knowing the basic information, asking questions if necessary, and in your appearance and interaction with the other agencies
- As you work directly with persons from the other systems agencies, bring questions or concerns directly to the person involved, rather than going immediately to a

supervisor or the media to complain. Going “above their heads” can happen, but should be a last resort

- Be direct and polite – approach problems as a chance to problem-solve, not to berate
- When you have a question or concern about why something was – or was not – done, ask about it. Don’t assume there is a problem unless you determine in fact there is one
- When addressing a problem to an individual, never assume their motives are less than honorable as they deal with victims. They may have pressures or legal limitations in performing their jobs that you are unaware of
- Be sure to bring up *positives* when you see them – show that you are there to work with them when they do well or not so well. This is the time to go to supervisors – to give positive feedback for a good performance
- Finally, always remember and emphasize to the other professionals your requirement to keep your work with the victim *confidential*. Collaborating with other professionals does not mean divulging everything the victim says to you. You must have his/her permission to disclose conversations – refer to the fact sheet on client confidentiality

In getting to know the other agencies in your area, it is wise to have an understanding of the structure of the agency. Understanding the power structure allows you to communicate with the appropriate people regarding issues or positive feedback.

Example Hierarchy of a Law Enforcement Agency

