



LEGAL ADVOCATE GUIDE



VICTIM RIGHTS LAW CENTER 2024 LEGAL ADVOCATE GUIDE

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Purpose

This guide is a tool for legal advocates working with survivors of sexual violence. It is an introduction to legal advocacy covering a range of topics from working with survivors to walking the line between legal advocacy and unlicensed practice of law. There are also practical tips for effective advocacy. Each section provides a very basic introduction and can be read alone or as part of the entire guide.

Keep in mind that the law is complicated and varies significantly by jurisdiction. How it is applied depends on the facts of each situation. Jurisdictional differences mean the laws are different in every state, territory, Tribe, Native Village, and in the District of Columbia (we refer to these jurisdictions as “states” throughout the rest of this Guide.) Each county may also have local or supplemental legal rules and approach legal issues differently. Each judge may have their own expectations for advocates to follow. Further, your legal advocacy obligations may change depending on how you and your organization are funded. Federal grants have requirements for advocates in their work. On top of these obligations, your organization will have internal policies on a variety of issues that change expectations for your work. Know your jurisdiction. Know your funding. Know your organizational policies.

Finally, the Victim Rights Law Center is here to address questions or concerns you may have after reviewing this Guide. Please reach out to us for individual consultations. The work of legal advocacy is difficult and important. We are here to support you! **Reach out to our team at TA@victimrights.org.**

Using This Guide

A Note on Word Choice

Throughout this Guide, individuals who have experienced sexual assault are referred to as “survivors,” “clients,” and in relevant instances, “victims.” Primarily, we use “survivor” and “client.” However, in certain legal contexts “victim” instills certain rights and protections to survivors (e.g., for victim-witnesses in criminal cases). In those instances, we refer to survivors as “victims.”

Appendices

Attached to this guide are several resources that may help advocates if used in conjunction with the material in the Guide:

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

These tips consist of advice and recommendations from judges to advocates.

Client Infographics

These infographics provide templates to adapt existing resources to your specific jurisdiction. Written in plain language, the templates can be used to discuss complicated topics with clients, and help survivors better understand the legal system and their options. General versions of these templates, without jurisdiction-specific references, can be found throughout the Guide.

Unique Role of a Legal Advocate

Distinguishing a Legal Advocate from a Lawyer

Lawyer

Lawyers, or attorneys, are engaged in the “practice of law.” The practice of law involves the *application* of legal principles and judgment to specific circumstances. Certain tasks are presumed to be the practice of law, including giving legal advice, drafting legal documents, representing individuals before an adjudicative body (e.g., a court), or negotiating legal rights.

The important distinction is that lawyers may give *legal advice*. This means that an attorney may advise someone on how to apply a law, regulation, or legal principle to their particular circumstances. Engaging in the practice of law without a law license is unauthorized practice of law and is illegal in every U.S. jurisdiction.

Legal Advocate

Legal advocates are non-attorneys who support survivors through a legal process. Advocates can provide legal information, give survivors an overview of existing law, point them to relevant resources, and attend court alongside them. Advocates may not represent a survivor in court or give advice on how to apply the law to the survivor’s circumstances. Instead, advocates create space for the survivor: allowing space for the survivor’s needs, for processing time, for clarifying questions, and for other support. Advocates may have greater flexibility in working with clients than an attorney and often are able to spend more time with the client. A survivor can benefit when their attorney and advocate work as a team.

Walking the Line

Walking the line between sharing legal information and providing legal advice can be difficult. In fact, courts have repeatedly stated that it is difficult to define what is and is not the practice of law. There are a few practices that can help legal advocates avoid unauthorized practice of law:

- Outline your role to the survivor from the outset, defining your boundaries as an advocate. Be sure to clarify that you can provide resources and support but cannot provide legal advice. Explain that this means you cannot apply the law to their circumstances.
- Avoid getting into specific scenarios. Listen to what the survivor wants help with and provide resources on the relevant law without discussing the facts mentioned by the survivor.
- The survivor should select and fill out forms, and draft court filings, on their own. When it comes to making decisions as to which forms to file or whether there is a proper time frame, simply provide the survivor with the information without recommendation. For example, *“Form A asks the court for a Protective Order. To be eligible for this type of order, someone must have an intimate relationship with the perpetrator. Form B asks the court for a Sexual Assault Restraining Order, which is available to those who experienced sexual assault from a non-intimate partner. You can use the form that you think fits your circumstances best.”*

Unique Role of a Legal Advocate

- Provide resources! Have physical and digital copies of relevant resources available. Translate the resources into languages spoken in your community. Resources need to be written in plain language and accessible for everyone including people with intellectual and developmental disabilities.
- Use a referral network. Sometimes a survivor will need legal representation. Know who in your area provides low-cost or cost-free support for a variety of legal issues. Be aware of your agency's referral policies. **See Working with Attorneys.**

Unlicensed, Unauthorized, or Unlawful Practice of Law (UPL)

Lawyers are a regulated profession, and each state requires individuals to be licensed to practice law there. Licensing is managed by the state's disciplinary board. Different jurisdictions have different requirements to become a licensed attorney.

Every state requires a license for someone to practice law. UPL may result in a fine and, in severe cases, can be charged as a criminal offense. There are limited exceptions to UPL rules such as certain supervised law students, accredited representatives working in the immigration context, and limited paralegal practitioners in certain jurisdictions. UPL has rarely been prosecuted, but may cause liability concerns if something goes wrong.

Co-Located Services

Many legal advocates are co-located, meaning they are employed by a domestic violence or sexual assault non-profit but work at a governmental office. Co-located advocates may staff district attorneys' offices, Departments of Health and Human Services, child welfare offices, or other agencies. Keep in mind that the interests and needs of the survivor may not align with the interests of the government agency; understand your role in those circumstances. Further, co-located advocates need to understand their confidentiality obligations. **See Privacy.**

Introduction to the Legal System

Each state has its own legal system, which may differ in structure or language from what is described in this Guide. This is intended as a general overview. Further, the federal legal system is not covered in this Guide. If a client comes to you with a federal legal issue, refer them to an attorney or an advocate experienced with the federal system.

Civil vs. Criminal Law

The legal system can generally be split into three distinct categories: criminal law, civil law, and administrative law. In the criminal legal system, the government prosecutes individuals for criminal conduct. **See Criminal Legal System.** Civil law is much broader and encompasses everything from family law to protective orders to housing. The sphere of administrative law is a government agency rather than the court system; immigration is an example of administrative law. Rights and rules vary greatly between each of these systems, so be familiar with each area to provide legal advocacy or referrals in all three.

Who is Involved?

■ Judge

A judge makes decisions in a court or administrative setting. Judges may only work in particular areas of law. For example, some judges only handle family law matters.

■ Party

A party is one of the people or entities at the center of the case. The title of a suit will reflect parties' names on either side of the "v," or versus. For example, in the case *Smith v. Jones*, Smith brought a lawsuit against Jones. In a criminal case, the name will be something like *State of New York v. Defendant*. A party may be an individual, a government, a business, or another legal entity. A suit can be brought against multiple entities.

Type of Case	Initiator	Versus	Party
<i>Criminal Case</i>	State of Iowa	v.	J. Smith (Defendant)
<i>Civil Case</i>	J. Doe (Plaintiff)	v.	J. Smith (Defendant)

■ Attorney

An attorney, or lawyer, represents a party. An attorney is a professional with a license issued by the state who is required to pass certain tests and adhere to particular rules in representing clients. **See Role of an Advocate.**

Introduction to the Legal System

Court Staff

- **Clerk**

The clerk manages information in the courthouse.

- **Court Reporter**

The court reporter, or court stenographer, records everything said in the courtroom.

- **Security**

Security's responsibility is to keep the courthouse safe, escort incarcerated or detained individuals to and from the courthouse, and check those who enter the building. Titles vary and may include sheriff's deputies, deputies, bailiffs, marshals, or security officers.

- **Judicial Staff**

Judicial staff works with and for particular judges and may include assistants, secretaries, research assistants, judicial clerks, and security.

Others

- **Witnesses**

Individuals called by a party to testify. Testimony may include what the person saw or experienced. Parties may also call expert witnesses to explain complex matters in which they have specialized training or education. The survivor may be referred to as a victim-witness.

- **Public**

Court proceedings are generally open to anyone. Keep this in mind and prepare survivors for who might attend a hearing. **See Preparing Survivors for Court.**

- **Court Staff**

The court employs a wide variety of staff who handle the day-to-day operations of the court and the courthouse. These individuals may work for offices such as: Clerk of Courts, Court Administration, or Family Relations.

Pre-Trial Proceedings

Court involvement is generally associated with trials, but very few legal cases get to trial. Most of the time the parties settle, or agree to a resolution, before trial. Some of the proceedings that can happen before trial include:

- **Discovery**

When parties share information about the facts of the case with each other.

Introduction to the Legal System

- **Hearings**

When parties appear before a judge to decide certain issues. During a hearing witnesses may be called, attorneys may make legal arguments, and the judge may make decisions.

- **Case or Status Conference**

When the judge gets an update on how the case is progressing.

- **Settlement or Plea Agreement**

Parties have agreed to a resolution and present it to the court.

Trial and Appellate Proceedings

- **Trial**

When all parties present their evidence to a fact-finder to make a decision on the case. The fact-finder in a trial can be a jury (a group of 6-12 members of the public) or solely the judge, in which case it is called a “bench trial.” Bench trials are very common and in these cases the judge acts as the decision maker on matters of fact and law.

- **Appeal**

When parties request a higher level court review the procedures or outcome after a trial or settlement; only certain issues can be appealed.

Notes on Other Formats

Not all legal matters take place in a traditional courtroom, and, for a variety of reasons, advocates and their clients may end up in another setting.

- **Alternative Dispute Resolution (ADR)**

ADR is a way to resolve some legal problems outside a traditional court setting. A client may end up in ADR for several reasons, including, but not limited to, a court order, a contract requirement, or an agreement by the parties. Examples of ADR include arbitration, mediation, and justice circles. Generally, rules and procedures will be made available to participants.

- **Administrative Proceedings**

Many legal disputes are handled entirely through an administrative proceeding. Administrative courts exist within government departments and are distinct from the judiciary. They have their own sets of rules and their own judges. For example, immigration and Social Security matters are handled within their own administrative bodies. For details about administrative proceedings, the department’s website can be very helpful.

Trauma-Informed and Survivor-Empowered Work

The legal system is not generally trauma-informed. Survivors are expected to repeatedly explain their experiences in the same way to attorneys, judges, juries, or police officers, regardless of how traumatizing their experience has been. Their testimony will likely be in front of the person who assaulted them, and in some cases the perpetrator may be the one asking them questions. Survivors are expected to walk a careful line between being emotional enough to be believed without distracting the court or the jury. All of this can be incredibly difficult, but advocates can make the process easier for survivors. Providing trauma-informed support and centering the survivor in your work is a great start.

Trauma

Advocates must have a thorough understanding of trauma, how trauma impacts our brains, and how it may present throughout the legal process.

Trauma is an emotionally harmful or life-threatening event and the long-term psychological, biological, and emotional impacts of experiencing such an event. These consequences can have a profound impact on the way individuals interact with and respond to the world. Each individual will respond differently to experiencing a traumatic event, and each response is normal. Participation with legal systems can cause trauma as well as exacerbate the trauma caused by sexual violence. The continued loss of control is challenging.

Common ways trauma can present include:

- Depression and/or anxiety
- Difficulty regulating emotions including anger, sadness, and shame
- Flashbacks to the initial traumatic event
- Substance use and/or food disorders
- Intrusive thoughts or nightmares

Keep in mind that trauma has a significant impact on memory. Clients may not remember everything that happened during a traumatic event. This is not surprising since traumatic memories are processed differently than non-traumatic memories.

Intersectionality

Anyone can be a survivor of sexual assault, but certain populations are more often targeted for victimization and less likely to receive support after being harmed. Members of oppressed and marginalized groups experience higher rates of sexual violence. Additionally, systemic oppression plays a role in how survivors and advocates, lawyers, law enforcement, and the judicial system interact.

Trauma-Informed and Survivor-Empowered Work

Advocates need to understand how a survivor's identities might affect their choices throughout the legal process. Further, you must be prepared, and prepare your clients, for the possibility of facing racism, sexism, homophobia, transphobia, ablism, and other forms of systemic oppressions throughout the legal case.

Survivor-Empowered Services

Survivor-empowered services are rooted in the premise that survivors know their situations and needs best. They are in the best position to make decisions and they will face the consequences of decisions made throughout the legal process. A survivor-empowerment approach helps survivors restore agency and control over their lives. Throughout your relationship with a survivor, the survivor should make the decisions and drive the process. The survivor also needs to receive all available information, so they can make informed decisions about the best course of action for their life.

Advocates may find a survivor-empowered model challenging to implement. There may be concerns about client safety or disagreements with the survivor over the best next steps. You should have a safety plan to address these concerns, but your role is to support the survivor and help them regain control over their life.

Constantly evaluate your work as an advocate, questioning whether you are validating the survivor's needs and priorities, whether you are making decisions that should be made by the survivor, and whether you are presenting all potential options in an unbiased manner. Peer support can help you ensure you maintain empowered and unbiased advocacy.

Holistic Empowering Support

Advocates can work in a trauma-informed and survivor-empowering way by:

Building a trusting relationship.

Sexual violence often affects survivors' ability to trust. Systemic oppression affects a survivor's trust. But, effectively serving as an advocate requires a relationship that is as trusting as possible. Build this type of relationship by being consistent, following through, and demonstrating that you support and empower the survivor.

Providing clear expectations for your role and maintaining boundaries that reinforce that role.

Survivors may cross some professional boundaries; you need to establish and reinforce appropriate interactions.

Understanding what may activate a survivor's trauma response or trigger.

Common triggers include anniversaries or major events, sensory overload, conflict or change, and lack of power or control. Talk with your client about what may activate a trauma response, avoid these triggers as much as possible, and create a safety plan for unavoidable triggers.

Trauma-Informed and Survivor-Empowered Work

Being flexible.

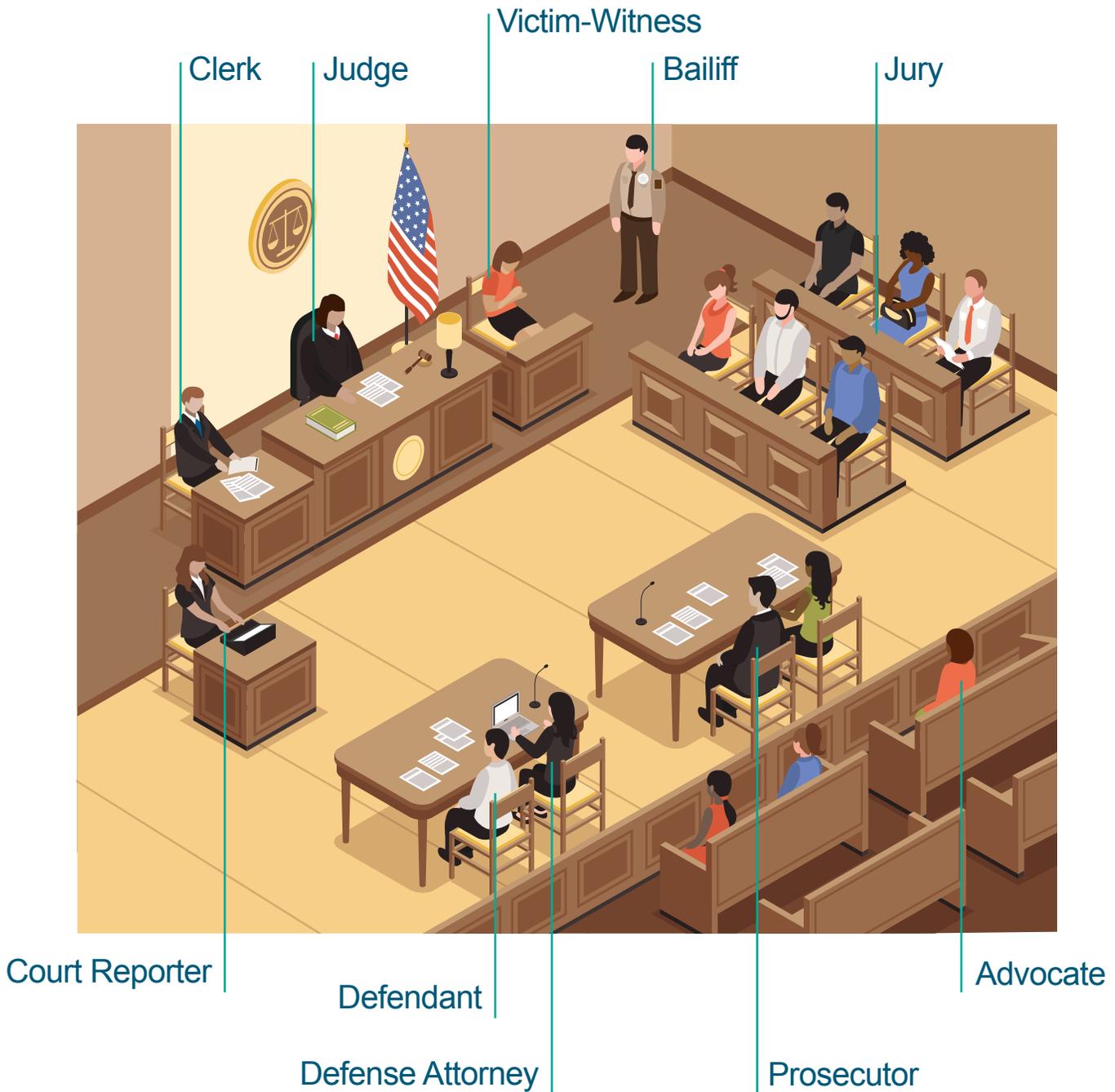
Trauma has extensive emotional, psychological, and physiological impacts. Survivors' responses and reactions may be unexpected. They may go out of touch or call constantly. Adapt your work to fit their needs while maintaining your own professional boundaries. For example, offer communication options: a survivor may prefer email or text because they give more control over communication than a telephone call.

Keeping an eye out for symptoms of vicarious trauma.

Legal advocates can experience trauma responses after taking on the mental and emotional work of helping their clients address trauma. Practicing self-care, particularly taking steps to protect your mental health, will best serve you and your clients. Your individual work and resilience should be supported by intentional support from your organization. Such institutional supports go beyond recommending individual self-care, rather organizations should implement policies and procedures that effectively limit the impacts of vicarious trauma including sufficient vacation and sick leave, effective and understanding leadership, and appropriate case loads.

Introduction to the Court

What does a courtroom look like?



Introduction to the Court

Setting Expectations

Specific rules must be followed in court. Many of these rules may be confusing or counterintuitive. You, as an advocate, need to understand how these rules work in order to set realistic expectations for your client. Additionally, understanding how the court system works will enable you to be more effective.

Types of Law

Statutes

Laws written and passed by a legislature.

Regulations

Administrative rules passed by agencies to enforce statutes.

Case Law

The judicial opinions that interpret and apply the law to different facts. Generally speaking, these opinions are enforceable as law when they apply to your client's circumstance. Whether and how case law applies depends on the judge, jurisdiction, and the facts of the case.

Rules of Civil and Criminal Procedure

Every jurisdiction has its own rules about how a case moves through the legal system. These procedural rules are set down in statutes or through case law. Some procedural rules are simple. For example, a rule may set out the time by which someone must respond to a petition. Others are significantly more complicated. Additionally, local courts will often implement "local rules" which supplement the jurisdiction-wide procedural ones. If your court has a law library, the librarians can often help you understand what these rules are and how they apply. The Clerk of Courts' office may also be able to answer procedural questions.

Rules of Evidence

There are significant requirements about what information can be considered by a judge or jury in a legal setting. These requirements are called the Rules of Evidence and vary by jurisdiction. Application of these rules is complicated, but a few may come up regularly for your clients. You may want to have a basic understanding of hearsay and rape shield protections. Additionally, knowing how to enter exhibits into evidence will make your client's court appearance easier.

Communications

In a court setting, rules are in place about how attorneys, judges, and parties communicate with each other. For example, judges are generally not allowed to speak with parties about ongoing matters without their attorney and the other party present. Similarly, an attorney representing one party cannot speak with the other party without that person's attorney present. These rules can be frustrating to clients who may want to explain their side to a judge privately.

Introduction to the Court

Every Courtroom is Different

You will want to describe the unique way a judge runs their courtroom to your clients. Every judge can, to a certain extent, set their own rules for their courtroom. The way a judge runs their courtroom can be confusing and difficult to ascertain. Connect with court clerks or judicial secretaries in advance of hearings to learn about the judge's personal rules and preferences. If you observe court proceedings run by the judge who will be hearing your client's case ahead of time, you'll learn individual judges' styles and can help clients know what to expect when they attend proceedings in that courtroom.

Accommodations

State and federal law provides protections for individuals who need accommodations in legal proceedings. Advocates can work with survivors to determine what accommodations they need and how best to ensure they are in place.

Americans with Disabilities Act (ADA)

The ADA provides protection to individuals with disabilities in various contexts, including in court. Courts are required to make "reasonable accommodations" to ensure that a person with a disability is fully able to participate in the legal process. Examples of accommodations include sign language interpreters, magnification software, assistance filling out forms, use of a service animal, or relocation of proceedings to accessible courtrooms. Courts have different ways to request such accommodations which might include speaking directly with the judge in court, submitting an accommodation request to the clerk of courts, or calling the courthouse. Court Administration will have information about the best way to request an accommodation.

Title VI

Title VI ensures the individuals with limited English proficiency can access federal programs, services, and activities. Each state has a similar protection, though the extent of available services varies. At the very least, each courthouse should offer interpreters for court hearings and provide court forms in multiple languages. Depending on the jurisdiction and the type of court proceeding, these services may not be free. Connect with your local Court Administration to see what the court's language access plan is, and how you can best ensure your clients with limited English proficiency are able to access the court.

Preparing a Survivor for Court

Your goal when preparing survivors for court is that there will be no surprises! To the extent possible, prepare your clients for whatever might happen in court: from walking in the doors of the courthouse, to the judge's expectations, to what happens after the hearing. All of this varies greatly by jurisdiction and individual courtroom but there are a few key points to keep in mind.

Preparing for the Courthouse

Always prepare survivors to be in a courthouse. Many advocates are in court daily and it has become routine. Clients may be involved with the judicial system for the first time and it can be scary. Do your best to remove the surprises and make court less intimidating. If possible, do a practice run: go with your client to the courthouse and sit through a similar hearing. Make sure they understand what will happen at the upcoming hearing, whether the opposing party will or may be there, and what possible outcomes there might be. You can expect survivors to ask many questions about the courthouse, including what they should wear or what they should bring with them.

Getting There

Explain to survivors how to enter the courthouse. Let them know if you will meet them outside or if they will have to meet you somewhere inside. Tell them if there is anything they are not allowed to bring with them into the courtroom, like food or cell phones. Let them know in advance if parking is difficult or what public transportation is available. You could share a map of the area and note costs for parking or public transportation, so your client is prepared ahead of the hearing.

In the Courthouse

Most courthouses have security. Explain what this looks like; for example, whether there are metal detectors, x-ray machines, or particular doors that survivors must enter. Explain how to get to the courtroom, including other options they might have for getting there. For example, if the elevators are known to be difficult to navigate, be sure to explain where the stairs are and how to use them.

Keep in mind any accommodation that your client may need and ensure that the areas of the court they need to use are accessible. Contact the clerk's office or the judge's chambers to address any inaccessibility.

Let your client know how to access other places in the courthouse they may need aside from the courtroom, such as bathrooms or a quiet reflection room. Keep in mind your client's physical, mental, and emotional needs. For example, if they require a gender-neutral bathroom, warn them if one is not available and plan to address their bathroom needs another way. If you have an office in the courthouse, make sure clients know how to get there if they need support or a place to decompress.

Preparing a Survivor for Court

Open Court

Courtrooms are open to the public apart from very specific exceptions. This means anyone could be in the courtroom during your client's hearing, including the press, family members, or strangers. Be sure your client understands this. They may want to bring support people with them to help them feel more comfortable in the courtroom.

Preparing for the Hearing

Preparing for a Slow Process

The legal system moves very slowly, which can be rightfully frustrating to survivors who are looking for solutions to real problems they face every day. Be sure that your clients understand a realistic timeline for the process. Make sure they understand it is very common for hearings to be “continued,” or postponed, with little or no notice, possibly multiple times.

In Court Interaction

Hearings, and other in-court legal proceedings, follow specific procedures. These are enforced by the judge and, if necessary, courtroom security. You should explain the basics of this to your client before entering the courtroom. For example,

- Do not interrupt or speak over the judge.
- Bring a notepad, or something to write on. This can be helpful both as a chance to take notes on the hearing, which can move quickly, and to communicate without risk of being overheard.
- Do not interrupt the other party, even if they are incorrect or lying to the court. Wait until it is your turn to speak before addressing these inaccuracies.

Preparing for Testimony

Testifying in open court is a difficult process for anyone, but especially for survivors of gender-based violence who must share intimate details of traumatic events. Testifying is made more difficult by the set-up of a courtroom and the adversarial nature of legal proceedings—since witnesses must face questions from the opposing party—and by the repetitive nature of legal proceedings. The best way to prepare for this is for a client to practice what they are going to say, discuss possible questions that the judge or an attorney may ask, and understand what to expect from the proceeding. Below, find a few tips to help survivors through this process. Throughout the script, the survivor is “Alex Lopez” and their abuser is “Sam Johnson.”

Practicing What to Say

Start with the ask. Survivors should begin by asking for what they need from the judge. For example, if a survivor is seeking a protective order they should begin by saying:

“Your Honor, my name is Alex Lopez. I am here today to request a protection order to keep me safe from Sam Johnson.”

Preparing a Survivor for Court

Practicing What to Say

Speak slowly. Most people speak more quickly when they are nervous or overwhelmed. In court, the court reporter is recording everything that is said. When people speak too quickly, the court reporter will ask them to repeat themselves, which can disrupt the flow of their testimony.

Be concise. Courts often overschedule, causing them to run late. This means that judges rarely have time to listen to everything a survivor would like to share. The survivor might pick key examples that demonstrate the need for court action and present them first.

“I am seeking an order of protection because on April 1, Sam sexually assaulted me at a party. Since then, they have appeared at my work three times, despite me telling them to leave me alone. They have also threatened to hurt me again.”

Work with the survivor to create a bulleted list of points they want to be sure to mention.

Anticipating Questions

Provide evidence. The court may ask for additional support beyond the word of the survivor. The survivor should be prepared to provide documentation or other evidence where possible.

Prepare for antagonistic questions. A judge or opposing party may not believe or agree with your client. As an advocate, you can prepare your client for this by asking them to consider how they will respond to negative questions. For example, Alex should be prepared to address this question from the judge:

*“It’s August, why did you wait until now to get an order from the court?
You can’t be that frightened.”*

You might talk with Alex about what led them to file today. What was the tipping point for their concerns about ongoing contact?

Focus answers. When presenting information, the client should only answer the question asked and provide no additional information. They don’t want to confuse issues. If the client does not understand the question being asked, they can always ask for clarification. You can invite the client to practice this before the hearing.

Take a breath. Practice some “invisible” grounding exercises while preparing for the hearing. Grounding exercises like taking a deep breath or curling toes and fingers into fists can help a survivor stay centered in the courtroom. Remind the survivor to pause before answering a question. If the survivor can see you during the hearing, it may help to exaggerate your own breathing as a reminder. Additionally, small, silent fidget toys can be held in pockets to release nervous energy.

Working with Attorneys

A client with whom you are working will often have an issue that requires an attorney. Sometimes the involvement of an attorney means you step back from advocacy with this client and other times you may work together with the attorney to support the client.

Identifying When an Attorney is Needed

There may be times when a client's legal needs should be handled by an attorney. For example, an attorney can be helpful if the other party is represented, if a case presents complicated issues or touches multiple areas of law, or if the client faces a significant legal risk (e.g., incarceration or deportation). It is important to recognize these moments as an advocate to ensure your client's needs are met.

Once you have determined that a client would be better served by having legal representation, discuss your opinion with them. Be clear about why you think an attorney would be appropriate to address the client's needs. Explain whether you would be able to continue working with them as an advocate. Remember that in survivor-directed advocacy, they have the final say. If a survivor prefers to move forward without legal representation after they have all the information, you should continue to support them as an advocate. If you cannot continue supporting them, be sure you tell them so they can factor it into their decision-making process.

Connecting with Attorneys

Many resources are available for individuals seeking representation who cannot afford an attorney. Develop relationships and partnerships with people and organizations who provide this service. If your organization does not yet have these partnerships, you can start building them with:

Legal Aid or Non-Profit Legal Services

Organizations who represent low-income and other individuals. They often have programs specifically to help victims of crimes and survivors of gender-based violence.

Local Bar Associations

Most of these attorneys' professional organizations have a pro bono or low-cost legal representation project, where attorneys volunteer to represent individuals for free or below market rates.

Law Schools

Most law schools have clinical programs where law students under the supervision of a qualified attorney represent individuals for free. These programs can be very effective but generally have a limited scope (e.g., they only practice family or immigration law). Additionally, law school alumni offices may be connected with practicing attorneys looking for pro bono opportunities.

Once you connect with an attorney, have a system in place for referring the client. As with other service providers, a warm hand off is preferred.

Working with Attorneys

Information Sharing

When a client decides to move forward with legal representation, ensure communication lines are open for sharing relevant information. Keep in mind that both you and the attorney have obligations around confidentiality and privilege.

Attorney-client confidentiality and privilege apply in every jurisdiction and may limit what information an attorney may share with you. Additionally, in many states you as the advocate may also have confidentiality and/or privilege with a client. In some places, these privileges overlap, enabling you to discuss the client with the attorney without breaking either of your confidentiality or privileges—but this is not true everywhere.

When sharing information with your client’s attorney, make sure to get written permission from the client detailing what exactly you may share. If you receive funding from the Office on Violence Against Women (OVW), follow the required release of information process. Information that you share with an attorney may later be accessible to opposing parties or others involved in the legal process. **See Privacy.**

Working Together

Once the attorney-client relationship is established, you might continue working with the client in an advocate role. However, make sure that everyone, particularly the client, understands everyone’s relationships and boundaries.

Define the attorney and advocate responsibilities. Make sure the client knows who they should contact with which questions or issues. Give them examples such as: if your abuser violates the protective order, you should call your attorney whereas if you are looking for additional support around your housing you should reach out to your advocate.

Survivors need privacy so they can control the narrative about the sexual violence they have experienced and to make choices that are as safe for them as possible. Your clients should consent to you sharing any of their information before you disclose it. If laws where you work might require you to share information without a client's consent (e.g., mandatory reporting laws), your clients need to know that before they tell you anything. Understand the laws that govern your communications with clients and how your clients' ages, disabilities, and injuries may affect your ability to protect their information. A survivor should never be surprised when their information is shared.

VAWA Confidentiality

VAWA requires that OVW-funded victim service providers not disclose any personally identifying information of people who come to them for services unless they get a written, time-limited release of information, or a statute, case law, or court order requires the disclosure. The covered victim services include legal assistance and legal advocacy.

The release of information process has three steps:

- 1 Discuss:**
Why information might be shared.
What information might be shared.
Who would have access to information.
- 2 Agree:**
What information would/might be shared and with **whom**.
- 3 Record:**
Agreement **in writing**, signed by survivor.

Jurisdiction-Specific Confidentiality

You might have other legal confidentiality protections where you work. This typically means that there is a law that does not allow you to share records or other information about communications you've had with your clients unless they allow it, or another law requires you to share it.

Privilege

Privilege is an evidentiary rule that protects confidential communications between a client and certain people from being disclosed in legal proceedings. Typical privileges include the attorney-client privilege, the physician-patient privilege, and the spousal privilege. Advocate-victim privileges are increasingly common. Privilege laws tend to have exceptions, so be sure to fully understand any privilege that applies to your work.

Mandatory Reporting

Mandatory reporting laws are an example of statutes that can require OVW-funded victim service providers to disclose personal information about a client. Child abuse, elder abuse, and abuse of persons with disabilities are examples of these reporting laws. If you receive OVW funding, and you are identified in the law as a mandatory reporter, you are only allowed to report the specific information required to be disclosed in the mandatory reporting statute. Remember that many people do not come for services because they are concerned about reports. Make sure you convey to your clients, as well as those in the broader community, how you manage mandatory reporting. Report only what you are legally required to report and share the information only with those you are legally required to tell. Reporting information that you told a survivor you won't share is a significant breach of trust that you should expect will be traumatizing.

Are you a mandatory reporter?

A statute or case law (not contract or MOU) must require you to report. Make sure your job, role, or profession must report. Let anyone you serve know if you are a mandatory reporter before they tell you anything that might have to be reported.

If No

Is this person in a category of people whose abuse or neglect you are required to report,

e.g., a child, elder, or adult with a disability?

If No

Has this person experienced or committed abuse or neglect?

Is a report required because of the specific abuse or neglect that occurred?

If No

Are you exempt from reporting in this case?

Are you not required to report because of a victim-advocate, therapist-patient, attorney-client, or other privilege law that prohibits disclosure without consent?

If Yes

Do not release personally identifying information without written and informed consent.

What must I do when a report has to be made?

Make reasonable attempts to notify victims you serve affected by disclosure. Discuss to whom a report can be made (when law gives options). Only report what the law requires unless you have written and informed consent to share more. Take steps to protect the privacy and safety of persons affected by a report.

Working with Minors

Serving survivors of sexual violence can be even more complicated when you are working with minors. There are additional considerations, protections, and legal obligations that advocates must keep in mind when working with those under age 18 (or 19 depending on your state). The tools in this guide focus on working with minors over the age of 11 because working with young children presents different challenges.

Can You Advocate for Minors?

Not all advocates are able to serve all populations due to limitations in funding, contracts, or organizational policies. Know whether you are able to serve minors and/or what limitations your organization may place on those services. If you are not able to serve minors, have a list of resources available to help minor survivors find the support they need.

Also, be aware that rules regarding federal funding may change and this may impact who you are able to help.

Child Abuse Mandatory Reporting

Advocates who are mandatory reporters should be upfront with their minor clients about this obligation and should clearly identify what circumstances would trigger a report before a minor discloses something that might. Programs should identify who is or is not a mandatory reporter to best protect clients' privacy while meeting statutory obligations. **See Privacy.**

Who are you advocating for?

Navigating your role as an advocate when working with minors and their caregivers can be difficult. There are few baseline questions that can help guide you:

1. Who is the client?

When working with minors you need to be clear about who is the client whom you are serving. This is especially true when minors have involved caregivers. If you are an advocate working with a minor survivor remember that they are the client and focus your work and advocacy on them. If your agency has the capacity, consider having another advocate provide the caregiver with additional support.

2. Who has the legal authority to make decisions?

Jurisdictions differ on when minors are legally able to make decisions independently. Within your jurisdiction it is likely that the age at which a minor can make legally binding decisions differs based on the type of decision the minor is making. For example, minors may be able to consent to receive mental health services at age 14 but may not be able to receive other services until they are older. Become familiar with the laws in your jurisdiction to provide your clients with the best possible advocacy.

Working with Minors

Navigating the Relationships

Building Rapport with Minor Clients

Building trust and rapport with minor clients is critically important. Remember that in addition to the client experiencing a traumatic event, they may not know why they are in your office or who you are. Be prepared to explain every detail. There are many things you can do to make building trust easier, including:

- Inquire about the child or youth's interests before the meeting. This will give you something to talk with them about or do with them as you talk (i.e., drawing, playing cards, building Legos);
- Dress informally to put the child or youth at ease;
- Maintain a survivor-centered approach including taking cues from the minor client, allowing the minor to dictate communication preferences, etc.
- Meet with the minor privately. This gives the survivor an opportunity to speak freely without their caregivers present and gives you an opportunity to determine how involved they would like their caregivers to be. Be sure they know that you can invite the caregivers back into the room whenever the child would like.
- Minor survivors may benefit from scheduling short meetings, which may mean more meetings overall.
- Be clear with the minor about how the privilege of your communications (if you have victim-advocate privilege) might be impacted by having a caregiver join the conversation.

Working with Parents and Caregivers

Navigating the relationship with a child or youth's caregiver can be challenging. Remember that while the child or youth is your client, the caregiver is also going through a difficult and likely scary process. They likely have feelings of guilt or shame for the hurt experienced by their child. They may have experienced victimization too and have a difficult time distinguishing their own experience from that of their child. Provide them with resources. Be prepared to educate caregivers about what the experience of sexual assault is like for children, who already lack autonomy and have limited rights. Talk to them about how they can help empower their child and lift up the child's voice post-assault. Additionally, if you are a mandatory reporter, the caregiver should be informed along with the client as early as possible to explain what you are required to report and to whom.

Working with Survivors with Unique Needs

All survivors' experiences and needs are unique, but there are particular considerations when working with survivors whose identities intersect with particular legal protections or obligations such as those with disabilities, those who are older, or those who are incarcerated or detained. Many of these survivors face disproportionately high rates of gender-based violence without support or appropriate resources. Often their circumstances, particularly those in some type of institution, may mean they are prevented from reporting or their reports are swept under the rug. Remember that mandatory reporting obligations extend beyond minors and may apply to survivors with intellectual or developmental disabilities (IDD) and older adults. **See Privacy.**

Working with Support People

Some survivors, including those with IDD or older survivors, may have people who support them with daily living. Support people may be parents, other family members, or professional caregivers. They may be legal guardians responsible for the survivor's health care or finances. You need to know how to integrate the support person into your advocacy, if that is what a survivor wants or needs, while maintaining confidentiality and ensuring survivor-centered work.

Legal Guardians

Certain survivors may have a legal guardian. A guardian is a person who has the power to make decisions—which may include legal, health care, and financial decisions—for the “ward.” The scope of the guardianship will be captured by the court order establishing the guardianship. Working with a survivor with a legal guardian can be different than working with a survivor without one. Be sure you know from the beginning who has the legal authority to make final decisions. The court order can clearly establish this for the person whom you are serving. Maintain survivor-centered work even if there is a legal guardian making the final decisions.

Plain Language and Infographics

All client-facing resources should be available in plain language, which is a clear, straightforward expression of your message using only as many words as are necessary. Using plain language makes resources more accessible. Similarly, using infographic-based resources can help you communicate with survivors with IDD. These resources are particularly important in legal advocacy, as legal documents are rarely straightforward.

Incarcerated and Detained Survivors

Survivors who are incarcerated or detained may have experienced sexual violence prior to their incarceration (e.g., in prison) or detention (e.g., in jail or in juvenile or immigrant detention) or during it. These individuals require legal advocacy and resources. Many organizations employ legal advocates specifically to work with incarcerated and detained survivors—if you do not work with such an organization, it may be beneficial to connect with one in your jurisdiction and make a referral if appropriate. Also, consider how community-based services might include services for survivors in custody, detention, and other facilities.

Working with Survivors with Unique Needs

Barriers to Advocacy

There are many barriers to supporting survivors who are incarcerated or detained. You need to understand how your jurisdiction and the facilities you work in handle meeting with clients. You need to know how often you are able to visit your clients, what security procedures are in place, how to schedule phone or video calls, how you can have confidential communications, what the mandatory reporting expectations are in the facility (and whether or not those apply to you), etc. Rules may change without warning.

Prison Rape Elimination Act (PREA)

The goal of PREA is to protect individuals from experiencing rape while in prison and other confinement settings. PREA regulations require correctional and similar facilities to have zero tolerance for sexual assault, to collect data on sexual abuse, provide medical and mental care for survivors, give survivors access to community-based advocates, establish guidelines for investigations and reporting, etc. Survivors should receive medical and mental health services consistent with the community level of care.

Criminal Legal System

Introduction

Each jurisdiction has its own system of criminal law and its own process for enforcing the law. The terms and processes described below apply to adults charged in the criminal system. Minors are typically charged in the juvenile justice system, which has different goals and different terms.

Who is Involved?

■ Prosecutor

The lawyer who represents the government. Their job is to prove the defendant committed the crime. Also called a district attorney, state's attorney, or attorney general.

■ Defendant

The person accused of committing a crime.

■ Victim

The person hurt by the defendant's criminal conduct. During court proceedings this person may be called a victim-witness.

For others involved in the courtroom or legal system, **see Intro to the Legal System.**

Sequence

Every criminal case is different, but they follow the same general procedure. Remember that a defendant may plead guilty or agree to another adjudication at many points which fast-forwards the process to sentencing.

1

Report to Law Enforcement

A variety of factors may impact how law enforcement responds to a police report. The accused may be arrested immediately; a warrant may be issued for their arrest; law enforcement may choose to conduct an investigation over days, months, or even years prior to taking action; they may issue a citation; or they may do nothing.

2

Charging and Arraignment

Practices for charging an individual with criminal conduct vary by jurisdiction, but often the defendant is charged with several offenses. For example, if a client is raped, the accused may face charges for rape, aggravated sexual assault, sexual assault, assault, harassment,

Criminal Legal System

or terroristic threats, and attempts for each of the crimes. In other cases, the accused might only face one of the charges which may be a lesser offense than the survivor would like to have prosecuted. Depending on the jurisdiction and severity of the crime charged, the process by which a defendant is charged can vary. In some instances, charges can be brought through a complaint, a document filed with the court detailing the alleged criminal conduct. In other instances, a grand jury must be convened and return an indictment. A victim-witness may be required to testify if a grand jury is convened. Arraignment is the defendant's first appearance at court after they are arrested.

3 Pretrial

Discovery

The attorneys on both sides gather information relevant to the case. Victims' personal information may be requested in this process, including medical and mental health records. Each jurisdiction determines what information can be gathered, if and how it can be shared, and, later, what can be presented in court. Understanding what information is privileged, what is confidential, and what must be turned over, is integral to advocating for your client.

Preliminary Hearings

Many decisions will be made before trial at preliminary hearings, also called pretrial motions or pretrial court dates. A judge will consider how the law applies to particular instances of the case. For example, they may determine if information is relevant to the case, if particular evidence may be introduced, or if an expert's testimony may be presented. A preliminary hearing will likely be held to determine if the survivor's records may be used as evidence; this may include deciding whether privileged medical records may be admitted.

The pretrial process can feel very invasive and not in line with a victim's right to privacy. Prepare the client for this.

4 Prosecution

If a defendant does not plead guilty, the case may move forward to trial. A trial is open to the public, overseen by a judge, and may or may not have a jury. If there is no jury, the judge, or panel of judges, acts as fact-finder. In a trial, the prosecutor must prove that the defendant committed the crime "beyond a reasonable doubt" (i.e., there is no reasonable explanation that can come from the evidence presented at trial other than that the defendant committed the crime). This level of proof is the highest standard of proof in the law. A trial can last anywhere from a few hours to a few weeks. Working closely with the prosecutor, including helping your client build rapport with them, is the best way to prepare for the experience.

5

Adjudication

This is the outcome of the case and determines whether *legally* the defendant is guilty of a crime. Adjudication may also be called a verdict. Remember that there will be a verdict for each charge, so a defendant may be found guilty of one charge and not guilty of another.

Not Guilty

The prosecutor has not proven the defendant to have committed the crime “beyond a reasonable doubt.”

Guilty

The defendant is found to have committed a crime. This outcome may be reached by plea, where the defendant admits to criminal conduct, or by verdict after trial, where the fact-finder determines that the defendant is guilty. Most criminal cases end with a guilty plea or a plea deal—where the defendant agrees to admit wrongdoing in exchange for a lesser sentence or conviction for a lesser offense.

Other

Rarely, another verdict will apply. For example, an adjudicated disposition generally means the defendant is participating in a treatment court or accelerated disposition program. A “hung jury” means that the jury was unable to reach a unanimous verdict. A *nolo contendere*, or no contest, plea means that the defendant accepts conviction as though a guilty plea had been entered, but does not admit guilt.

6

Sentencing

Sentencing is where the punishment for a person found guilty is imposed. Several weeks can pass between adjudication and sentencing during which time a pre-sentence investigation happens. This investigation looks into the personal history of the defendant, including past criminal conduct, physical or mental health concerns, family history, etc. The judge may also consider the defendant’s relationship with the victim. The judge then uses this information to inform their decision as to an appropriate sentence.

Victims will have the opportunity to make a victim impact statement if they choose. This is their opportunity to share the many ways the crime has affected their life. Depending on the case and the jurisdiction, a victim impact statement can be submitted in writing or can be made aloud at sentencing. A judge should consider the victim impact statement when imposing the sentence. Crafting a victim impact statement can be incredibly difficult; advocates can be instrumental in helping survivors through this process.

Criminal Legal System

Sentencing Options

Incarceration

Defendant is sentenced to time in jail or prison.

Probation

Defendant is sentenced to time being monitored by the court. There are various types of probation: some are very strict (including daily reporting or weekly substance testing) and some are very lax (rarely or never requiring the defendant to report to their probation officer). Requirements may be imposed by the judge or left to the discretion of the probation officer.

Restitution

Money to be paid by the defendant to the victim to compensate them for certain costs associated with the crime. See **Crime Victims' Rights**.

Fines

Money to be paid by the defendant as part of their sentence.

Costs

Money to be paid by the defendant to the court to cover the cost of prosecution.

Offender Registry

Defendant is required to register with the state as a sexual offender; the terms of this registration vary by jurisdiction and offense.

7

Post-Conviction

After sentencing, the case may be over. But, a few additional things can come up.

Probation Violations

If a defendant violates the terms of their probation, there may be additional hearings to consider the appropriate response. Depending on the severity of the violation, victims may be asked to testify at these hearings.

Parole

Defendants may be released on parole before their original sentence is completed for various reasons, including good behavior. Defendants on parole have to follow specific rules, similar to probation. Victim witnesses may have the opportunity to make a statement to the parole board prior to parole being granted.

Post-Conviction Relief

A defendant may be able to ask the trial court to reconsider their adjudication or sentencing if they believe the court failed to follow the law. Post-conviction relief is limited to certain issues and is handled at the trial level.

Appeal

After adjudication a defendant can appeal, or ask a higher court to review their conviction or sentence under certain circumstances. This is regular practice, and you should prepare the survivor for this possibility. The prosecutor cannot appeal a not guilty verdict but can appeal if they believe the sentence is unlawful.

Crime Victim Rights

The criminal legal system was not set up to provide support to, or protect the rights of, victims. Most protections in the criminal legal system are intended to protect the rights of the accused, which may run counter to those of the victim. But, certain rights of crime victims are now protected within the federal criminal system, and most states have enacted similar protections.

Remember that these protections exist only in the context of a criminal prosecution and may only apply when a survivor meets the jurisdiction's definition of a "victim." This may mean protections are limited to survivors of violent crime or to survivors of felonies. Survivors harmed by a juvenile may not be protected by these rights. Understanding your jurisdiction's limitations is the first step to setting reasonable expectations for your clients.

Protected Rights

Though protections differ by jurisdiction, the federal Crime Victims' Rights Act (CVRA) is a good starting point to identify what protections victims are due. Similar rights do not exist in every jurisdiction and they may be more extensive in some.

Under the CVRA, victims have the right:



To be *reasonably* protected from the accused;



To be informed of public court proceedings and of the release or escape of the accused;



Not to be excluded from public court proceedings, with certain exceptions;



To be heard when a decision is made regarding release, guilty plea, sentencing, or parole;



To confer with the prosecution;

Crime Victim Rights

Protected Rights



To restitution, in a *timely* manner;



To proceedings occurring without *unreasonable* delay;



To be treated with fairness and respect for their dignity and privacy;



To be informed of a plea bargain or deferred prosecution agreement; and



To receive information regarding their rights.

The words italicized above have a legal definition that often differs from survivors' expectations. For example, proceedings occurring without unreasonable delay does not mean that a case will go to trial within a month or two, or even within a year. The attorney for the government or a victim's advocate in the prosecutor's office may be able to provide an estimate of how soon and long they expect the case to take.

Some jurisdictions have additional rights for certain victims including victims of sexual assault, domestic violence, human trafficking, stalking, or victims with disabilities.

Compensation

Crime Victims' Compensation

Certain government programs reimburse victims for crime-related expenses not covered by other means. Crime Victims' Compensation is generally available even when no one is arrested or convicted for the crime. Eligibility for these programs is limited and the funds are only available for certain types of expenses.

Eligibility varies by state but is typically limited to those who cooperate with the prosecution of a violent crime, including surviving family members.

Crime Victim Rights

Each jurisdiction determines eligible expenses; examples include medical expenses, counseling expenses, lost wages, funeral expenses, and crime scene cleanup. Survivors of sexual assault should have expenses for sexual assault forensic exams covered under VAWA. In some jurisdictions this is managed through Crime Victims' Compensation, and in other jurisdictions may be handled differently. If another source (i.e., insurance) will cover a survivor's expense then compensation funds generally will not cover it and a survivor who has received compensation already may have to return the funds. Most jurisdictions also limit payouts, including caps for each expense and a total expenditure limit.

Restitution

Restitution is money paid to a victim by a person who is convicted for certain losses suffered due to the commission of a crime or offense. A judge may order restitution, an individual may agree to it as part of a plea bargain, or it may be statutorily mandated for certain offenses. Laws regarding restitution differ by jurisdiction. Restitution only covers payments for certain things such as medical expenses and lost wages. Remember that restitution is paid by the defendant or juvenile offender and temper a client's expectations that the defendant or offender may not be financially able to pay restitution.

Tips from the Bench

Courtroom Diagrams

Crime Victims' Rights

Criminal Legal Process

**Mandatory Reporting for OVW-Funded
Victim Service Providers**



Tips from the Bench

for Legal Advocates Serving Survivors of Sexual Assault, Domestic and Dating Violence, and Stalking

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

1. Respect survivors' choices.

A survivor's choices, not yours, should guide your advocacy within the legal framework. They may want criminal prosecution, "no contact" orders, money damages, restitution, or other remedies from the court. Or the survivor may want to work on their relationship and improve their safety while doing so.

2. Protect a survivor's confidential information.

Confidential information should be shared only with a survivor's consent or when required by law. You need to know the laws that control confidentiality and privilege in your jurisdiction. These laws include court and agency rules that allow a survivor's personally identifying or location information to be kept out of public records. Advocates may promote survivor privacy in other ways (e.g., through Address Confidentiality Programs, filing as a "Jane or John Doe," and preventing privacy breaches in person and online). Attend trainings and use materials prepared by attorneys and other privacy experts who work with survivors. Make sure a survivor knows what confidentiality protections and mandatory reporting laws might apply to their situation. Invite them to meet with a lawyer who might be available to address questions you cannot answer. Seek a lawyer's advice if you or your agency are served with a subpoena for client information; don't ignore it.

3. Don't give legal advice.

You, as a legal advocate, can give a survivor general information about legal procedures and remedies. You must not cross the line into giving legal advice or practicing law; you may not tell a survivor how the law applies to their particular situation or case. If you do, not only may you and your program be liable for the unauthorized practice of law, but the survivor's legal situation can be harmed as a result.



Tips from the Bench

for Legal Advocates Serving Survivors of Sexual Assault, Domestic and Dating Violence, and Stalking

4. Develop working relationships with attorneys who represent survivors.

Find out which attorneys in your local community regularly represent survivors. These could be lawyers who work at a legal aid, culturally specific, or other victim service organization, or who are affiliated with your domestic or sexual violence coalition. You will benefit from establishing a working relationship with a lawyer you can call for background on a legal issue.

5. Keep your cool.

How you act on an individual survivor's case can affect your advocacy with future survivors. You will likely interact repeatedly with some of the judges, court staff, prosecutors and other attorneys, child welfare caseworkers, probation officers, and pretrial release officers at court and in your community. No matter how unfairly you or a survivor think an outcome was, or how you or a survivor were treated, calmly discuss your options. Wait to raise concerns or ask questions until you can do so without raising your voice. Wait to send emails about your concerns until your emotions have settled.

6. Accompany a survivor.

One of the most helpful things you can do is to accompany a survivor to court hearings and meetings with other legal professionals. The courthouse, prosecutor's offices, and even a survivor's own lawyer's office can be very stressful places. Each of these settings has procedures and terms that are often unfamiliar; you can help by asking about anything that you or a survivor do not understand. Remote on-line hearings or appointments can also be stressful even though a survivor does not have to be there in-person. Your help navigating these settings and debriefing about them afterwards can be reassuring, and help a survivor do their best in each of them.

7. Expect and understand the formality and the division of roles.

Court and administrative hearings can be like plays. They have a defined stage, a set placement of actors, ritual clothing like robes and other proper dress, and scripted statements and actions. Each of the individuals involved with a court or administrative hearing has a defined role – to prosecute or defend a case, provide sworn testimony, decide the facts, or issue rulings. But unlike plays, hearings have significant legal consequences. You must understand the formality of the proceedings and the rules that control who speaks – and when. Watching the usual types of hearings a survivor will encounter is the best way to familiarize yourself with the formality, timing, rules, and respect legal proceedings require.



Tips from the Bench

for Legal Advocates Serving Survivors of Sexual Assault, Domestic and Dating Violence, and Stalking

8. Be ready for a court hearing.

Discuss safety procedures with a survivor before court, including how to enter the courthouse, where to wait and sit, how to access the restrooms, etc. Help them prepare a written list of the key points they want the judge to know. Help them organize the paperwork and other exhibits (proof) they want the judge to see. Remind the survivor that what they wrote in court papers doesn't replace the testimony and other evidence they have to give in court. Bring paper and pen to take and exchange notes. Help a survivor plan how they might stay grounded and calm in the hearing. Consider bringing water, cough drops, tissues, snacks, and quiet "fidget" items to support them. Have an exit plan for leaving the courthouse after the hearing ends.

9. Rely on your expertise and be transparent.

No matter how new or experienced you are as a legal advocate, you likely have more legal experience than a survivor you are helping. Focus on this survivor's situation. Share your knowledge with them, but don't promise specific outcomes. Be responsive and candid. Be honest with a survivor when you don't know the answer to a question and let them know you will try and get an answer (without giving legal advice). Follow through.

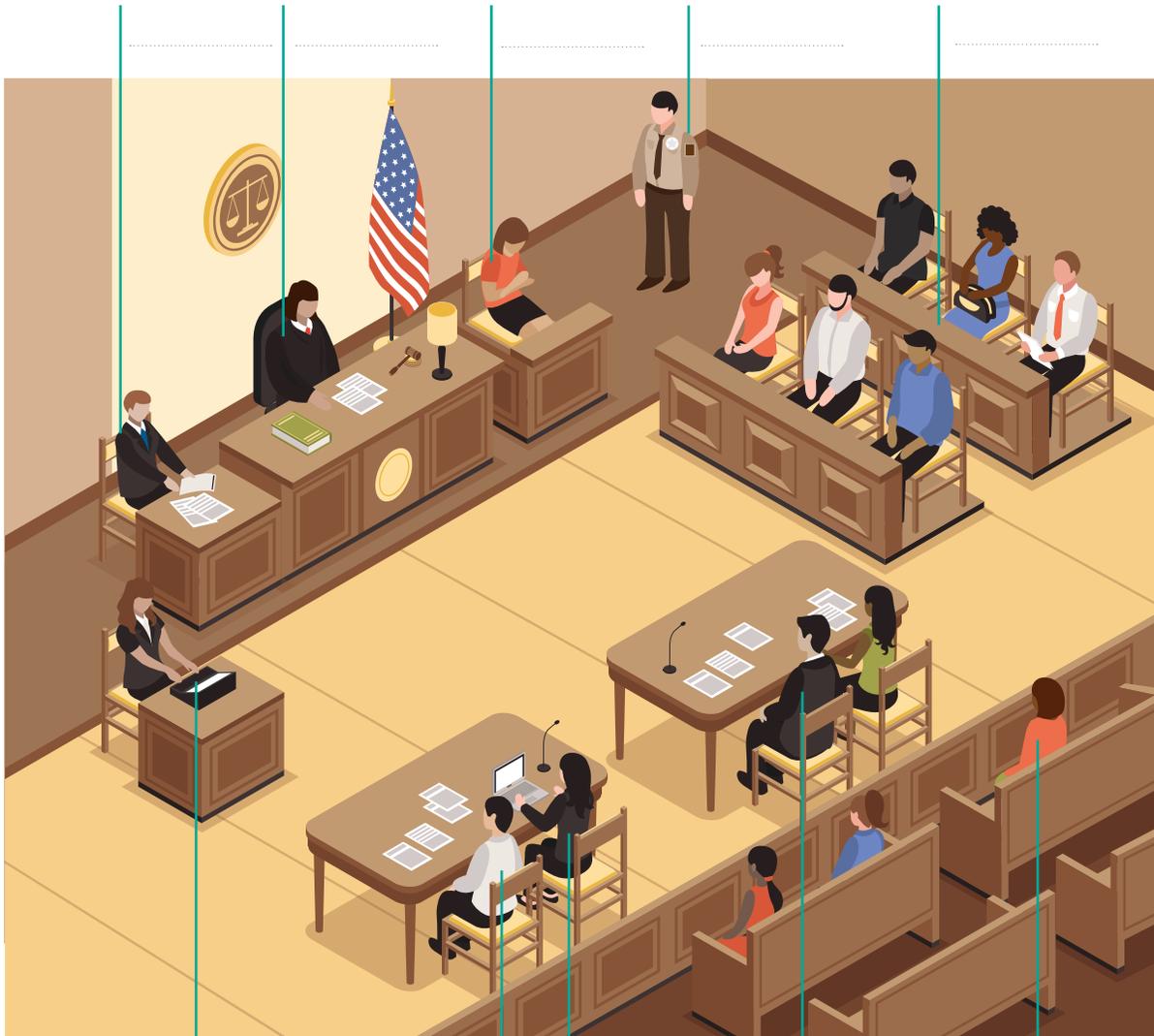
10. Identify systemic problems.

Keep an eye out for court practices, forms, or laws that should be revised because they are problematic for survivors. Work with other advocates and attorneys interested in change. Be respectful and persistent in raising systemic issues. Survivor and advocate voices carry significant weight in policy forums; survivors often need advocates to direct them to how they can have the most impact.

Introduction to the Court

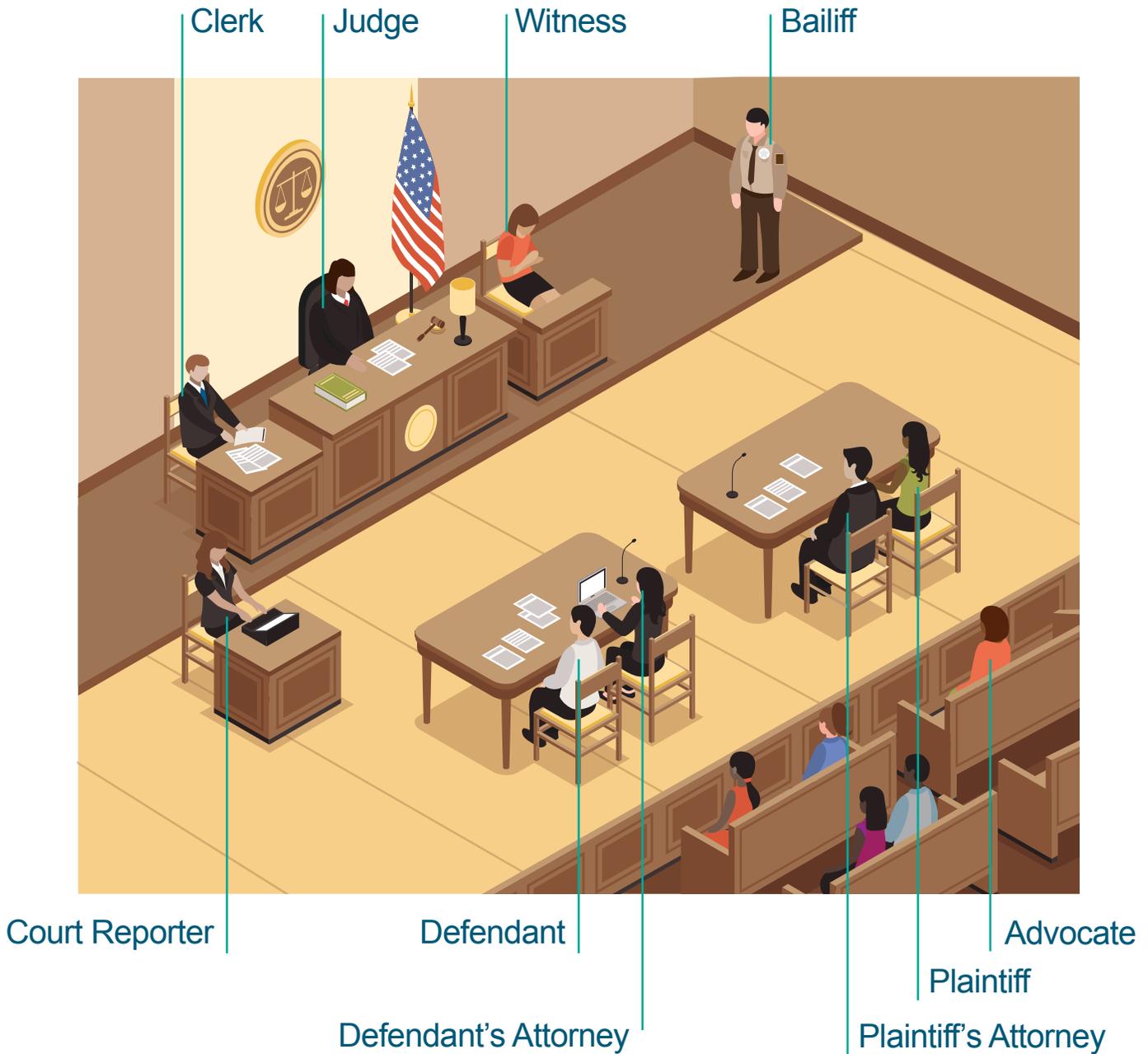
Please use and adapt this resource to fit your work with survivors.

What does a criminal courtroom look like?



Introduction to the Court

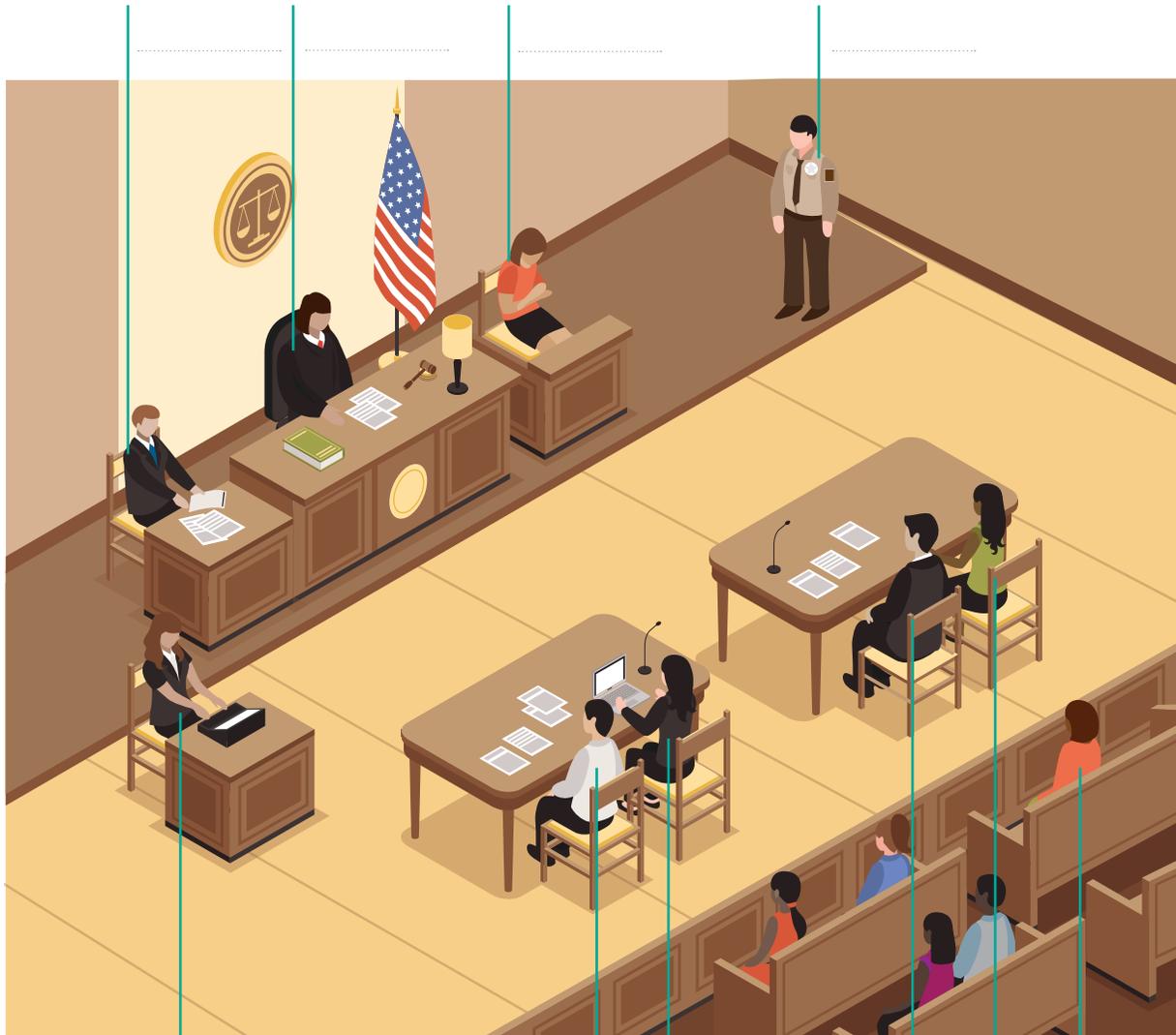
What does a civil courtroom look like?



Introduction to the Court

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Criminal Legal System

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Are you exempt from reporting in this case?

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What must I do when a report has to be made?

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Do not release personally identifying information without written and informed consent.

VRLC has additional resources about mandatory reporting, some of which are jurisdiction-specific.

For more information, contact us at

TA@victimrights.org

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www.victimrights.org



Mandatory Reporting for OVW-Funded Victim Service Providers

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