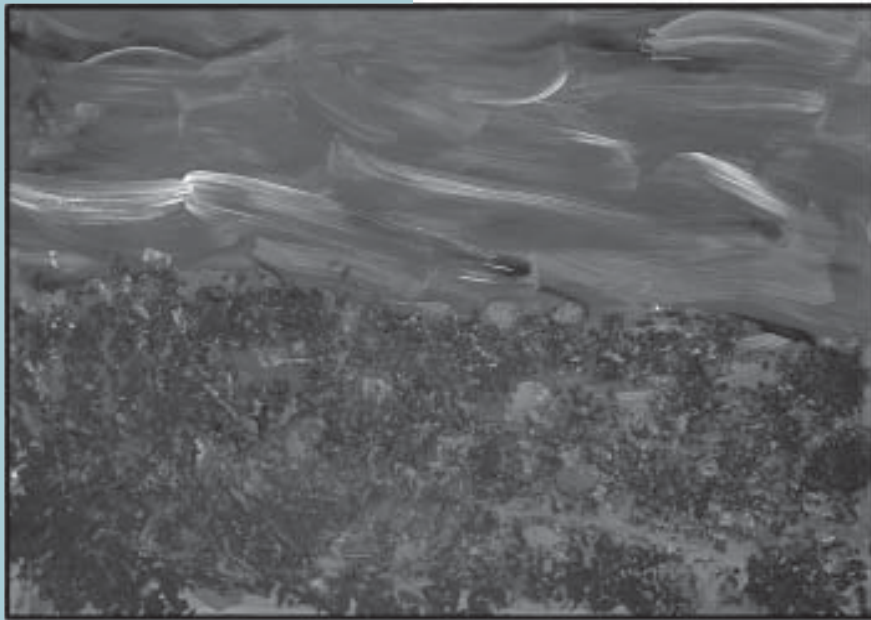


SUPPORTING PEOPLE WITH DISABILITIES: ADVOCACY STRATEGIES FOR LEGAL ADVOCATES



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END SEXUAL VIOLENCE IN OUR COMMUNITIES
WASHINGTON COALITION OF SEXUAL ASSAULT PROGRAMS

**ACCESS
SERIES**

A PUBLICATION OF THE WASHINGTON COALITION OF SEXUAL ASSAULT PROGRAMS

The mission of the Washington Coalition of Sexual Assault Programs (WCSAP) is to unite agencies engaged in the elimination of sexual violence through education, advocacy, victim services and social change.

WCSAP is committed to fostering a culture of respect, dignity and autonomy for all individuals. We recognize that disrespect, ignorance and the abuse of disparities in power are the roots of sexual violence. To that end, WCSAP endeavors to engage with agencies and individuals who share our commitment.

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gatheringplace, a 501 (c)(3) nonprofit organization, provides community based activities for people with developmental disabilities. Through communication and interaction, we endeavor to create a nurturing environment encouraging each individual's independence, self-esteem and productivity. Art is playing an increasing role at gatheringplace. "Outsider Art" is a term used to describe art by the untrained artist, many of whom are poor, institutionalized or face disabilities that isolate them. Our work embraces the Outsider Art movement, which supports the development of creative expression outside of accepted cultural norms.

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INTRODUCTION

This pamphlet is designed for legal advocates working with people who have a disability(s) and have experienced sexual assault, to provide you with helpful advocacy strategies.

In working with survivors of sexual assault we are not always aware of the competing interests that clients may have if they experience multiple barriers to services, such as those persons with a disability may encounter. These barriers are not always apparent to us and often are not articulated by clients and thus their needs often may go unmet.

Because many of us who work in the movement to end sexual violence do not have expertise in other areas of advocacy such as disabilities rights, this is a tool to offer ideas, strategies and information about how to better meet the needs of people with disabilities who have been sexually assaulted.

If you have questions about this resource or would like further information please do not hesitate to contact WCSAP at 1-800-775-8013.

GENERAL ADVOCACY TIPS

- Spend some time thinking about how you feel and think about people with disabilities. Be aware of any prejudices or fears you may have about serving someone with a disability.
- Appreciate the impact of stereotypes that may impact us as we work with victims who are different than ourselves.
- Understand and appreciate that often times a person's disability is used against them as a means to further abuse them.
- Understand that it is common for a person with a disability to experience many barriers to service provision. These can be practical considerations such as transportation to and from places; or in communication styles, such as assuming the client understands the terms you use to describe sexual assault and/or the legal system.
- Ask your client what would help them to feel comfortable.
- Always ask a client what they want. An advocate's job is to advocate for the client's wishes.
- Always explain the limits of confidentiality in a manner that is understandable. Explain confidentiality as early as possible so clients can make informed decision about what information they may share with you or others. This is particularly important if your client is considered a vulnerable adult or minor. If your client is one of the above, make sure to inform them of your duties as a mandatory reporter.
- Explain the differences between your role and information you can keep private. For example it may be helpful to explain why a victim-witness staff person in the prosecutor's office does not have the same privilege as community sexual assault advocates. Confidentiality may need to be re-explained and re-addressed as needed throughout your interactions with the client.

INFORMATION AND REFERRAL

HOW DOES YOUR AGENCY SUPPORT THE NEEDS OF PEOPLE WITH DISABILITIES?

These questions are designed to help you understand where it may be challenging to meet the needs of people with disabilities given certain limitations. These questions should also help you be aware of those challenges so that when you are serving a client you can work with them to come up with alternative strategies or solutions to help meet their needs. There are many other questions you can ask about your services; these are intended to get you started.

- How does a client physically access your services? Can wheelchairs easily maneuver in the office space?
- Are your agency's outreach materials offered in alternative formats? (audio, braille, large print)
- Are your agency's outreach materials and brochures user friendly? (e.g. large print business cards and outreach efforts)
- Does your agency include images of people with disabilities in their materials? (ads, brochures, posters)
- Where is your agency located? Can clients easily reach it if they are using public transportation? Do you include information on your agency brochures regarding bus routes to your office? Is agency staff also aware of which bus routes come to the office? Is your agency able to offer alternatives to traditional service models for those who are unable to come to your agency? Can you pay for specialized transport?
- How does your agency communicate with those that have a disability? Does the agency have a TTY number? Are interpreters needed? Who pays for this service? Does your agency have a toll-free number or can you accept collect calls? Is telephone counseling an option?
- Can staff travel to a client's home to provide services? Policies must ensure client confidentiality and the safety of staff and client.
- Are you familiar with using interpreters? Do you have access to a range of skilled interpreters for the hearing impaired, blind and/or deaf? Are your interpreters familiar with sexual assault words? Are they certified? Should you train them?

CRIMINAL JUSTICE SYSTEM STRATEGIES

Advocates can have tremendous influence on a survivor's experience and perception of the criminal justice system. It is important that advocates remember that their ability to challenge and question systems makes a difference and is a crucial part of advocacy.

Advocates should also encourage the education of law enforcement, prosecutors, judges and others about the prevalence of sexual violence among people with disabilities and the barriers they may face because of their particular disability.

Court houses are required by law to be physically accessible (Title II of the ADA, *Tennessee v. Lane*, U.S. Supreme Court), but they still may be set up in a way that makes it difficult for someone with mobility issues to access them (e.g. are there long distances to walk in the courthouse?).

When working with a survivor who has a disability, be aware of these potential barriers and advocate help to meet their needs in a reasonable manner.

TIPS FOR WORKING IN THE CRIMINAL JUSTICE SYSTEM

- Some courthouses have an ADA coordinator that handles ADA concerns. Otherwise contact the court clerk for assistance. This will help you in gaining information about what assistive technologies are available and give you a place to voice concerns and advocate for change if needed.
- Be aware that the criminal justice system often views people with disabilities as incapable of being credible witnesses or victims. Work to dispel this myth by educating those working in the criminal justice system.
- Understand that credibility is an issue that can influence the charging decision and outcome of a case. Inform law enforcement and prosecution that a disability does not preclude a person's ability to be an effective, competent witness. Be aware of your client's strengths. If you do not know their strengths – ask them or their case manager (with the client's permission) and remember that your role is to be an effective ally for the victim.
- People with hearing or speech impairments are entitled to qualified interpreters whether they are a victim or a witness or both. Know the statute that provides for this and advocate for it when necessary. This is applicable to police interviews, prosecution interviews and court proceedings. (§ 504 Rehabilitation Act and Title III ADA; RCW 2.42.010)
- Advocates must have an understanding of and a basic knowledge of the prevalence of sexual assault among people with disabilities. Some studies indicate rates of victimization are as high as 80%!
- The best advocacy is helping the victim/survivor speak their truth and tell their story about the abuse. Ask the client what they want-do not assume they are unable to make decisions because of their disability. Support the victim by asking them what they need and then advocate for those needs within the criminal justice system.

KNOW THE LEGAL RIGHTS AFFORDED ALL CRIME VICTIMS

1. By statute a crime victim, pursuant to RCW 7.60.020 is the following:
 - “crime” means any act punishable as a felony, gross misdemeanor or misdemeanor under the laws of the state or equivalent federal or local law.
 - “victim” means a person against whom a crime has been committed or the representative of a person against whom a crime has been committed.
2. As a crime victim, survivor of a crime victim, or witness of a crime, Washington State Law (under RCW 7.69.030, unless otherwise noted) provides that reasonable efforts be made to ensure the following rights:

Right to Be Informed

Upon informing the prosecuting attorney, a victim of a crime *charged as a felony* shall have the right to be informed of the following:

- You have a right to be informed of the outcome of the case – also known as the final disposition.
- You have a right to know about any changes in the court dates to which you have been subpoenaed to attend.

Right to Be Heard (WA Constitution, Article 1, Section 35)

You have the right to address the court whenever the defendant is being considered for release. This could apply to bail hearings, speedy trial violations and at sentencing hearings. (WA Constitution, Article I, Section 35)

- You have the right to attend the court hearing and make a statement to the court.
- You have the right to submit a victim impact statement.

At the sentencing hearing you have the right to submit a victim impact statement to the court, which shall be included in the pre-sentence report and made a part of the offender’s file. If you would like to make a statement in court, the court as a public entity is required under Title II of the American with Disabilities Act to provide you with an auxiliary aid to facilitate effective communication if you have a speech, hearing or vision impairment.

A victim impact statement is one that tells the court how the crime has affected you and what you would like to see happen to the defendant. The judge may take your recommendations into consideration when determining the perpetrator’s punishment.

Right to Attend All Court Proceedings the Defendant Attends (WA Constitution, Art I, Sect 35)

Subject to the discretion of the judge, you have the right to attend trial and *all other court proceedings the defendant has the right to attend*. You also have the right as a victim or survivor of a victim to be present in court during trial if your testimony has already been given and no further testimony from you is required, if crime is charged as a felony.

Right to Have Property Returned

You have the right to have any stolen or other personal property returned as soon as possible after completion of the case. For example if your clothes were taken into evidence or your purse or any other personal items that may have been taken as evidence, they should be returned to you when the case is completed. However, for sexual assault victims, evidence might be cut into pieces, etc.

Right to Witness Fees

You have the right to receive any witness fees to which you are entitled. For example you may be entitled to have mileage or parking costs reimbursed when going to court and participating as a witness.

Right to Protection as a Victim

You have the right to receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution and to be made aware of the level of protection available. This means that, if you are being threatened by the defendant or someone acting under the direction of the defendant (i.e. brother, friend, etc.), law enforcement will investigate and should take steps to limit the threats.

If law enforcement does not take steps to protect you, call your local sexual assault program.

Right to a Secure Waiting Area

You have the right to have, whenever practical, a secure waiting area provided for you during court proceedings.

Right to Have your Employer Contacted

You may request that the prosecuting attorney contact your employer to minimize any problems related to your absence at work when you are required to appear in court.

Right to Restitution

You have the right to have restitution ordered when there is a felony conviction, unless the court determines it to be inappropriate. Restitution is the legal term for the money the perpetrator may be ordered to pay to cover the costs of specific expenses you may have incurred as a victim of crime. Restitution is usually limited to property damages.

The victim advocate from the prosecutor's office can help you with any questions you may have about restitution as a crime victim.

Right to Notification of HIV Status of Offender

If the person who sexually assaulted you was convicted of assaulting you, you have the right to know their HIV status. If you are under 14, your parents or guardian has the right to that information on your behalf. (RCW 70.24.334)

If you would like to know the HIV status of the perpetrator, you need to tell the prosecuting attorney as soon as possible. You want to make sure that as a condition of the perpetrator's sentence, an HIV test is conducted and the results are given to you.

RESOURCES

Abused Deaf Women's Advocacy Services (ADWAS)

(206) 236-3134 (TTY)

Abused Deaf Women's Advocacy Services is a support agency for people who are deaf, deaf-blind and hard of hearing people. Staff is Deaf, Hard of Hearing and all sign.

ARC of WA State 1-888-754-8798

The Arc of Washington State has been a leader in developing services and programs for people with developmental disabilities, such as, autism, cerebral palsy, mental retardation, epilepsy and related neurological disorders which occur before age 18.

Communities Against Rape and Abuse (CARA) (206) 322-4856

TTY/fax:(206) 323-4113

Communities Against Rape and Abuse is a sexual assault agency based in Seattle, Washington that uses a community development approach to preventing and intervening in issues of sexual violence.

Tacoma Area Coalition of Individuals with Disabilities 1-877-538-2243,
1-877-551-3323 (TTY) Tacoma Area Coalition of Citizens with Disabilities is an advocacy coalition that represents individuals who are deaf, blind, have multiple sclerosis and physical disabilities in Tacoma, Washington.

WA Coalition of Citizens with Disabilities 1-866-545-7055

(206) 632-3456 (TTY)

Washington Coalition of Citizens with Disabilities is a statewide organization dedicated to promoting the independence, dignity, and self-sufficiency of people with disabilities.

WA Protection & Advocacy Systems 1-800-562-2702

1-800-905-0209 (TDD)

Washington Protection and Advocacy System is the state designated advocacy organization that advocates on behalf of individuals with disabilities. This private organization provides information and referral, training, and target legal representation.

Speech to Speech Relay Services 1-877-833-6341

For more information on the service call 1-800-676-3777.

RELEVANT FEDERAL LAWS

The American with Disabilities Act of 1990 (ADA)

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress. (42 U.S.C. Section 12101 et. Seq.)

ADA Information Line

1-800-514-0301 (voice), 1-800 514-0383 (TTY) or www.ada.gov

The Rehabilitation Act

The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving federal financial assistance, in federal employment and in employment practices of federal contractors. (29 U.S.C. Sections 791, 793, 794, 794d)

Accommodations

Sexual assault programs are required by law not to discriminate against people with disabilities. Programs are also required to make their services accessible to people with disabilities. (Rehabilitation Act of 1973, 29 USC S 794 and Title II & III of the American with Disabilities Act (ADA) of 1990)

Right to an Interpreter – Medical services

If you have a hearing, vision or speech impairment - when you go to the hospital, the hospital is required to provide auxiliary aids to you, at no additional cost, where it is necessary to ensure effective communication. (Section 504 Rehabilitation Act, Title III American with Disabilities Act)

RELEVANT STATE LAWS

Right to an Interpreter – Legal Proceedings (RCW 2.42.010)

If you are hearing impaired and a victim of sexual assault who is involved in a legal proceeding, you have the right to an interpreter.

- If you are hearing impaired and involved in a legal proceeding as a victim or a witness, the court shall appoint and pay for a qualified interpreter to interpret the proceedings. (RCW 2.42.120)
- You have the right to have a support person with you during the legal examination. (RCW 70.125.060)

Resident Rights of those living in residential facilities (RCW 70.129.030)

If a client lives in residential facility, such as a group home, boarding home or an adult living home they have what are called “Resident Rights.” They should be informed about these rights by the facility in writing and in a language they understand.

- You have the right to be free from verbal, sexual, physical and mental abuse. (RCW 70.129.130)
- You have the right to receive your mail – unopened, and at your expense access to postage, stationary and pens or pencils. (RCW 0.129.080(2))
- You have the right to reasonable access to a telephone where calls can be made without being overheard. (RCW 70.129.080(3))

Right to a Support Person (RCW 70.125.060)

- As a victim of rape or sexual assault, you have the right to a support person. Whether you are receiving medical treatment or attending a proceeding concerning the assault such as interviews with police or court hearings, you have the right to have a support person accompany you.
- You have a right to have a support person be with you when the authorities, including APS, ask you questions about the abuse.

Vulnerable Adult Protection Order (RCW 26.50.021)

Civil protection orders that are brought on behalf of a vulnerable adult. The Dept. of Social and Health Services may seek an order of protection for a vulnerable adult (as defined in RCW 74.34.020) with consent of the person defined as a vulnerable adult. A vulnerable adult protection order will require the perpetrator to stay away from the victim.

Free Forensic Exam (RCW 7.68.170)

When the examination conducted at the hospital is for the purpose of evidence collection, it is a free examination. You do not have to pay for it. However you do not have the right to free medical treatment. Benefits may be available through Crime Victim's Compensation. For more information, please call 1-800-762-3716.

Right to Emergency Contraception (RCW 70.41.350)

When medically appropriate, you have the right to emergency contraception. This means that if for any reason you or the nurse examining you may suspect there is a change of pregnancy resulting from the from the rape, you have the right to ask for immediate (emergency) birth control so that you do not get pregnant.



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