VISION

TO SERVE A GREATER NUMBER OF VICTIMS ON MAINE AND NEW HAMPSHIRE

MISSION

TO DEVELOP AND OFFER A COMPREHENSIVE ACADEMICALLY-BASED FOUNDATION LEVEL TRAINING ACADEMY TO HELP BUILD THE CAPACITY OF VICTIM ASSISTANCE PROVIDERS, VICTIM ADVOCATES, CRIMINAL JUSTICE PERSONNEL AND OTHER PROFESSIONALS WHO WORK WITH VICTIMS.
Background:

Maine, New Hampshire and Vermont convened in the fall of 2000 to create a tri-state Victim Assistance Consortium with the idea to find ways to serve the training and professional development needs of the many victim communities. Since its inception, the Consortium has worked to offer advanced training opportunities to primary and secondary victim assistance providers in the three states.

The second major focus of the Tri-State Victim Assistance Consortium was the development of basic advocate training programs. Vermont decided to develop their training independently and currently offers their pilot program. Maine and New Hampshire agreed to jointly establish a basic training. The two-state planning group began meeting in April of 2002 to plan for an academy for people who work with victims of crime in Maine and New Hampshire.

In June 2002, the Community Services Center, (CSC), and the Institute for Public Sector Innovation (IPSI) submitted a collaborative grant proposal to the federal Department of Justice, Office of Victims of Crime (OVC), in response to an RFP for establishing a Victim Assistance Academy in Maine. The grant application cited the need for better training in Maine for all professionals who work with victims of crime, including people with diverse professional backgrounds, varying amounts of practical experience and different levels of education and training. The lack of consistency in education and experience often leads to ambiguity and confusion between agencies and at times less than ideal coordination of services for victims. There is currently no statewide foundation course that provides consistent, uniform knowledge and skills for the variety of providers who work with victims of crime.

Maine’s grant application was one of five nationwide selected for funding by the Office of Victims of Crime (OVC). Maine and New Hampshire decided to continue working together to create a comprehensive academically based foundation level training academy with the goal of building the capacity of victim assistance providers, victim advocates, criminal justice personnel, and other professionals who work with victims. The curriculum is based on the National Victim Assistance Academy (NVAA) model but adapted to be more state specific. The academy will also provide the impetus for an informal network of professionals, which is expected to lead to more referral and consultation networks. Eventually, we anticipate an improvement in the tri state’s capacity to coordinate and deliver quality services to victims.
PURPOSE OF THE ACADEMY

The Federal Office for Victims of Crime created a National Victim Assistance Academy to assist Advocates in becoming more skilled in their professions and to create a common ground in victim service professional development. In 2000, Maine received a federal grant to help them create a state specific Victim Assistance Academy that would utilize information from the national model but make it also relate to and incorporate state specific information. Maine and New Hampshire agreed to continue a long-standing collaboration in this endeavor and offer a Maine and New Hampshire forty-hour Victim Assistance Academy.

The purpose of the Academy is to offer a comprehensive academically based foundation level training to help build the capacity of victim assistance providers, victim advocates, criminal justice personnel and other professionals who work with victims. While some participants have previous training in their area of specialization, the Academy provides an overview and in-depth understanding of the entire field of victimization, victim rights and victim assistance.

The Academy provides a comprehensive curriculum consisting of topics includes:

- Historical Overview Of The Scope Of Crime
- The Role Of The Advocate
- Trauma
- Crisis Intervention
- Stress Reduction
- Sexual Assault
- Child And Elder Abuse
- Domestic Violence
- Stalking
- The Judicial System
- Internet Crimes
- Homicide
- Other Specific Crimes

Each participant receives a written instructional manual for reference. At the conclusion of the Academy, participants are awarded either graduate level academic credit or CEU’s.
CADEMY GOALS

- Promote critical thinking and to broaden perspectives on victimization and victim response systems.
- Expand and enhance the level of professionalism within the victim service field.
- Provide an opportunity to network with people from other victim services and allied professionals.
- Increase participant knowledge of national, state and local resources.
"Nobody's stronger, nobody is weaker than someone who came back. There is nothing you can do to such a person because whatever you could do is less than what has already been done to them. We have already paid the price"

≈ Elie Wiesel ≈
HISTORICAL OVERVIEW

PRESENTED BY:
Marilyn DiBonaventuro
AND
Sheila Roux
HISTORICAL OVERVIEW

Violent crime in America has become a national crisis and, as a result, America's mental health, health care, and public safety systems are seriously challenged. This module will discuss the four somewhat diverse movements that set the stage for the emergence of the victim’s rights discipline, and the history of the victims' rights discipline in five distinct stages. In addition, the emergence of new organizations dedicated to assisting crime victims is discussed.

Objectives:

**Historical Overview of Victims’ Rights Movement**

*Upon completion of this module participants will be able to:*

- Identify the four social movements that strategically set the stage for the emergence of the victims’ rights discipline
- Describe the five historical stages of the crime victims' rights movement in the United States
- List the major national crime victim advocacy organizations.
Historical Overview of the Victims’ Rights Movement
Presented by:
Sheila E. Roux, Victim Witness Specialist
U.S. Attorney, District of New Hampshire
Marilyn DiBonaventura, Victim Witness Specialist
U.S. Attorney, District of Maine – Bangor
March 13, 2005

The Declaration of Independence, July 4, 1776
The U.S. Constitution, September 17, 1787
The Bill of Rights
The Emancipation Proclamation, January 1, 1863
Amendments 13, 14, 15, 19 of the U.S. Constitution

Four Social Movements
- CIVIL RIGHTS MOVEMENT
- WOMEN’S RIGHTS MOVEMENT
- ANTI-WAR MOVEMENT
- LAW AND ORDER MOVEMENT
Slavery Casts the Darkest Shadow

- 1619 - Jamestown, VA – 1st North American British Colony to receive Africans as forced laborers (1619)
- Massachusetts first to pass enslavement law
- Legally – slavery was a matter of property rights, both his person and his labor

Declaration of Independence
July 4, 1776

- John Adams, was attending the Continental Congress in Philadelphia in 1776, when he received a request from his wife, Abigail Adams.
- What was Abigail’s request?

“DON'T FORGET THE LADIES”

- John responds with humor. The Declaration’s wording specifies that “all men are created equal.”
The Constitution of the United States
September 17, 1787

- What was the effect of the 3/5's of a person on later legislation?
- Gave Southern States more representatives in Congress.

Dred Scott v. Sandford (1857)

- Many historians considered this one of the worst decisions ever handed down by the Supreme Court.
- The question: Are African citizens?
- The Answer: No

Emancipation Proclamation

- Lincoln had already drafted what he termed his "Preliminary Emancipation Proclamation." He read his initial draft to Secretaries William H. Seward and Gideon Welles on July 13, 1862. For a moment, both Secretaries were speechless. Quickly collecting his thoughts, Seward said something about anarchy in the South and possible foreign intervention, but with Welles apparently too confused to respond, Lincoln let the matter drop.
- Nine days later, on July 22, Lincoln raised the issue in a regularly scheduled Cabinet meeting. The reaction was mixed. Secretary of War Edwin M. Stanton, correctly interpreting the Proclamation as a military measure designed both to deprive the Confederacy of slave labor and bring additional men into the Union Army, advocated its immediate release. Treasury Secretary Salmon P. Chase was equally supportive, but Montgomery Blair, the Postmaster General, foresaw defeat in the fall elections. Attorney General Edward Bates, a conservative, opposed civil and political equality for Blacks but gave his qualified support. Fortunately, President Lincoln only wanted the advice of his Cabinet on the style of the Proclamation, not its substance. The course was set.
- The Cabinet meeting of September 22, 1862, resulted in the political and literary refinement of the July draft, and on January 1, 1863, Lincoln composed the final Emancipation Proclamation. It was the crowning achievement of his administration.
- The original autograph was lost in the Chicago fire of 1871. Surviving photographs of the document show it primarily in Lincoln’s own hand. The superscription and ending are in the hand of a clerk, and the printed insertions are from the September draft.
13th Amendment

- Passed by Congress January 31, 1865. Ratified December 6, 1865
- Abolished Slavery
  - Except as punishment for crime whereof the party shall have been duly convicted.

14th Amendment

- Passed by Congress June 13, 1866. Ratified July 9, 1868
- All persons born in United States...are citizens
- Fix to the Dred Scott case.
- First time "male" is mentioned in the Constitution

15th Amendment

Passed by Congress February 26, 1869. Ratified February 3, 1870

- Section 1
- The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude...
The Ku Klux Klan

- Threatened blacks and took away power
- 1876 – Rutherford B. Hayes is elected to presidency
- Federal troops are pulled out of the South
- Voting Rights Act 1965 – blacks are guaranteed voting rights

“Jim Crow Era”

- Tennessee passed the first segregation law
- 1916 – 1930 migration “Up South”

Plessy v. Ferguson (May 18, 1896)

- U.S. Supreme Court decides its constitutional to maintain separate but equal facilities
- Licensed segregation for nearly 60 more years.
- Brown v. Board of Education of Topeka (1954)
NAACP 1909

- The National Association for the Advancement of Colored People
- Its purpose was to "secure for all people the rights guaranteed in the 13th, 14th, and 15th Amendments to the United States Constitution, which promised an end to slavery, the equal protection of the law, and universal adult male suffrage.

Seneca Falls Convention
July 19-20, 1848

“Declaration of Sentiments”
- Married Women were legally dead in the eyes of the law
- Women were not allowed to vote
- Women had to submit to laws when they had no voice in their formation
- Married women had no property rights
- Husbands had legal power over and responsibility for their wives to the extent that they could imprison or beat them with impunity
- Divorce and child custody laws favored men, giving no rights to women
- Women had to pay property taxes although they had no representation in the levying of the taxes
- Most occupations were closed to women and when women did work they were paid only a fraction of what men earned
- Women were not allowed to enter professions such as medicine or law
- Women had no means to gain an education since no college or university would accept women students
- With only a few exceptions, women were not allowed to participate in the affairs of the church
- Women were robbed of their self-confidence and self-respect, and were made totally dependent on men
Women’s Rights Movement

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it’s the only thing that ever has”

Susan B. Anthony (standing)
Elizabeth Cady Stanton (sitting)

One Hundred Years toward Suffrage

February 1917 – First Picket Line

Women’s Rights Movement
**XIXth Amendment**

Passed by Congress June 4, 1919. Ratified August 18, 1920

- The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

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**The quest for equal rights continues:**

- 1919 League of Women Voters
- 1920 Women’s Bureau of Dept. of Labor
- 1936 U.S. Supreme Ct. declassifies birth control information as obscene
- 1961 Commission on Status of Women
- 1964 Civil Right’s Act (sex was included as a last ditch effort to kill the bill)
- 1964 EEOC
- 1965 Contraceptives became legal
- 1965 Re-emerging Women’s Rights Movement
  - Grassroots projects

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**Anti-war Movement**

Secret bombings of Cambodia
Anti-War Movement Timeline

- 1965: Gen. Westmoreland requests 443,000 troops
- 1967: Rev. Martin Luther King, Jr. comes out against the war
- 1967: National Draft Card Turn-in
- 1968: Tet Offensive
- 1968: Johnson announces his intention not to run for another term
- 1969: Nixon defeats Humphrey
- 1969: Anti-draft protest escalates
- 1970: Secret bombings of Cambodia
- 1970: A wave of bombings throughout the U.S.
- 1970: Kent State killings; Jackson State killings
- 1973: Paris peace agreement signed

The counterculture of the Antiwar Movement

- "New Left"
- Radical groups
  - Chicago Seven
  - Students for a Democratic Society
- Stood against traditional values of middle-class society
  - Long hair
  - Rock music
  - Tie-dye
  - Free sex
  - Drugs
  - Riots

“All we’re asking is give peace a chance”
The March on the Pentagon

- October 1967
- Our Capital is besieged
- Marked the beginning of the end of our involvement in the war

IV Amendment

- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.
History and Overview of the Victims' Rights Discipline

For the next hour we are going to investigate the history of the victim’s rights movement. In the last 30 years, victims’ rights have emerged as a powerful source of social, legal, and political change and it is helpful to put our progress in historical perspective.

Four Social Movements

Steven D. Walker, California State University, Fresno wrote an article on the four somewhat diverse movements that pre-dated the victims’ movement and set the stage for its emergence and outline the history in four distinct stages. Legislative changes, victim involvement, and changes in victims’ services are discussed in each stage. In addition, the emergence of new organizations dedicated to assisting crime victims is described, as well as challenges facing the field today.

Introduction

In the last twenty years, the victims’ movement has emerged as a powerful source of social, legal and political change. This article will discuss the four somewhat diverse movements that pre-dated the victims’ movement and set the stage for its emergence. It will also outline the history in four distinct stages. An effort will be made to review legal changes, victim involvement and services, changes in services, changes in service providers’ attitudes, and new theoretical concepts during each phase. Any historical description by necessity is not inclusive of all the acts; rather, the purpose here is to acquaint the reader with the zeitgeist, or spirit, of each stage.

There are four somewhat diverse movements that pre-dated the victims' rights movement but set the stage for its emergence.

These four movements are:

1. Civil Rights Movement (1963-72)
2. Anti-war Movement (1967-72)
4. "Law and Order" Movement (1968-Present)
The Civil Rights Movement

Dr. Martin Luther King, Jr. and other leaders of the Civil Rights Movement changed this country’s view of civil disobedience, clarified that all Americans have rights under the U.S. Constitution, and focused on forging change through non-violent means. Even though this country has had a long history of civil disobedience dating back to the Boston Tea Party and continued by 19th century literary figures (Thoreau, Whitman, etc.), this approach had been progressively diluted through 20th century patriotism engendered by two world wars.

Civil disobedience was not new in 1963, but it re-emerged and was applied to a new group: American minorities. The Civil Rights Movement enabled society’s disenfranchised minorities to exert power over American governmental and private institutions and to demand equal rights and equal access to society’s opportunities.

The Anti-War Movement

The Anti-war Movement focused on America’s propensity towards violence, the influence and predilections of governmental/military bureaucracy, and expressed distrust in authority that is still evident today. This movement, through its well orchestrated marches in cities across America, showed that grassroots (street level) politics could overpower establishment politics (if even for a brief period). More importantly, it raised questions not only about governmental decision-making, but also about the moral implications of these decisions. This movement clarified that even young people could have power in a democratic society. Many of those in the Anti-war Movement believed that this power did not entail difficult personal and political choices; this critical mistake was not made by the next important movement.

The Women’s Movement

The Women’s Movement focused on American family values, traditional male/female roles, sexism in bureaucracy (especially the criminal justice system), and economic discrepancies between men and women. This is the most important precursor of the victims’ movement (Karmen, 1990, p. 30). The definition and discussion of male/female roles have not been the same since it began. The victimization of women and the bureaucratic facilitation of this violence in all areas of society were clarified and politicized. This movement stated that the other fifty percent of society should have equal political and economic opportunity and power. A direct result of increasing the power of women was the formation of rape crisis centers and domestic violence shelters in the early 1970’s.

The "Law and Order" Movement

The "Law and Order" Movement predated the victims’ movement, but it actually allied itself with some victim advocates ten years later to press for stiffer punishment of offenders. Since the emergence of this movement in the 1960’s, there has been a focus on the common person who deserved at least equal rights with the criminal. However, this movement firmly believed the common citizen could manage his or her own protection, and "justice" should be accomplished without the expanding of governmental assistance and monetary support (Karmen, 1990, p. 35). It felt that criminals should be punished more; potential victims should be more careful; and victims, once victimized, should be self-sufficient. By the early 1980’s, there was a shift that resulted in more emphasis on victims’ needs. The support for increased offender
accountability and a "back to the basics" constitutional approach produced a new emphasis on restitution and individual rights. This movement has been particularly influential in the fourth stage of the victims’ movement.

**Stages of the victims’ rights discipline**

The progress of the victims' rights movement can be divided into five distinct stages. Ask participants to think about the following questions as we briefly go through the stages

1. How does Congressional perception of crime influence funding, allocation of resources and punishment?
2. Do you think the fear of crime and the perception of rising crime rates is what politicians responded to in the 1970’s, not necessarily promotion of advocacy?
3. What are the implications for victims? For advocacy?

**STAGE ONE: RESPONSE TO CRIME (1972-1976)**

Starting in the early 1960s, crime began to steadily rise in the United States, reaching its highest point in 1981. Throughout the 1960s and early 1970s, many state and federal commissions were established to study crime and its consequences.

In 1972, volunteers founded the first three victim assistance programs, all of which still exist today:

- Aid for Victims of Crime, St. Louis, Missouri.
- Bay Area Women Against Rape, San Francisco, California.
- Rape Crisis Center, Washington, DC.

By 1974, the first battered women’s shelter had also been established in Denver, CO.

These first service programs were operated by volunteers using their own funds and donations. Their original major focus was to provide victim support utilizing the approach of self-help groups.

In 1975, the Law Enforcement Assistance Administration called together leading victim activists to discuss methods of increasing victims' rights.

- The major result of this meeting was the founding of the National Organization for Victim Assistance (NOVA).

During this second stage, it appeared that many of the gains of the victims' movement might be lost. Federal funding began to diminish due to lack of congressional support.

In 1978, sexual assault programs and domestic violence programs created their own national organizations to pursue their specific agendas (Young 1986):

- National Coalition Against Sexual Assault (NCASA).
- National Coalition Against Domestic Violence (NCADV).

Two new grassroots programs grew in response to a void in services to underserved victims. The cumulative effect was a new infusion of energy into the movement. These two programs were the following:

- Mothers Against Drunk Driving (MADD) founded by Candy Lightner and Cindy Lamb (1980).

On the legislative front, crime victim advocates pressed for reforms, and state legislators enacted laws that increasingly supported victims.

In 1977, Oregon passed the first law mandating arrest in domestic violence cases.

In 1981, Ronald Reagan became the first president to proclaim "Crime Victims' Week."

STAGE THREE: PUBLIC AWARENESS (1982-1986)
As the revitalized victims' movement learned to better access the news media, public awareness of victims' issues increased.

Congress passed the first law addressing victim-witness issues: the Federal Victim and Witness Protection Act. This Act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crimes.

The single greatest event in the victims' movement to date occurred in 1984: the passage of the Victims of Crime Act (VOCA).

- This Act established the Crime Victims Fund to provide funds for local victim assistance programs and state victim compensation and discretionary funding for research and promotion of promising practices in behalf of victims' needs.
- The fund was made up of money from federal criminal fines, penalties, and bond forfeitures.

The Office for Victims of Crime (OVC) was designated as responsible for administering VOCA, including distribution of VOCA funds to states for existing victim programs.

Changes at the federal level led to legislative changes at state levels: Victims' Bills of Rights, proposals for training and education, and expansion of existing victim-witness programs.

In addition, during this stage, theoretical concepts were put to more practical use in both the criminal justice and mental health systems.

- The concept of "second victimization"--that often the victim was harmed as much by the system's response as by the crime itself--became generally recognized.

Political efforts during this time were much more organized and presented a clear and cohesive agenda. Successful results of this agenda include the following:

- In 1988, VOCA was reauthorized and the Office for Victims of Crime was established. Crime victim compensation was expanded to include victims of both domestic violence and drunk driving.
- As of 1995, all fifty states and the District of Columbia had enacted crime victim compensation programs.
- Violence against women act 1996

For the first time tax dollars were used instead of fines. There was also increased collaboration between jurisdictions.

- As of 1999, thirty-one states had passed constitutional amendments.
• As of 1995, forty-eight states had passed victims' rights legislation in the form of Victims' Bills of Rights for a series of statutory protections that essentially mirror a unified Victims' Bill of Rights statute.

• Congress also passed major legislation that addresses hate crimes, campus security, child protection, violence against women, sexual assault, kidnapping, and gun control; and the U.S. Supreme Court has upheld the use of victim impact statements in capital cases.

STAGE FIVE: EMERGING PROFESSIONALISM AND ADVANCING ADVOCACY (1992-PRESENT)

Professionalism. The most salient issue in recent years is the emerging professionalism in the field of victim services.

As with other grassroots movements, there is fear of "professionalizing" a community-based service system that originated and developed its strength through the dedication of volunteers who extended themselves personally to victims in need.

The historical distrust of other professionals who have no "specialized" training or experience in victim treatment issues has persisted in many areas.

In another module we will discuss what it takes to be a victim advocate. What are the competencies, knowledge, skills, abilities and attitudes necessary to be an effective advocate?

We should all think about what are the implications of professionalizing the victim advocate role? How will the role change from what we have now?
LEGISLATION

PRESENTED BY:
Sandi Matheson
LEGISLATION

OBJECTIVES

Upon completion of this module participant will be able to:

Demonstrate knowledge of the critical legislative and policy accomplishments of the victim’s rights movement over the past thirty years including:

- Landmark federal legislation
- State Legislation (including Specific Maine and New Hampshire Legislation)
- Juvenile system legislation
- Other significant events (e.g. MADD, POMC, etc.)
EVOLUTION OF CRIME VICTIMS’ RIGHTS IN MAINE AND NEW HAMPSHIRE

WHERE HAVE WE COME FROM?…….

When their daughter was raped and murdered, they found out about her death through a phone call. They had to take a loan out to pay for her funeral and they had no money for mental health counseling. The offender was a juvenile and they were not allowed to be given any information on the case until he was certified a year later. They were never notified about what was going on in their case and there was no victim/witness advocate available to support them through the criminal justice process. When the case ended in a plea negotiation, they read about it in the newspaper and they were never given the right to speak at the sentencing of the murderer. The murderer was sentenced to only 20 years but would be eligible for parole in 15 years. He was paroled without the family knowing about it.
Homicide

- Creation of State Office - Homicide Unit – NH 1987, ME 1989
- Victim’s Compensation L - NH 1989, ME 1991
- First Prosecutor Victim Assistance Program – ME 1984, NH 1985
- Abolishment of Parole – ME 1976
- DOC Victim Services Unit Established – ME 1997, NH 1998

When she was raped by her date, she went to the hospital for a sexual assault exam, which included the invasive process of pulled hair standards and routine toxicology testing. She had no medical insurance and was sent a bill for over $1,000 for collecting evidence in her own case. The police questioned her as to why she was out so late at night and what she was wearing. No one believed her, not even her friends. After all, she knew the guy, she went to school with him and everyone knew, he would never do something like that. There was no crisis center to call and no county victim/witness advocate to guide her through the process and tell her it wasn’t her fault.

Sexual Assault

- Crisis Centers (ME Spruce Run in Bangor 1973, NH 1976)
- Spousal Exception – NH 1981, ME 1985
- HIV Victim Notification – ME 1987, NH 1987
- DNA – ME 1996, NH 2002 – all violent offenders
When the sexual abuse began at the age of 4, she was told that no one would believe her, not even her own mother and that if she told anyone she would be punished. Silence was her only answer. There were no programs in the schools to encourage her to come forward. There were no services available to assist her. The abuse continued until she moved out of her home at age 17. When she finally decided to report the years of abuse, she was told there was nothing that could be done about it because the statute of limitations on the crimes had run out.

Child Abuse

- Mandatory Reporting – NH & ME 1979 – Differences?
- Crisis Centers – Programs in the Schools
- DA’s Office Assigns CA Investigations – ME 1988
- Statute of Limitations – NH 1989, ME 1999
- NH AG’s Task Force on CA & N – 1989
- Multidisciplinary Protocols 1993
- Sex Offender Registry – ME 1992, NH 1991
- Child Fatality Review – ME 1993, NH 1996
- Elimination of Depositions of Children – NH 1984, ME
- Endangering Welfare of Child – ME 2001

He first started beating her right after she got pregnant with their first child, and over the years it just kept getting worse. She thought about leaving him many times, but she had no job, three children, no money, no family support and no place to go. And besides, wasn’t she to blame? There were no battered women shelters, no domestic violence laws or protective orders, no one to turn to for help. Even her minister told her she should stay in her marriage. Once, she even called the police but she was told that it was a family affair and that she and her husband should work it out for themselves. There was no thought of arresting her husband despite her black eye and bruised face.
**Domestic Violence**

- Domestic Violence Protection Laws – NH & ME 1979
- NH Commission on Domestic and Sexual Violence 1993
- ME Commission on Domestic & Sexual Abuse 1992
- Stalking NH 1991, ME 1995
- Multidisciplinary DV Protocols/Training NH 1996
- ME DV Statute Revisions 1997, NH DV Statute Revisions 1999

**Drunk Driving**

- 1980s National Awareness – Change of Attitudes
- Drinking Age Increased to age 21
- .08 BAC – NH 1994, ME
- Under age 21 = .02 BAC – NH 1995, ME
- DWI Vehicular Homicide is a Felony – NH and Maine
- Penalties Furnishing Alcohol to Minor Increased – ME 2001
- Sentencing Laws Strengthened.

When a drunk driver killed their child, everyone just called it an “accident”. After all, didn’t everyone drink and drive at some point in their lives? When the driver was convicted, she was sentenced to 3 months in jail – after all, she really didn’t mean to kill someone.
MAINE AND NEW HAMPSHIRE

The First Maine/New Hampshire Victim Assistance Academy is held in Freeport, Maine.

WHAT PROGRESS HAS BEEN MADE?

A Historical Overview of Crime Victims’ Rights Legislation in Maine and New Hampshire

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<thead>
<tr>
<th>NH</th>
<th>MAINE</th>
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<tbody>
<tr>
<td>1977</td>
<td>First statute addressing rights of crime victims. The Legislature declares that the victims of crime are entitled to restitution.</td>
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<td>1979</td>
<td>The New Hampshire Coalition Against Family Violence is formed.</td>
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<td>The first domestic violence protection law is passed.</td>
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<td>The Child Abuse Reporting Law is enacted making it mandatory for all professionals and citizens to report suspected cases of child abuse and neglect.</td>
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<td>1979</td>
<td>Parole is abolished. Victims are no longer re-traumatized by appearing before Parole Board repeatedly.</td>
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<td>1979</td>
<td>Statute for Emergency Services for Victims of family violence is passed.</td>
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<td>Mandatory reporting of suspected child abuse or neglect is passed.</td>
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<td>Protection orders in crimes between family members become effective.</td>
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<td>NH</td>
<td>MAINE</td>
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<tr>
<td><strong>1984</strong></td>
<td>Discovery depositions of children under the age of 16 are eliminated by statute.</td>
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<td><strong>1985</strong></td>
<td>The Coalition becomes the New Hampshire Coalition Against Domestic and Sexual Violence adding sexual assault to their mission.</td>
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<td>RSA 173-C passes giving a privileged communication to crisis center staff and volunteers.</td>
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<td>The state’s first prosecutor based Victim/Witness Assistance Program is created in Hillsborough County.</td>
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<td><strong>1987</strong></td>
<td>The State Office of Victim/Witness Assistance within the Attorney General’s Office is created legislatively to provide 24-hour services and support in all homicide cases and to standardize services for victim statement.</td>
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<td><strong>1988</strong></td>
<td>The Governor declares the first New Hampshire Crime Victim Rights Week Commemoration.</td>
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<td>The first meeting of Parents of Murdered Children and Other Survivors of Homicide is held in conjunction with Crime Victim Rights Week.</td>
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<td>The State is made responsible for paying for the cost of the sexual assault medical forensic examination and victims are no longer being re-victimized by being sent bills of $1,000 or more.</td>
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<tr>
<td><strong>1987</strong></td>
<td>Each county is encouraged to establish a victim/witness program.</td>
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<td>District attorney has primary responsibility of assigning child abuse cases to law enforcement.</td>
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<td>Mandatory HIV testing after conviction for sexual assault is passed.</td>
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<td>Protection from Harassment statute is passed.</td>
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<td>Maine Chapter of MADD is established in Portland.</td>
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<tr>
<td><strong>1988</strong></td>
<td>Child abuse investigators are assigned to the County District Attorney’s Office.</td>
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<td><strong>2006</strong></td>
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1989

The Victim Assistant Fund is created to raise up a 2% assessment on all fines and penalties.

The creation of the Victim’s Assistance commission sets up a compensation program that ensures that victims no longer have to suffer financially, as well as emotionally and physically. Victims no longer have to pay for legal representation or travel to court in order to ensure that they are treated fairly. The statutory council of a victim’s advocate is established and it is mandated that a victim’s advocate be hired for every county in the state.

The first New Hampshire Sexual Assault Medical Forensic Protocol and evidence collection kit is introduced and is mandated by statute to be used in every hospital in the state. Over 1,000 professionals statewide are trained on the protocol at six regional trainings.

The statute of limitations in child abuse cases is changed from 6 years after the last criminal act to 22 years past the age of majority, or to the age of forty, enabling victims to seek justice years after the crimes occurred.

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The Governor Commission on Domestic Violence is created.

The sexual assault statute is rewritten to include eliminating bail post conviction and increasing penalties for sexual assaults including “3 strikes you are out” or life without parole for a third sexual assault conviction.

The legislature creates the crime of stalking, giving law enforcement a tool to intervene in cases before something violent occurs.

1991

The New Hampshire Crime Victims Bill of Rights is passed, outlining 21 rights that victims of crime are entitled to, including full orientation and participation in the criminal justice process.

The Governor Commission on Domestic Violence is created.

Victim/Witness Assistance Programs are not in all of the state’s County Attorney’s offices, including the rural northern counties where services had been almost nonexistent.

The Sexual Offender Registry goes into effect.

The HIV Notification law allows victims to be notified of the HIV status of their offender post conviction.

The New Hampshire Crime Victims Bill of Rights is passed, outlining 21 rights that victims of crime are entitled to, including full orientation and participation in the criminal justice process.

Child Death Review Panel is formed for the review of deaths and serious injuries to children.

The Sexual Offender Registry goes into effect.

The Victim’s Compensation Program starts accepting claims.

1991

The first Victim/Witness Advocate is hired by the Office of the Attorney General.

The Victims’ Compensation Board is established.

First Sex Offender Registration Act for Gross Sexual Assault Victims under the age of 16 is enacted.

The Attorney General's Task Force on Child Abuse and Neglect is formed.

The Victims’ Compensation Program starts accepting claims.

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<thead>
<tr>
<th>Year</th>
<th>NH</th>
<th>MAINE</th>
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<tbody>
<tr>
<td>1994</td>
<td>The right of an offender to apply for a sentence suspension is changed from every 4 years to having to serve 2/3 of the sentence and then only every 3 years after that.</td>
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<td>1995</td>
<td>The first Sexual Assault Nurse Examiner (SANE) Program is set up at Valley Regional Hospital in Claremont, New Hampshire.</td>
<td>The SANE Advisory Board is formed out of the Attorney General's Office and the first State SANE Coordinator is hired. Nurses are certified in currency of practice by the Attorney General's Office. Victims are given access to information on violent crimes committed by a juvenile offender and the right to participate in juvenile proceedings.</td>
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<td>1996</td>
<td>Multidisciplinary protocols, standardizing the treatment of domestic violence by the legal system, medical personnel, mental health professionals, educators and others are released and over 1,500 professionals are trained on the use of the protocols. The New Hampshire Child Fatality Review committee actively begins to review cases. The New Hampshire Domestic Violence Fatality Review Committee is formed under the auspices of the Governor's Commission.</td>
<td>Blood sample required for DNA analysis upon conviction. An Act to Require Prisoners to Pay Their Fair Share of Victim Restitution.</td>
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1997
The Governor’s Commission on Domestic Violence is expanded to include Sexual Violence and becomes the Governor’s Commission on Domestic and Sexual Violence.

1997
Department of Corrections hires first victim services coordinator.

1997
Crime victims’ profits from crime enacted.

1997
Juvenile hearings are open to the public when the offense is Murder, Class A, B, and C offenses.

1997
Homicide review panel convenes.

1997
Community reparations boards’ statute enacted.

1997
An Act to Amend the Laws Pertaining to Domestic Violence,

1998
The New Hampshire Department of Corrections creates a Victim Services Unit, recognizing that the trauma to the victim does not end with the sentencing of the offender.

1998
The Computer Pornography and Child Exploitation Prevention Act is passed.

1998
Emergency telephonic domestic violence protective orders are made available through the courts.

1998
The New Hampshire Civil Rights Act is passed.

1998
The State Domestic Violence in the Workplace Policy is introduced to all state security personnel are trained.

1998
The Domestic Violence Statute is revised to include gun restrictions and mandatory arrests.

1999
Vicims are notified of defendant’s release upon request.

1999
Privilege communication are given to government victim/witness advocates.

1999
Work release restitution paid by prisoners to their victims.

1999
Statute of limitations on sex offence is amended.

1999
Sex Offender Registration and Notification Act is passed.

1999
Employment Leave Act for Victims of Violence is enacted.

2001
A new crime of Aggravated Attempted Murder enacted.

2001
Destruction of certain confiscated/forfeited handguns is passed.

2001
Collection of DNA samples from convicted offenders is expanded.

2001
Victims are given more access to prisoners’ records.

2001
The endangering the welfare of a child act is enacted.

2001
An act to protect children and incapacitated/dependent adults is enacted.

2001
Post Judgment conviction for Motion for DNA Victim Notification.

2001
Blood sample required for DNA analysis upon conviction.
The Department of Corrections establishes the Office of Victim Services.
The SANE Advisory Board is established.
Internet pornography statute is passed.
An act to prohibit cyber stalking is passed.
Penalties are increased for furnishing liquor to a minor if injury or death results.

NH 2002
Blood samples for DNA analysis are required from all violent offenders upon intake or release from detention.

2003
Over 100 SANE nurses have been trained statewide are not available in many hospitals to provide consistent comprehensive medical care that respects the emotional and physical needs of the sexually assaulted patient, while collecting the best possible evidence.

MAINE 2002
The first SANE nurse is hired by the Attorney General and the first meeting is held.

2003
The Maine Elder Death Review Panel is established.

NH AND MAINE
The first pilot of the Maine/New Hampshire Victim Assistance Academy convenes at the Stone House in Freeport, Maine.
In December of 1982, Ronald Reagan appointed a Task Force on Victims of Crime. Chaired by Lois Haight Herrington, this Task Force published sixty-eight recommendations to improve the treatment of crime victims. The recommendations were directed at all segments of public and private sector, including the criminal justice system. The Report included a recommendation for a constitutional amendment for crime victims' rights.

- Later that year, Congress passed the first law addressing victim-witness issues: the Federal Victim and Witness Protection Act. This Act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crimes.

Changes at the federal level led to legislative changes at state levels: Victims' Bills of Rights, proposals for training and education, and expansion of existing victim-witness programs. The single greatest event in the victims' movement to date occurred in 1984: the passage of the Victims of Crime Act (VOCA).

- This Act established the Crime Victims Fund to provide funds for local victim assistance programs and state victim compensation and discretionary funding for research and promotion of promising practices in behalf of victims' needs. The fund was made up of money from federal criminal fines, penalties, and bond forfeitures.

- The Office for Victims of Crime (OVC), created in the Department of Justice in 1983 to implement the sixty-eight recommendations of the President's Task Force, was designated as responsible for administering VOCA, including distribution of VOCA funds to states for existing victim programs.

With increased public awareness and high level political support for victims' issues, numerous programs were started and laws passed during this period.

- In 1988, VOCA was reauthorized and the Office for Victims of Crime was established. Crime victim compensation was expanded to include victims of both domestic violence and drunk driving.

- As of 1995, all fifty states and the District of Columbia had enacted crime victim compensation programs.

- As of 1999, thirty-one states had passed constitutional amendments.

- As of 1995, forty-eight states had passed victims' rights legislation in the form of Victims' Bills of Rights for a series of statutory protections that essentially mirror a unified Victims' Bill of Rights statute.

- Congress also passed major legislation that addresses hate crimes, campus security, child protection, violence against women, sexual assault, kidnapping, and gun control; and the U.S. Supreme Court has upheld the use of victim impact statements in capital cases.
This legislative agenda continues to grow and expand. The recent serious congressional consideration of a constitutional victim rights' amendment exemplifies this. Activities and issues in this stage continued into the next stage.

**Landmark Federal Legislation**

- In 1996, the Congress passed "Megan's Law"--the Community Notification Act--as an amendment to the national Child Sexual Abuse Registry legislation. This new law provides for notification of local communities on the location of convicted sex offenders. President Clinton stated in his 1997 National Crime Victims' Rights Week Proclamation that: "With community notification, we are working to prevent cases like that of the Act's namesake, Megan Kanka, a seven-year-old who died at the hands of a repeat sex offender released into an unsuspecting community."

- In 1996, the Antiterrorism and Effective Death Penalty Act provided one million dollars in funding to strengthen antiterrorism efforts. In addition, restitution was made mandatory in federal violent crime cases, including domestic violence, sexual exploitation, and telemarketing fraud. In addition, compensation and victim assistance services for victims of terrorism both at home and abroad, including victims in the military, were expanded.

- The Mandatory Victims' Restitution Act, enacted as Title II of the Antiterrorism and Effective Death Penalty Act of 1996, allows federal courts to award "public harm" restitution directly to state VOCA victim assistance programs. As a result of the new sentencing guidelines, judges can require federal offenders in certain drug offense cases to pay "community restitution."

- As a result of the passage of the Antiterrorism Act and Effective Death Penalty Act, the Office for Victims of Crime was able to use its new authority under the Act to provide substantial financial assistance to the victims and survivors of the Oklahoma City bombing.

- The Church Arson Prevention Act was signed into law in July 1996 in response to increasing numbers of acts of arson against religious institutions around the country.

- In 1996, the Drug-induced Rape Prevention Act was enacted to address the emerging issue of the use of sedating drugs by rapists to incapacitate their victims.

- The Interstate Anti-Stalking Punishment and Prevention Act of 1996 was enacted by Congress in September. The law was incorporated as an amendment to the Defense Authorization bill, H.R. 3610. The Anti-Stalking Law created a uniform federal law to protect stalking victims when they travel across a state line and on federal property, including military bases and Indian reservations. The Act makes it a felony to cross a state line to stalk someone in violation of a restraining order.
• The Victims' Rights Clarification Act of 1997 was enacted to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime. The Act passed through Congress at an historic speed as the result of a ruling by the U.S. District Judge presiding over the Oklahoma City bombing case. The ruling would have excluded victims and survivors from observing the trial proceedings in Denver or on closed circuit television in Oklahoma City if they were planning to give victim impact statements during the sentencing phase. A detailed description of the Act is provided at the end of this chapter.

• The Higher Education Amendments of 1998 is passed. Part E of this legislation, "Grants to Combat Violent Crimes Against Women on Campus," is authorized through the year 2003 and appropriates a total of $10 million in grant funding to the Violence Against Women Grants Office for fiscal year 1999. Another primary aim of this legislation is to reduce binge drinking and illegal alcohol consumption on college campuses.

• The Child Protection and Sexual Predator Punishment Act of 1998 was enacted, providing for numerous sentencing enhancements and other initiatives addressing sex crimes against children, including crimes facilitated by the use of interstate facilities and the Internet.

• The Crime Victims with Disabilities Act of 1998 is passed, representing the first effort to systematically gather information on the extent of the problem of victimization of individuals with disabilities. This legislation directs the Attorney General to conduct a study on crimes against individuals with developmental disabilities within eighteen months. In addition, the Bureau of Justice Statistics must include statistics on the nature of crimes against individuals with developmental disabilities and victim characteristics in its annual National Crime Victimization Survey by 2000.

The Identity Theft and Deterrence Act of 1998 is signed into law in October 1998. This landmark federal legislation outlaws identity theft and directs the U.S. Sentencing Commission to consider various factors in determining penalties including the number of victims and the value of to any individual victim. The Act further authorizes the Federal Trade Commission to log and acknowledge reports of identity theft, provide information to victims and refer complaints to appropriate consumer reporting and law enforcement agencies.
OVERVIEW OF
ADVOCATES

PRESENTED BY:
MARTY McINTYRE
ADVOCATES AND THEIR ROLES

Objectives:

Upon completion of this module the participant will be able to:

- Describe the various state and local victim agencies and how they relate to each other.
- Describe the roles and duties of advocates.
- Discuss the major challenges to effective collaboration and strategies that would enhance collaboration.
Advocates and Their Roles
- Learning objectives:
- Describe the various state and local victim agencies and how they relate to each other
- Identify the roles, duties and responsibilities of advocates
- Discuss the characteristics of working relationships and the major challenges to collaboration
- Identify strategies to enhance collaboration

Types of Advocates
- Grass roots advocates—community based
- Law enforcement advocates
- Prosecution based advocates
- Federal system advocates
- Corrections based advocates

Other Partners
- Members of the clergy
- Mental health and public health professionals and agencies
- Public policy makers
- News media
- Researchers and practitioners in the field of substance abuse
Roles of the Advocate

- Advocate for crime victims
- Empower crime victims to advocate for themselves
- Provide support
- Assist with identifying and examining options
- Referral when requested or appropriate
- Prepare for future events

Roles of the Advocate (cont’d)

- Help victims understand their specific rights
- Provide accompaniment if requested
- Collaborate with other advocates when needed
TYPES OF ADVOCATES WORKING WITH CRIME VICTIMS

Grass roots advocates- community based e.g. employees and/or volunteers of nonprofit organizations working with crime victims, most often victims of sexual assault or domestic violence. They may be the first advocates to connect with a victim, and they often stay connected over a period of time (including the victim's involvement in the legal system). Therefore, they may have the broadest range of advocate roles and responsibilities.

Law enforcement based advocates- Employees of law enforcement agencies e.g. Portland Police Department’s Advocate whose primary responsibilities are to assist a victim through the law enforcement investigation process.

Prosecution based victim witness advocates- Employees of the District Attorney’s Office (ME), County Attorney’s office (NH), Attorney General's office. Their primary focus is supporting the victim through the court case (prosecution).

Federal system advocates- federal employees who work with victims of federal crimes (e.g. kidnapping, drug trafficking across state lines, Internet crimes) through the investigation and prosecution. There are many different types of Federal advocates--prosecution based, system based (FBI, Homeland Security, Postal) and advocates within other Federal law enforcement agencies.

Advocates who are based within the corrections system. Their primary responsibility is to give voice to victims within the corrections system and to provide relevant services to victims whose offenders are incarcerated in the prisons.
THE ROLE OF THE ADVOCATE

The overall goal of advocacy is to help victims move through and beyond their victimization experience. Not all of these roles apply to every kind of advocate. The specific goals may be dictated by the type of advocate and their role within the system.

**Advocate for crime victims**: Treat the victim with respect and dignity. Help them and help the system respond more effectively.

**Empower crime victims to advocate for themselves**: Help the victim recognize the power they own. Give them the tools and information they need to meet their needs. Successful advocacy encourages and promotes independence and victims acting on their own behalf.

**Provide support**: Support can take many forms. It may be as concrete as accompanying the victim to a difficult task/situation, or it might involve teaching, emotional support and validation.

**Assist with identifying and examining options**: Many victims have difficulty broadening their thinking. The Advocate's role is to help them identify possible choices/options to meet their needs. We are not telling them what to do or providing all the answers. However, we do have a responsibility to point out concerns about potentially unsafe choices. One method of identifying options is to “brainstorm” and ask questions.

**Referral when requested or appropriate**: Referrals are generally done either when the victim requests one or when the advocate feels unable to sufficiently meet the victim’s needs. The advocate should remain sensitive to the victim’s experiences with being referred. It is important the victim not feel “dumped” or like a ping pong ball going from place to place without resolution or assistance.

**Prepare for future events** (medical exam, law enforcement interview, court proceeding, etc.) This is the primary role of the law enforcement and Prosecution based advocates. It provides the victim with the information they need to understand what happened, what’s happening now, what will happen in the future, who will be involved, what they do and, for some circumstances, ascertaining that the process is something the victim is agreeing to participate in. For prosecution based advocates, there may be an additional obligation to prepare and support witnesses to the crime. Also, Advocates should be prepared to help victims understand what their specific rights are in a given situation.

**Provide accompaniment** to hospital, police station, court or other sites per organizational policy: This is a form of support for the victim provided upon the victim’s request.

**Work with other advocates** to provide a comprehensive level of assistance to the victim. Let each advocate work within their area of expertise, and coordinate services in the best interest of the victim.
COLLABORATION

Multiple responsibilities are associated with assisting victims:

- Responding to crisis calls from victims through twenty-four-hour hotlines.
- Accompanying or following law enforcement officials who respond to violent incidents.
- Providing safety and shelter to victims of crime and their children.
- Providing follow-on services to increase the number of victims who file charges or seek protection through the civil or criminal courts.
- Advising victims about their legal rights throughout the criminal justice system.
- Advising victims about information and resources relevant to protection and security, divorce, custody, and visitation.
- Helping victims develop "safety plans."
- Providing information and assistance to victims who leave violent environments, including temporary and long-term housing, employment training (or re-training) and placement, and child care.
- Providing assistance in financial matters, including child support, restitution, victim compensation, and financial planning.
- Upon request, acting as liaison between the victim and the criminal justice system.
- Providing peer counseling.
- Providing support groups.
- Providing information and referrals to community resource agencies, including public assistance, child protective agencies, public and mental health agencies, social services, and schools.
- Providing training to law enforcement, criminal justice, social service, mental health, and other allied professionals about the dynamics of domestic violence and the specific rights and needs of domestic violence victims.
- Working to establish or strengthen a coordinated community response to crime and its victims.
- Generating greatly needed public awareness about crime and its effects on victims, witnesses, communities, and society in general.
- Working to affect changes in laws, agency policies, protocols, and programs that enhance rights and services for victims of crime.
• Empathize with the victim and validate her feelings, stressing the criminal nature of the violence, and the fact that the victim is not to blame.

• Universalize the crime of domestic violence, pointing out the scope and prevalence of such crimes that cut across socioeconomic, racial, cultural, and geographic lines.

• Provide information and referrals for continued support and assistance, including local, state, and national resources.

• Develop a plan for follow-up contact, support, and assistance from you, your agency, or allied community service or criminal justice agencies.

• Affirm the fact that the victim is not alone and that there are people and programs available to assist and support her.

What does collaboration—or lack of collaboration—mean to the people you are serving?
TRAUMA

PRESENTED BY:
CELIA GRAND
I: OBJECTIVES:

Upon completion of this module the participant will be able to:

- Identify short-term and long-term victim responses to trauma, including PTSD and physiological effects.
- Describe the short-term and long-term emotional consequences of children who witness or experience victimization.
- Recognize survivors’ (potential) need for additional assistance and identify options for services.
Trauma

Presented by:
Celia Grand, LCSW, BCD

TRAUMA

1. OBJECTIVES
   - Identify short term and long term responses to trauma including PTSD and psychological effects.
   - Recognize survivor’s need for additional assistance and identify options for services.
   - Identify signs of vicarious trauma and learn self care techniques.

What is Trauma?

"events that are out of the ordinary and are directly perceived as threats to survival and self preservation."
(Janoff-Bulman)

During traumatic events, people believe they or someone close to them are going to die.

Trauma effects all aspects of the person:
   Body, mind, and spirit.
Physiology of Trauma

- When we experience a trauma, our entire body/mind responds. The entire body mobilizes through orienting and active defense mechanisms to deal with the threat.
- Physiological changes take place in the body: heart racing, retraction in the vision, sweaty palms, digestion slows, glucose stored in muscles is released to the arms and legs, the central nervous system changes causing hyper-alertness, preparing for flight or flight responses.

Physiology of Trauma

- During a traumatic event, the brain initiates a series of neurobiological, neuroendocrine and neuropsychological responses. And, animal defense responses get triggered.

FIGHT-FLIGHT–FREEZE–SUBMIT-ATTACH

Adaptive Responses to Trauma

- Structural Dissociation
  - Apparently Normal Part of Self
    - Left hemispheric activation at time of trauma, “life must go on”
  - Emotional Part of Self
    - Right hemispheric activation, part of self that holds the trauma

Neijenhuis, Van Der Hart, Steele
Adaptive Responses to Trauma

- Dissociation
  - Highly adaptive
  - Time distortion
  - Person feels they are observing what is happening
  - Children go into fantasy (active imagination)
  - "dissociation is the mental mechanism by which one withdraws attention form the outside world and focuses on inner world. (Perry)

Adaptive Responses to Trauma

- Two common responses
  - Hyperarousal Continuum (sympathetic activation)
    - Sweaty palms, heart palpitations, panic, anxiety
  - Hypoarousal (dissociation) Continuum (parasympathetic activation)
    - Shut down, nausea, feeling dead, fatigue, depression

Study by Bessel Van Der Kolk (car accident)

Different people respond to trauma in different ways. Depending on previous trauma experience determines post trauma symptoms.

Adaptive Responses to Trauma

- Previous trauma increases risks to dissociation, psychic numbing, revictimization.
- Left brain shuts down, right brain gets activated. Right part of the brain that hold trauma.
Psychological Effects of Trauma

- Acute post-trauma response:
  - Body/mind moves thru dissociative / arousal cycles
  - Discharging the physiological effects (Levine, "Waking the Tiger")
  - Body Loop, (Damasio, "The Feeling of What Happens")

  If victim can move back thru continuum (terror, thru fear, alarm, and possibly calm):

  be/she may be able to return to pre-trauma functioning

  greater ability to attend to internal states such as pain, fear that had been unnoticed during the event

Psychological Effects of Trauma

- Skills to help someone process acute stress:
  - Let them talk about the event
  - Reassure the event is over
  - Let the body discharge (shake, tremble) and reinforce this is a normal physiological effect
  - Tell victim signs and symptoms of trauma event activation to normalize experience
  - Psycho-ed about what happens to the brain and body during trauma event
  - Provide comfort if can be tolerated, (blanket, get loved ones to be with victim)
  - Help with legal aspects of case
  - Help stabilize after event by making concrete action plan to return to daily functioning

Psychological Effects of Trauma

- Study with Columbine and Waco kids (Perry, xxx)
  - Following events kids were provided with following options
    1. Counseling
    2. Psycho-ed about signs and symptoms of post trauma experiences and told an adult will talk to them anytime they have questions
    3. No intervention

  Which group has the least incident of PTSD? Which group had the highest incident of PTSD?
Psychological Effects of Trauma

- The psycho-ed group had the least incidents of PTSD
- The no intervention group had highest incidents of PTSD
- The counseling group had 50% of PTSD, treatment may not be the best answer.

Cognitive and Behavioral Effects of Trauma

- Acute Trauma Response
  - Deer in the head light
  - Sleep disturbances/nightmares
  - Intrusive thoughts
  - Emotional dysregulation
  - The body needing to discharge energy
  - Startle responses
  - Feeling out of control
  - Fearful

- Post Trauma Responses
  - Continued responses with repeated efforts to get on with daily life
  - or feeling relief with symptoms reoccurring after time
  - Impairment in social, occupational, relational realms of daily life

It takes 2-3 months for memory to consolidate therefore until that time someone is an acute stress response (Shapiro, 2001)
Cognitive and Behavioral Effects of Trauma

- Post Trauma Responses
  - PTSD is more likely with victims who have had other traumas
  - Rates of PTSD higher with victims of violent crimes, resulting in physical injury
  - Victims of crime do not recover from PTSD without treatment
  - Many victims of crime experience extremely high levels of anxiety and hyperarousal
  - Crime victims experience cognitive symptoms of anxiety including feelings of terror, helplessness, guilt, out of control (Veronen, Kilpatrick, Resick, 1979; Kilpatrick, Resick, Freedy, 1994)

Post Trauma Needs of Children

- To develop trust that may have been broken
- Opportunities to talk about trauma events when they want, to trustworthy, safe, consistent adults
- Never touch without permission
- Clear and consistent expectations of behavior and styles of discipline
- Support when signs of trauma re-enactment (in play, art), avoidance (withdrawal, daydreaming), and physiological hyper-reactivity (anxiety, sleep problems, impulsivity)
- Protection from other events that may be re-traumatizing
- Choices and need to control

Trauma and Recovery

- Judith Herman Model
  - Safety
  - Remembrance and Mourning
  - Reconnection

  Phase Oriented Treatment (Standard of Care)
  - Stabilization
  - Working Through the Trauma
  - Reintegration
Establishing Safety

- This is the area where victim assistance workers will assist most. Safety refers to safe environment, emotional safety, safety in body.
- First Task: Establish Trust
  - Believe the victim
  - Validate the emotional impact of experience
  - Tell the truth
  - Listen
  - Ask what helps make them feel safe
  - Empower victims to make decisions that are right for them

Co morbidity

- Other diagnosis co morbid with trauma
  - Looks like other disorders but how can you tell the difference?
  - Misdiagnosis: BPD, Depression
  - Co-morbidity with addictions: substance abuse, eating disorders, gambling, sex and love addictions.
VICARIOUS TRAUMA

PRESENTED BY:
CElia GRAND
VICARIOUS TRAUMA

I. OBJECTIVES:

Upon completion of this module the participant will be able to:

- Identify sources and impact of stress in working with crime.
- Recognize signs of stress and identify effective prevention and coping skills.
Vicarious Trauma

Presented by:
Celia Grand, LCSW, BCD

“Those who voluntarily engage empathically with survivors to help them resolve the aftermath of psychological trauma open themselves to a deep personal transformation. This transformation includes personal growth, a deeper connection with both individuals and the human experience, and a greater awareness of all aspects of life. The darker side of the transformation includes changes in the self that parallel those experiences by survivors themselves.”

Laurie Ann Pearlman

Vicarious Trauma

Terminology
Secondary Trauma
Compassion Fatigue
Burnout
Pearlman and Mac Ian (1995) reported that therapists who work with trauma victims and who have a personal trauma history show more negative effects from their work than those therapists without a personal trauma history.

McCann and Pearlman (1990) suggested that vicarious traumatization among professionals working with victims result from the inability of the therapists to process the traumatic clinical material in which they hear.

Brady, Guy, Poelstra, and Brokaw (1999) reported that vicarious traumatization has symptoms which are similar to Post Traumatic Stress Disorder (PTSD) and may disrupt the cognitive schemas reported by the therapist.

Louise Maxfield, EMDR researcher in a personal dialog talked about how direct care workers in attempting to achieve empathy by creating a cognitive schema from our personal history which in turn may triggers our own issues.

**Symptoms of Vicarious Trauma**
- Intrusive imagery of disclosure
- Avoidant responses
- Physiological arousal
- Sleep disturbance
- Appetite disturbance – over or under eating
- Fatigue
- Change in sex life, intimacy, trust issues or personal safety
- Loss of interests
Vicarious Trauma

Symptoms of Vicarious Trauma
- addictive behaviors
- emotional distress
- questioning sense of self or worldview
- impaired functioning
- feeling powerless or not in control
- taking work home or home to work
- frustration and anger that does not get channeled or is projected onto others
- hopelessness about the system
- Personal history gets triggered – flashbacks, difficulty tolerating triggers

Two strategies to prevent the onset of compassion fatigue and also to reduce the resignation of the volunteers:
- educating volunteers
- debriefing volunteers
  - debriefing was found to help many of the volunteers cope and deal with processing the traumatic events which they heard.
  - Kinzel and Nanson (2000)

For those who are volunteering their time it is important to take care of one’s self and to reduce stress.

Mitchell and Everly (1998) indicate that stress management is "a personal process" (p. 23). They note that there is no one "right" answer to stress management but that the most important element is consistency and that it should become part of one’s lifestyle, not just some techniques which are utilized by a person when they feel stressed.

Different methods of management techniques can be proper sleep and nutrition, progressive muscle relaxation, imagery, meditation, and physical exercise.
Vicarious Trauma

"How can we help someone else, if we first can’t help ourselves?"

- The only way for a mental health professional to help others is that they must first be as psychologically healthy as possible.
- We all have limits of what we can do.
- There is nothing wrong with taking time off to be alone, or spend time with family and/or friends, and to not volunteer.

Follette, Polusny, and Millbeck (1994) report that peer support networks, employee assistance programs, and personal therapy represent some possible methods for reducing the negative impact of work related stressors.

SELF TEST

Consider each of the following characteristics about you and your current situation. Write in the number for the best response. Use one of the following answers.

1= Rarely/Never
2= At Times
3= Not Sure
4= Often
5= Very Often

1. I force myself to avoid certain thoughts or feelings that remind me of a frightening experience.
2. I find myself avoiding certain activities or situations because they remind me of a frightening experience.
3. I have gaps in my memory about frightening events.
4. I feel estranged from others.
5. I have difficulty falling or staying asleep.
6. I have outbursts of anger or irritability with little provocation.
SELF TEST

7. I startle easily.

8. While working with a victim I thought about violence against the person or persons who victimized.

9. I am a sensitive person.

10. I have had flashbacks connected to my clients and families.

SELF TEST

11. I have had first-hand experience with traumatic events in my adult life.

12. I have had first-hand experience with traumatic events in my childhood.

13. I have thought that I need to "work through" a traumatic experience in my life.

14. I have thought that I need more close friends.

15. I have thought that there is no one to talk with about highly stressful experiences.

SELF TEST

16. I have concluded that I work too hard for my own good.

Items about your clients and their families:

17. I am frightened of things traumatized people and their family have said or done to me.

18. I experience troubling dreams similar to a client of mine and their family.

19. I have experienced intrusive thoughts of sessions with especially difficult clients and their families.

20. I have suddenly and involuntarily recalled a frightening experience while working with a client or their family.
SELF TEST

21. I am preoccupied with more than one client and their family.
22. I am losing sleep over a client and their family's traumatic experiences.
23. I have thought that I might have been "infected" by the traumatic stress of my clients and their families.
24. I remind myself to be less concerned about the well-being of my clients and their families.
25. I have felt trapped by my work as a helper.

SELF TEST

26. I have felt a sense of hopelessness associated with working with clients and their families.
27. I have felt "on edge" about various things and I attribute this to working with certain clients and their families.
28. I have wished that I could avoid working with some clients and their families.
29. I have been in danger working with some clients and their families.
30. I have felt that some of my clients and their families dislike me personally.

SELF TEST

Items about being a helper and your work environment:

31. I have felt weak, tired, rundown as a result of my work as a helper.
32. I have felt depressed as a result of my work as a helper.
33. I am unsuccessful at separating work from personal life.
34. I feel little compassion toward most of my co-workers.
35. I feel I am working more for the money than for personal fulfillment.
SELF TEST

- 36. I find it difficult separating my personal life from my work life.
- 37. I have a sense of worthlessness/disillusionment/resentment associated with my work.
- 38. I have thoughts that I am a "failure" as a helper.
- 39. I have thoughts that I am not succeeding at achieving my life goals.
- 40. I have to deal with bureaucratic, unimportant tasks in my work life.

Make sure you have responded to ALL questions.

Next, circle the following 23 items: 1-8, 10-13, 17-26 and number 29.

Now ADD the numbers you wrote next to the items circled.

Note your risk of Compassion Fatigue:
- 26 or LESS = Extremely LOW risk
- 27 to 30 = LOW risk
- 31 to 35 = Moderate risk
- 36 to 40 = HIGH risk
- 41 or more = Extremely HIGH risk

To determine your risk of Burnout, ADD the numbers you wrote next to the items NOT circled.

Note your risk of Burnout:
- 19 or less = Extremely LOW risk
- 20 to 24 = LOW risk
- 25 to 29 = Moderate risk
- 30 to 42 = High risk
- 43 or more = Extremely high risk

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There is a brokenness Out of which comes the unbroken.
There is a sorrow beyond all grief which leads to joy.
There is a cry deeper than all sound, whose edges cut the heart as we break open to that place inside which is unbreakable and whole.  Rashani
Vicarious Trauma Exercises

Day 1: Pendulation (Grand and Grant, 2002)
1. Think about something distressing. Drop the thoughts into your body. Where in your body do you hold the distress
2. Put your attention to the place in your body that is pleasant, neutral or interesting
3. Now with the light of awareness, shift your attention to the distress place and nod when you get there.
4. Now shift your attention to the neutral place, nod when you get there.
5. What do you notice?
6. Now shift again, starting with the neutral place, nod when you get there, now shift to the distress place, nod, back to the neutral, nod.
7. What do you notice?
8. Now start shifting again, starting with your neutral place, to distress, to neutral until there is no more distress.

Day 2: Light Stream (Adapted from EMDR, Shapiro, 1990)
1. Close your eyes or find a spot on the floor. Imagine at the top of your head there is an opening to the cosmos (pause)
2. Imagine rays of white and golden thread come from the cosmos’s and into the opening at the top of your head (pause)
3. With your in breathe, allow more of the white and golden light to enter into your body, finding the places where you hold tension, negative feelings or negative thoughts (pause)
4. Imagine the threads of white and golden light find all those negative places and begin to surround those places… not trying to change them… just gently holding anything that is tense, negative or the same.
5. Now imagine your in breathe, the threads of white and golden light come to filter thru your body, still holding anything that needs to be held (pause) Allow the light thread thru your body, down your spine and out the palms of your hand… down your legs out the soles of your feet (pause)
6. Imagine the light now enters thru the top of your head and comes out your palms and soles… the light begins to spiral around the outside of your body creating a bubble… this bubble can be close to your body or have vast space … just imagine your body is being held by the light inside and outside your body (pause)
7. Now imagine a word or phrase will come to you that will help you with your healing… just let whatever happens, happen. If nothing comes, just let your mind be empty.
8. Stay with that word or phrase or emptiness for a few moments, then when you are ready return to the room… letting your eyes be the last to open… hear the sounds… feel your body and when you are completely ready, open your eyes.

Day 3: Life Force Energy
1. Feel yourself sitting in the chair. Feel your spine up against the back of the chair and your feet on the floor (pause)
2. Notice your breath, allowing your belly to expand on your inhale and allowing it to relax as you exhale (pause)
3. Now imagine there are roots coming out of the soles of your feet. Imagine them growing into the earth (pause)
4. With every in breathe they grow deeper and deeper into the earth until they feel the earth’s center (pause)
5. Imagine now that with your in breathe you begin to pull up fire energy from the earth’s core (pause)
6. Imagine this energy as a color (pause) feel the quality of the energy… does it pulse, is it steady current… is it a quiet energy (pause) Allow it to fill the roots connecting your feet to the earth’s core (pause) With your in breathe, imagine the earth’s core energy starts to come into the soles of your feet and into your body.
7. Imagine your body becoming energized, strong, pulsing life force energy (pause) Allow your breath to channel this energy to all the places in your body that need life force energy - cells, organs, muscles (pause) Allow the energy to move thru your body at a pace that feels energizing. When you are ready, allow yourself to return to the room, hearing any sounds, feel your body in the chair, letting your eyes be the last to open.
**Vicarious Trauma Exercises**

- **Day 4: Centering Technique** (Pat Ogden, Sensorimotor Psychotherapy)
  - Place one hand on your heart and place the other hand on your abdomen.
  - Close your eyes or find a spot on the floor
  - Gently attend to your breathing, feeling your hands rise and fall on your body as you breathe
  - Do this exercise until you feel calm

- **Day 5: Butterfly Hug** (EMDR adaptation for children, works great with adults)
  - This is good to do when feeling stressed or if you are preoccupied with thoughts
  - Cross your arms. Right hand on left bicep, left hand on right bicep.
  - Think of something positive, supportive, nurturing – like cuddling with a child or pet; walking on the beach
  - See the image, smell the scents, hear the sounds and let yourself feel the positive emotion and notice where you feel that in your body
  - Now gently tap your hands in a rhythmic pattern.
  - Gently pause, notice what you are feeling and if it is positive, gently tap again. If negative, stop.
  - Gently pause and notice the feeling and tap again
  - Repeat until you feel calm

- **Extra Exercise: Grounding Technique**:
  - Sit comfortably in your chair
  - Notice your breath, allow a gentle flow of your breath
  - Feel your spine against the chair, your feet firmly planted on the ground.
  - Imagine your energy inside being pulled toward the ground
  - Notice your breath going deeper into your belly
  - Feel your spine gently stacking one vertebrae on top of one another, lengthening as if they were a string of pearls
  - Imagine the top of your head being gently pulled up as if it were suspended by a string.
  - Your body lengthened and your energy grounded and your breath flowing.
  - Allow yourself to stay here as long as you like.
Vicarious Trauma Exercises

- Extra Exercise: Inner Support
  - Stand up. Shake out any tension, start walking around the room. (pause)
  - As you are walking imagine yourself right now, notice your body sensations, any feelings or images, words or thoughts. (pause)
  - As you are walking, think about the victim’s story and what is staying with you. Let yourself walk to the pace that feels right (pause) maybe your pace picks up or slows down, maybe you notice your feet slowly planting themselves on the ground or that they move like walking on coals. (pause) Notice how your legs, hips, torso and arms move to this pace. (pause)
  - Now imagine that as you walk you begin to notice your mind letting go of the story. As your mind lets go of the story, allow it to wander into emptiness. (pause)
  - Now allow your body to slow down, come to stillness (pause) notice your breath, stay with your breath (pause)
  - Imagine you hear a voice telling you what you need to hear (pause), maybe it is about your character, your strengths, the positive ways you handle situations, about who you are as a person. (pause)
  - Notice how those words feel in your body. Allow them in and savor the feeling.

Other supportive things to do for yourself:

- If you are struggling with an issue, try this for 5-10 days. Keep your time to 5-10 minutes, try to do this approximately the same time each day.
  - Keep a journal, instead of writing, draw. In this exercise, take paper, pastels or whatever tool you’d like and DON’T THINK! Let your mind be drawn to a color. How does the color want to go on the paper? Now what color wants to come next and how does it want to go on the paper.
  - Do this for 5 – 10 minutes, at the end of the time, don’t analyze the drawing.
  - The next day do the same thing.
  - After you have 5 or more paintings, then look at them and see what story emerges.
  - This is a great self support way of letting your unconscious speak to you.

Other supportive things to do for yourself:

- Don’t under or over exercise – moderate, restorative exercise is key
- When stressed, eat healthy, eliminate sugar, eat protein/veggies, lots of water
- At all cost, get your sleep
- Meditate daily if possible
- Talk to trusted friends, partner
- Do over do or under do
- Get consultation about your role
- Don’t try to handle things yourself – working in trauma cannot be done alone!
- Be gentle with yourself along the way
Crisis Intervention & Advocacy Response

Presented by:
Marty McIntyre
Objectives:

Upon completion of this module participants will be able to:

- Identify the roles, duties and responsibilities of advocates
- Identify the basic elements and communication skills key to effective advocacy
- Discuss the definition of crisis and how to recognize it.
- Demonstrate techniques to improve interpersonal communication and to effectively respond to victims in crisis.
- Identify strategies for working with victims to determine their needs and implement successful crisis intervention including the components of suicide/lethality assessment.
- Demonstrate techniques to improve interpersonal communication and effective communicate with other victim advocates.
- Discuss the importance of a professional code of ethics.
Crisis Intervention and Advocacy Response

Learning Objectives

- Identify the basic elements and communication skills key to effective advocacy
- Discuss the definition of crisis and how to recognize it
- Demonstrate techniques to improve interpersonal communication and to effectively respond to victims in crisis

Learning Objectives (cont’d)

- Identify strategies for working with victims to determine their needs and implement successful crisis intervention including the components of suicide/lethality assessment.
- Demonstrate techniques to improve interpersonal communication and effectively communicate with other victim advocates
- Discuss the importance of a code of ethics.
But First, a Word About Language

- Victim vs. survivor
- Empower
- "My victims"
- Jargon

Basic Elements of Advocacy

- Clarity
- Crime victim's clear desire for advocacy
- Permission to speak
- Clear understanding of next steps

Responsibilities/Ethics

- Maintain confidentiality
- Assess immediate safety
- Create a safe environment
- Believe and support
- Leave behind personal agendas
- Mandated reporting
- Follow through
- Provide accurate information
- Maintain appropriate boundaries
- Self care/Supervision
Communication Skills

- Active listening
- Attending
- Empathy
- Silence
- Appropriate boundaries

- Collaboration
- Maintain focus on victim
- Brainstorming
- Stay open to possibilities

Role Play Questions

- Did "the advocate" understand the needs of "the victim"?
- Did "the advocate" feel that they responded effectively? Why or why not?
- Did "the victim" feel their needs were understood and met? Why or why not?
- Was there anything "the victim" needed from "the Advocate" that they didn't get?

Definition of Crisis

- May be an event (or series of events)
- May be a state of mind
- Failure of normal coping mechanisms
- Short term and time limited
Crisis Intervention Process

- Identify feelings
- Explore and Clarify
- Summarize
- Focus and Plan

CRISIS INTERVENTION TOOLS

- Grounding techniques
- Containment strategies
- Contracts
- Referral

Factors in Assessing a Suicide Plan

- “Doability”
- Imminence
- Lethality
CRISIS INTERVENTION PROCESS

**Identify feelings:** This a primary focus of effective advocacy. When someone is telling you a lot of things, or reciting their “story”, reach for the feelings underneath the victim’s story. This gives the victim to let you know that you are right on track, or to explain their feelings differently.

**Explore and clarify:** Be certain that you, as the advocate, know what happened and how the victim feels about it. It is actually more important to find out how the victim felt about what happened than to find out the actual details about what happened. It is their perspective and their reaction that is going to frame their response and whether or not they feel in crisis.

Validate feelings with the victim. Explore options and be sure the victim understands what choices are available to them.

**Summarize:** Create a summary of the victim’s story. It makes it more manageable and also allows you to check in and be certain you heard what they need you to hear/know.

**Focus and Plan:** Primarily, once you know the situation and the feelings you can plan how to move forward. Some plans are actions plans with specific activities and timelines. This may be as basic as agreeing to think about what to do next. Other plans are contingency plans to do X if YZ occurs. Victim should have specific actions in mind that they are comfortable doing, are able to do and agree to do.
BASIC ELEMENTS FOR ALL ADVOCACY

- **Clarity** about what is being advocated, to whom and for what purpose: As an advocate you should be clear about your role and the nature of the advocacy you can provide. This will be different with different advocates. It may be helpful to Ask the victim what are his/her goals or needs, and make sure that you are the appropriate advocate to address those. Be certain the victim understands what you can and cannot do. Sometimes the advocate can not affect the result the victim wants. For example, a victim says she/he was verbally abused by a clinic staff member. That staff person was put on three days administrative leave but is scheduled to return to work. The victim wants the advocate to call the clinic and tell them they should fire the person and not let them return to work. The advocate must let the victim know that clinic hiring and firing policies are not something an advocate can dictate.

- Crime Victim’s **clear desire** for you to advocate on their behalf: The advocate should be certain the victim wants their support. Tell the victim “Here is something I can do for you. I can make arrangements for housing. Is that something you would like me to do for you?” Or “What do you want me to do that would help you?”

- [The need to determine permission to speak may depend on the kind of advocate who is working with the victim, based on the confidentiality policy guiding the work of that advocate.] Crime victim’s permission to speak with particular people and victim’s knowledge and support for what you are going to say about them, what you are going to ask for and any similar relevant consent: Release of information and the victim’s permission are important to obtain before discussing the victim/situation with others. Tell the victim you are planning to speak with XYZ. The victim can set guidelines about topics/information you can and can not discuss or set a time frame for those discussions.

- **Clear understanding** about who is going to do what, in what time frame, and with what follow-up: Victim needs to control what’s happening on their behalf.
**RESPONSIBILITIES/ETHICS OF ADVOCATES**

**Maintain confidentiality:** Make certain victim understands your limitations of confidentiality--what can be kept in confidence and what cannot. Advocates are mandated to report certain situations/events (i.e. child abuse, elder abuse). Be clear that if they share certain types of information that you must follow through by reporting it to authorities.

**Assess immediate safety** concerns of crime victim: Is the victim safe both generally and at this moment? Are you as the advocate safe? Longer term, help victims think about ways to enhance their safety and minimize the risks of further or additional victimization.

**Create a safe environment for interactions** with crime victim: Ask victim question like “Is it safe for you to talk? When and where would it be safe?” “If I call you back how should I identify myself?” “Can I leave a message?” Also, create an environment that is free of distractions. If distractions may potentially occur, let the victim know ahead of time that that may happen.

**Believe and support:** This is fundamental to community based advocacy, but may not be an appropriate role for law enforcement or prosecution based advocates. The victim is telling their truth, and our assistance is based on that truth.

**Leave behind personal agendas:** Aside from safety issues and needed medical care, it is not about what the advocate thinks should happen but about what the victim thinks should happen. Successful advocacy helps the victim figure out what will work for them. [Victims who are engaged in the legal system may not have direct choices over what happens but should still have the ability to talk about what they would like to happen.]

**Mandated reporting:** Know what must be reported, how to report it and how to inform the victim that you must report.

**Follow through**--do what you say you are going to do in the time frame you said you would do it.

**Provide accurate information:** Either know the requested information or know where to get it.

**Maintain appropriate boundaries and honor the limitations of your role:** Know your appropriate role and also what is inappropriate for the victim-advocate relationship. Maintain boundaries between personal and professional roles. Also, recognize when someone else can more effectively meet the victim’s needs.

**Self care:** Know when enough is enough and how to ensure your physical and emotional safety. How do you take care of yourself so you can continue to do advocacy work? What do you do if your own issues are triggered while working with a victim? Your obligation is to take care of yourself. You should also think about the physical safety of advocates. Advocates need to know how to manage the risks and also need to know how to leave a situation and when (paying attention to environmental cues, feelings of discomfort, gut feelings, etc.)
REMEMBER…

We are here to listen…
Not to work miracles.

We are here to help women discover what they are feeling…
Not to make feelings go away.

We are here to help a woman identify her options…
Not to decide for her what she should do.

We are here to discuss steps with a woman…
Not to take the steps for her.

We are here to help a woman discover her own strength…
Not to rescue her and leave her still vulnerable.

We are here to help a woman discover she can help herself…
Not to take responsibility for her.

We are here to help a woman learn to choose…
Not to make it unnecessary for her to make difficult choices.

We are here to provide support for change!

-Carol Parsons
Listen

When I ask you to listen to me, and you start giving me advice, you have not done what I asked.
When I ask that you listen to me, and you begin to tell me why I shouldn't feel that way, you are trampling on my feelings.
When I ask you to listen to me, and you feel you have to do something to solve my problems, you have failed me, strange as that might seem.
Listen: all that I ask is that you listen, not talk or do--just hear me.
When you do something for me that I need to do for myself, you contribute to my fear and feelings of inadequacy.
But when you accept as a simple fact that I do feel what I feel, no matter how irrational, then I can quit trying to convince you and get about the business of understanding what's behind my feelings.
So, please listen and just hear me and, if you want to talk, wait a minute for your turn--and I'll listen to you.

-Author Unknown
One person reads the scenario, and then the other person takes a turn at responding by using the following skills:

- Clarifying
- Empathy
- Summarizing
- Brainstorming

**Scenario #1:** "I really don't know where to begin. So much has happened to me. I came home from work like I always do and went into my apartment. Everything was a mess! I couldn't believe my eyes! And I wasn't sure, y'know, what to do or anything. I'm freaking out. I can hardly breathe…..

**Scenario #2:** The other night I went to a party with a couple of my friends. We were drinking a little, but I only had two beers. I started to feel really out of it, and asked my friend Derek if he would take me home. He said he would. I remember getting in his car, but then I don't remember anything else until I woke up this morning. I was in my bed, naked, and Derek was also in my bed, naked. I started screaming, asking Derek what the hell happened here. He said nothing happened, but I'm pretty sure Derek had sex with me…..
ROLE PLAY TOPICS

1. You just had a car accident--you are shaken up but physically unhurt.
2. You just broke up with your boyfriend/girlfriend
3. You have run out of gas on a back road…no houses in sight
4. You just got fired from your job
5. You are drunk in a bar and you call your friend because you are lonely
6. You just learned that a good friend is terminally ill
7. Your cat just died
8. You have discovered a lump….
9. You got up late and your car wouldn’t start and you were late for work and your boss yelled at you…..

Questions for discussion:

Did the advocate feel that they knew what the needs of the victim were?
Did the advocate feel that they responded effectively?
If not, what could they have done to be more helpful?
Did the victim feel that their needs were understood and met?
If yes, what did the Advocate do that made you feel that way?
If not, what could the advocate have done to help you feel that way?
Was there anything you needed from the advocate that you didn’t get?
CRISIS INTERVENTION: EXERCISE 1

Try to identify the feelings that might be underneath each of these scenarios, and then respond in a way that communicates that to the victim.

1. Well, I arrived at the hospital and they asked me a lot of questions and I really didn’t know how to answer them because I just couldn’t think clearly. And then they took me to this room and asked me if I wanted an advocate and I really didn’t even know what an advocate was

2. I opened the door and could tell that someone had been in my room. I didn’t know whether the person might still be there and my heart was beating really fast

3. I heard that my father had suffered a heart attack and I just sort of froze. I found myself sitting in a chair staring off into space and I just couldn’t think. I had lots of questions running through my mind, but there were no answers

4. My mother came over and put her arms around me, and told me she loved me and was sorry that she had not been able to protect me. I just sobbed and sobbed, because I didn’t think I was ever going to hear that from her.

5. No matter what I did, I couldn’t get anyone to answer my questions. And y’know, I really just needed some information so I would know what was going to happen next

6. I couldn’t believe it! My son had never lied to me before that I knew of, and this was a big one. It makes my head hurt to even think about it.

7. This is really my fault. I should never have let her go out and do that errand. She was a young driver and it was threatening to rain, and I just should have done it myself.

8. I can’t tell anyone about what happened. It’s just so…it’s too much. People will not like me if they find out what’s happened.
ROLE PLAYS

Ask the group to divide into groups of three—one who will play the victims, one who will play the advocate, and one who will be the observer. There will be three scenarios, so each person will have the chance to play each of the parts. After the scenario, the person who played the part of the victim should talk about whether they felt their needs were met, and whether the advocate addressed their concerns and helped them feel less in crisis. The person who played the part of the advocate should then talk about how they felt they did, what worked, and what didn’t. The observer will then offer feedback about the process.

Role Play 1

You are a person who has been beaten repeatedly by your spouse. You have no children, and don’t see any way that you can leave the situation. You have no money of your own, no income, and no friends or family around. You don’t feel like you can go on this way anymore. You call for help.

Role play 2

You are a parent whose child was killed by a drunk driver. You are overwhelmed by feelings of despair and grief, and lately have been thinking about killing yourself because you don’t think you can bear a life without your child.

Role Play 3

You are an older person, and you have lost your entire life savings through a phone scam. It seemed like a really great investment opportunity, and you needed to find a way to raise more money for retirement. Now you don’t know what to do...you feel so stupid. You haven’t told your spouse yet, and you just don’t know how to handle this.
CULTURAL SENSITIVITY

PRESENTED BY:
SALLY WULLENWEBER
DIVERSITY AND CULTURAL SENSITIVITY

Objectives:

_Upon completion of this module participants will be able to:_

- Identify personal attitudes and beliefs that influence perspective and/or create personal barriers to providing services to people from diverse populations
- Explain unique experiences of and responses by diverse populations to victimization
- Use appropriate strategies to effectively respond to the unique needs of diverse populations.
- Demonstrate how professionals and agencies can collaborate to successfully intervene in cases involving victims from diverse populations
STEREOTYPES

Stereotypes are statements, behavior and thoughts which:

- Categorize whole groups of people together without regard for the individual.
  "Teenagers are dishonest."
  "All African Americans are good in sports."

- Depict individuals or groups in stereotypical terms.
  "You know how women are."
  "He tried to Jew me down."

- Deny individuality to a person or group because his/her behavior does/doesn't fit your stereotype of group behavior.
  "Old people shouldn't behave like that."
  "Isn't that just like a man?"

- Predetermine how a person will act or be before you know the individual.
  "He looks like a nice person."
  "You can tell that she fools around by the way that she dresses."

- Expect a large group of people to think or act alike. They may expect an individual to be a spokesperson for everyone in the group.
  "Susan, you're blind--what do people with disabilities really need?"
  "How do Hispanic people feel about the police?"

- Consider individuals as "exceptions to the rule" if they do not fit your stereotype.
  "For an old person, he is pretty active."
  "You don't look gay."
  "She's not like most black women."

- Use phrases that evoke stereotypes because they are the opposite or contradictions to an existing stereotype.
  "He's a punctual, hardworking Mexican."
  "We're looking for qualified minority candidates."
Imagine you are getting on a tour bus for a three hour tour. Everyone on the bus has a name tag, but instead of their names, the tag illustrates a characteristic of that person. There are only two seats available on the bus. You must choose a seat based on your comfort level with the person who is sitting in the adjoining seat.

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PROVIDING CULTURALLY SENSITIVE SERVICES

Discuss the continuum of cultural sensitivity.

__________Culture proficiency

__________Culture competence

__________Culture precompetence

__________ Culture blindness

__________ Culture incapacity

__________ Culture destructiveness

*Culture destructiveness* is the conscious denial of another's culture, and/or the belief that one's own belief system is superior to all others.

*Culture incapacity* understands that there are differences among cultures but refuses or does not do anything to change.

*Culture blindness* overlooks differences as though they do not exist.

*Culture pre-competence* begins to realize that there is a world outside of oneself.

*Culture competence* values others and their differences; diversity is recognized, accepted and respected; and discussions are begun about how to achieve an anti-discriminatory society.

*Culture proficiency* occurs when an actual anti-discriminatory society exists.
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<th>VULERNABILITY FACTORS</th>
<th>IMPACT ISSUES</th>
<th>PRACTICAL ISSUES</th>
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| Elderly    | • Assumptions and stereotypes  
               Physically weaker  
               Hearing or vision impaired  
               Confused  
               Often live alone  
               May have predictable routines which allow them to be observed by potential predators  
               Medication use  
               Possibly reliant on others for care  
               Diminished hearing or vision may make it harder for an older person to notice potential danger as quickly | • may have fraility that prevents them from responding or healing in some way  
               fear that they will be told they can no longer live alone  
               difficulty discussing certain issues (i.e. sex or domestic abuse)  
               more susceptible to physical injuries from an assault  
               may have a diminished support system, and may not want to use that system for support  
               fear of hospitals  
               older folks who are having memory lapses may get used to "filling in the blanks". It is important not to try to do this...just give story as best they can  
               being a crime victim may increase their realization of their own loss of power in the world, and/or connect them to their mortality in ways that are scary | • Medication. do they have it/need it  
               eyewear, hearing aids, mobility aids, etc.--do they have, need?  
               Safety in home--will they feel safe in their home following the crime  
               Transportation--can they get to where they need to go and home again. If they have someone who usually drives them, do they want to tell that person what happened to them?  
               Communicate respectfully...ask them what they would like to be called. Talk in normal voice unless informed of hearing impairment. Check out areas of impact |
<table>
<thead>
<tr>
<th>Children</th>
<th>Physical Disability</th>
<th>Other Considerations</th>
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</thead>
<tbody>
<tr>
<td>• Smaller, less physically strong</td>
<td>• Mobility impairment</td>
<td>• Ask kids to explain the terms they use, and then use that language</td>
</tr>
<tr>
<td>• Compliance…do what grown ups tell them</td>
<td>• Vision impairment</td>
<td>• Find out what they are afraid of</td>
</tr>
<tr>
<td>• Belief systems that adults are right</td>
<td>• Hearing impairment</td>
<td>• Don’t use false reassurance</td>
</tr>
<tr>
<td>• Inexperience in the world—may not know what is right</td>
<td>• Dependence on caretakers</td>
<td>• Provide age-appropriate information</td>
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<tr>
<td>• Dependent on adults to meet their basic needs</td>
<td>• Accessibility of needed service</td>
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<tr>
<td>• Easily intimidated and threatened</td>
<td>• Physical exam</td>
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<tr>
<td>• Easily isolated</td>
<td>• Fear of loss of control</td>
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<tr>
<td>• Seen as less credible than adults</td>
<td>• Fear of loss of freedom or independence</td>
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<tr>
<td>• Communication ability/skill</td>
<td>• Not feeling safe in environment previously safe</td>
<td></td>
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<tr>
<td>• Lack of language to describe crime</td>
<td>• Interpreter issues for hearing impaired</td>
<td></td>
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<td></td>
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<td>• Materials in Braille for vision impaired</td>
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<td></td>
<td></td>
<td>• Handicapped accessibility</td>
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<td></td>
<td></td>
<td>• Don’t talk to them as if they are stupid or can’t hear (unless they do have a hearing impairment)</td>
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<td>• Don’t assume they want your help in some way…ask how you can help</td>
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- Smaller, less physically strong
- Compliance…do what grown ups tell them
- Belief systems that adults are right
- Inexperience in the world—may not know what is right
- Dependent on adults to meet their basic needs
- Easily intimidated and threatened
- Easily isolated
- Seen as less credible than adults
- Communication ability/skill
- Lack of language to describe crime

- Mobility impairment
- Vision impairment
- Hearing impairment
- Dependence on caretakers

- Accessibility of needed service
- Physical exam
- Fear of loss of control
- Fear of loss of freedom or independence
- Not feeling safe in environment previously safe

- Interpreter issues for hearing impaired
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- Don’t talk to them as if they are stupid or can’t hear (unless they do have a hearing impairment
- Don’t assume they want your help in some way…ask how you can help
<table>
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<tr>
<th>Developmental Disability</th>
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<tbody>
<tr>
<td>May be apparent (Down's syndrome)</td>
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<tr>
<td>Taught to be compliant</td>
</tr>
<tr>
<td>Trusting</td>
</tr>
<tr>
<td>Lack of experience in the world</td>
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<tr>
<td>Might lack knowledge of issues (i.e. sexuality) or rights (the right to say no)</td>
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<tr>
<td>May not have physical strength</td>
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<tr>
<td>Reliance on caretakers/family</td>
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<tr>
<td>Communication abilities</td>
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<tr>
<th>Mental illness</th>
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<tbody>
<tr>
<td>perceived lack of credibility</td>
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<tr>
<td>Potential medication effects</td>
</tr>
<tr>
<td>Reliance on service providers/caretakers</td>
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<tr>
<th>People of color/Refugee/Immigrant</th>
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<tr>
<td>Cultural norms</td>
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<tr>
<td>Hate crimes</td>
</tr>
<tr>
<td>Community values which impact on their perception of the crime</td>
</tr>
<tr>
<td>Certain clothing which might restrict movement</td>
</tr>
<tr>
<td>Lack of familiarity with geographic area (what's safe and what's not)</td>
</tr>
<tr>
<td>Different language</td>
</tr>
<tr>
<td>May be threatened by perp with deportation if they tell</td>
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<tr>
<td>might be confused about what happened</td>
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<tr>
<td>worry about losing independence</td>
</tr>
<tr>
<td>family reactions may have serious implications for them</td>
</tr>
<tr>
<td>may not have a good support system</td>
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<tr>
<td>might lose control over who knows…family might tell others without their consent</td>
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<tr>
<td>communication issues</td>
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<tbody>
<tr>
<td>particular mental illness may impact on their ability to heal from effects of crime</td>
</tr>
<tr>
<td>credibility affects likelihood of prosecution</td>
</tr>
<tr>
<td>&quot;everybody knows&quot;…choice taken away from them</td>
</tr>
<tr>
<td>cultural beliefs might impart shame, rejection from family, etc.</td>
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<tr>
<td>lack of familiarity with resources</td>
</tr>
<tr>
<td>distrust of systems</td>
</tr>
<tr>
<td>inaccessibility of resources (either practically or culturally)</td>
</tr>
<tr>
<td>cultural beliefs may dictate willingness to report or get help</td>
</tr>
<tr>
<td>translation issues</td>
</tr>
<tr>
<td>potential discovery if they are here illegally</td>
</tr>
<tr>
<td>American justice system vs. cultural</td>
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<tbody>
<tr>
<td>Need to get a feel for the ability to communicate, and adjust your style accordingly</td>
</tr>
<tr>
<td>Many developmentally disabled folks can respond better to more concrete questions</td>
</tr>
<tr>
<td>Use simple words and phrases, and avoid jargon</td>
</tr>
<tr>
<td>Don't assume familiarity with otherwise routine things (i.e., medical exam)</td>
</tr>
<tr>
<td>In sexual assault, don't assume they know what sex is</td>
</tr>
<tr>
<td>Case management</td>
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<tbody>
<tr>
<td>May need re-evaluation of medication</td>
</tr>
<tr>
<td>Find out what other service providers are already in place and who the person thinks would be helpful</td>
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<tbody>
<tr>
<td>Know the culture of the people in your community, especially as it relates to certain crimes</td>
</tr>
<tr>
<td>Arrange for a translator if needed, and make sure it is someone agreeable to the person (small world)</td>
</tr>
<tr>
<td>Ask for help in understanding their cultural realities</td>
</tr>
<tr>
<td>Bring services to them in safe places when possible</td>
</tr>
<tr>
<td>Provide with basic information about systems</td>
</tr>
<tr>
<td>Gay/Lesbian transgender, transsexual</td>
</tr>
<tr>
<td>-------------------------------------</td>
</tr>
<tr>
<td>(particularly true if they are here illegally)</td>
</tr>
<tr>
<td>• More vulnerable to hate crimes</td>
</tr>
<tr>
<td>• Sensitivity to &quot;image&quot; if crime is committed by someone within their community--reluctance to reveal violence within culture</td>
</tr>
<tr>
<td>justice system</td>
</tr>
<tr>
<td>• Fear of being ousted in the process--will they tell medical or law enforcement about their orientation</td>
</tr>
<tr>
<td>• Fear of homophobia or at least of being victimized by lack of understanding</td>
</tr>
<tr>
<td>• May have increased concerns regarding STI/HIV</td>
</tr>
<tr>
<td>• May lack support</td>
</tr>
<tr>
<td>• Inept medical response--Lack of experience by medical providers in treating or collecting forensic evidence.</td>
</tr>
<tr>
<td>• Insensitivity of responders</td>
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ACTIVITY: SCENARIO

1. Present the larger group with a verbal scenario about a burglary.

   A person comes home from a trip to the grocery store and finds the outside door of their house slightly ajar. They enter the house and someone hits them from behind. They fall to the floor, dazed. When they are able to look around, they find their house is a mess…drawers opened and emptied onto the floor, and they can feel right away that some things are missing.

   Ask them to identify how a person might feel and/or react as a victim of a burglary. The facilitator should write responses on a tear sheet.

2. Form small groups. Assign each group a "population". Ask small groups to identify the additional feelings/reactions that the assigned population might experience to being a victim of a burglary. Report out to the group with the major issues that are pertinent to that group.

   Discuss dealing with people who tie the crime to their population
   - This wouldn't have happened to me if I weren’t gay…
   - How could God have let this happen to me?
   - I think I was targeted for this because I am Arabic…. 
   - I thought I was safe living in the country….

   Successful collaboration in cases involving diverse populations.

   Just as participants have identified biases and “comforts” that may affect their interactions with different populations, so they may interact with other professionals who hold biases. As advocates, it will be important to find ways to make sure that the victim is treated with dignity and respect, and that they get the most effective and appropriate treatment.

   Pass out scenarios to each small group and ask them to talk about how they would respond.
Nurse who says they don’t think sexual assault happens to the elderly and they don’t want to do the rape exam.…

Police Officer responding to a domestic violence situation who says that mixed race marriages are always trouble and lead to this kind of violence.

Doctor who says this person is mentally ill and is always saying that one thing or another happened to them, and it is just their mental illness.

Investigator who knows the person who is alleged to have sexually abused a child. The investigator says that kids lie about these things all the time and there is no way that the accused person could have done this to anyone.

Officer who is interacting with the interpreter instead of looking at the deaf victim.
Nurse who is treating a physically disabled person as if they are stupid….talking very slowly and with short, simple sentences.

Another advocate who is referring to the victim as "one of those people."

District Attorney who is doubting that a lesbian sexual assault victim was actually assaulted, saying "What man in his right mind would want to have sex with a lesbian?"

Police officer investigating a hit and run where the victim is developmentally disabled. The officer says to you that the victim had no right to be out and should have been kept in the group home. He further states that it will probably be a relief to everyone if he dies…
CHILD VICTIMIZATION

PRESENTED BY:
KATE STERN
Objectives:

Upon completion of this module the participant will be able to:

- Define/discuss the types of child abuse and neglect (child maltreatment) and most commonly reported:
  - Physical abuse
  - Emotional abuse
  - Sexual abuse
  - Neglect

- Discuss how professionals and agencies can collaborate to intervene in cases involving abuse, neglect and other crimes against children.

- Identify components of a multi-disciplinary approach to administering victim services for child abuse.
FOUR TYPES OF CHILD ABUSE
Frequently, although not necessarily always, types of abuse occurs in combination:

- Physical abuse.
- Emotional abuse.
- Sexual abuse.
- Neglect.

Abuse of children can be characterized neither by race or religion nor by standard of living or level of education. Family members, community leaders, acquaintances, coaches, teachers, and total strangers commit child abuse in every kind of environment, urban, suburban, or rural.

INTERCONNECTION BETWEEN CAN AND OTHER ISSUES

It is difficult to discuss CAN without discussing the high prevalence of other family issues also present in families who are reported, most often:

- Substance Abuse
- Domestic Violence
- Animal Abuse

PHYSICAL ABUSE

Most often classified as a non-accidental injury to a child under the age of eighteen by a parent or caregiver, physical abuse occurs when a parent or caregiver willfully injures, causes injury, or allows a child to be injured, tortured, or maimed out of cruelty or excessive punishment.

Non-accidental injuries may include:

- Beatings
- Shaking
- Burning
- Immersion in scathing water
- Broken bones
- Internal injuries
- Human bites
- Cuts and bruising
- Other injuries inflicted on children.
Rarely a singular incident, the abuse of a child is generally an action repeated over time that can result in permanent disability, scarring, or death.

Some children who only know family interactions through violence or physical abuse may equate it with love from an adult role model. At the same time, an abusing parent will often cast blame for the abuse on the child who, in turn, may feel that he or she deserves it.

Statutes in many states permit the prosecution of a parent who has knowledge of but fails to protect his or her child from physical abuse from others, such as grandparents, boyfriends, and spouses.

## EMOTIONAL ABUSE

Mental health professionals recognize *emotional abuse* and *emotional neglect* as two forms of child emotional maltreatment.

Consists of a chronic pattern of behavior in which the child typically is belittled, denied love to promote specific behavior, marginalized from the siblings, or subjected to extreme and inappropriate punishments.

It is characterized by the failure to provide a child with appropriate support, attention, and affection. Occurring alone and coupled with other forms of abuses, emotional maltreatment can impair the psychological growth and the emotional development of the child. Indicators for emotional abuse unfortunately mimic many medical and psychological conditions and complicate its diagnosis.

## SEXUAL ABUSE

*Child sexual abuse* is the exploitation of a child or adolescent for another person’s sexual and control gratification.

Family members, trusted friends, acquaintances, child-related community program personnel, day care workers, and other paid caregivers as well as strangers are known perpetrators.

Child sexual abuse ranges from acts such as oral and genital stimulation and penetration to voyeurism and the involvement of a child in prostitution or the production of pornography.

Children tend not to disclose abuse when it first happens and may allow it to continue, sometimes for many years before an incident or confrontation provokes them to reveal crimes of sexual abuse.

*Fabrication of sexual abuse.* Fabricated reports of sexual abuse do occur and the highly publicized cases that have resulted in acquittals have raised doubts about the credibility of child reporting. It is estimated that knowingly false reports occur in less than ten percent of reported cases (Besharov 1988). Most children do not fabricate tales of sexual abuse, and the child protective service professional should not allow the possibility of a false allegation or false memory to prevent a thorough investigation of the report.
**Interfamilial sexual abuse.** Sexual abuse is committed most often by individuals known to the child. Whether the abuser is a blood relative who is part of the nuclear family or a surrogate parent such as a live-in companion, stepparent, or older sibling, family members are frequently responsible for child sexual abuse.

The family will likely be dysfunctional in other areas. It may have been de-stabilized by alcohol and substance abuse or severe spousal discord with a history of physical violence.

**Acquaintance perpetrators.** Acquaintance perpetrators such as family friends, neighbors, teachers, coaches, religious leaders, and peers normally will win the confidence of the child through his or her affiliation with the family or community.

They tend to prey on children whom they know are experiencing home, school, or personal problems, children with low self-esteem, and children who are unsupervised. Perpetrators who command positions of respect due to positions in community affairs such as church, civic, and business affiliations are more likely to intimidate or threaten the child once sexual abuse has occurred. There has been a marked increase in the number of juvenile perpetrators committing sexual abuse.

**Stranger sexual abuse.** "Stranger" sexual abuse, frequently referred to as pedophilia (although the term describes any individual who has a sexual preference for children), is by far the most publicized form of child sexual abuse but comprises only 10% of all reported cases.

There is no evidence that perpetrators choose child victims based on race, but there is a correlation to increased victimization of children of lower socioeconomic groups.

Some pedophiles specifically marry women with children so that the risks of sex with children are minimized and protected under the veil of "normalcy;" therefore, cases of incest may include factors of pedophilia (Tower, 1993).

**On-line sexual predators.** A new breed of child abuser is developing as a result of children's increased and often unsupervised recreational use of the Internet.

Investigations of computer sex offenders demonstrate that on-line sexual predators roam chat rooms and post sexually explicit material on the Internet to make contact with young children and teenagers. Victimization may be indirect and limited to showing a child pornographic sites to initiating sexually overt conversations in a chat room, by e-mail or instant messages.

More aggressive predators will spend time developing relationships with vulnerable children. Eventually, they may introduce them to photographs of children engaging in "normal" sex with adults, send them gifts, and contact them by telephone. Typically they will try to gain their trust, alienate them from their family, and eventually try to set up a meeting. Some on-line sex offenders have gone so far as to send plane tickets to children to fly across the country to meet them.

**Child trauma reactions to sexual abuse.** Children who are hiding their sexual abuse inevitably have feelings of shame or guilt; they fear the loss of affection of family and friends; and they experience low self-esteem and frustration about the loss of control over their lives in not being able to stop the abuse.
They also may fear that disclosure will harm other family members, often based upon real threats made by the perpetrator to harm the child's loved ones, or the child himself or herself.

Once a disclosure is made, children may retreat from family members and friends. Depending on how they process their anger, they may become deeply depressed and even consider suicide.

Abused children may become angry with those whom they blame for failing to protect them. Older children may reenact sexual abuse by abusing other children, by becoming sexually precocious, and/or using vulgar language.

CHILD NEGLECT

Neglect is defined as the chronic failure of a parent or caretaker to provide a child under the age of eighteen with basic needs such as food, clothing, shelter, medical care, educational opportunity, protection, and supervision.

The incidence of child neglect in the United States is estimated to be as much as five times greater than that of physical abuse.

Reasons for neglect, in addition to the most obvious of a determined, willful act on the part of a parent or caregiver, can include poverty, lack of education, cultural beliefs and customs, mental or emotional illness, and/or a lack of socialization skills on the part of the parent.

LINK BETWEEN CAN AND ANIMAL ABUSE:

- A child’s violence against animals often represents displaced hostility and aggression stemming from neglect or abuse of the child, or the child’s exposure to family violence.
- Cruelty to animals can be one of the earliest and most dramatic indicators that an individual is developing a pattern of seeking power and control by inflicting suffering on others.
- Many animal abusers are the victims of physical or sexual abuse.
- If allowed to harm animals without accountability and intervention, children are more likely to be violent later in life.
- Cruelty to animals is one of the symptoms usually seen at the earliest stages of conduct disorder, often by age eight.
- Many animal abusers are adolescent or young adult males.
- Many animal abusers have a history of other antisocial or criminal activities, including vandalism, assault and arson.
- The FBI identifies cruelty to animals as one of a cluster of juvenile behaviors associated with increasingly violent behavior.
- Children who are cruel to animals often do poorly in school, have low self-esteem, are considered bullies and have few friends.
MANDATED REPORTING

Most states and the federal government have enacted laws and specified professionals who are mandated to report child abuse and neglect.

These mandated reporters are individuals who, in their professional relationship with the child and family, may encounter child maltreatment.

- To whom the report should be made: Departments of social services, child welfare, family service or agencies of public welfare are usually designated to receive such reports. Some states indicate a report to a law enforcement agency is necessary as well.
- Under what conditions a mandated reporter must report: States normally mandate the reporting of child abuse or neglect when there is a suspicion of, reasonable cause to believe, or reasonable cause to suspect abuse or neglect.
- Time period in which the report must be investigated by social services or another designated agency: States vary in their time requirements to investigate suspected cases, but time periods normally range from two hours to thirty days.
- Type of action to be taken if mandated reporters fail to report: All states, with the exception of one, penalize the not reporting of suspected cases of child abuse or neglect. Such disciplinary actions may include a fine and/or imprisonment or the reporter can be charged with a misdemeanor. These penalties do not include agency or licensing sanctions, which are determined on a state-by-state basis.
- Type of immunity provided mandated reporters who make a report: All states allow for immunity from civil or criminal actions for good faith efforts.

Not all cases of abuse or neglect are detected by those mandated to report them. In fact, the largest numbers of reporting come from private citizens who witness, hear, or suspect abuse or neglect. These interested parties may include other family members, neighbors, parents of childhood friends, and other concerned citizens. However, several factors may curtail the reporting of abuse or neglect by private citizens: Lack of knowledge of whom to call.

- Lack of knowledge of confidentiality laws that protect anonymous reporters.
- A desire to not become involved in the "personal matters" of others.

Accepting an anonymous report of abuse entails risks. The report may be false, and implicit in anonymity is the refusal to serve as a witness if the case is proven to be criminal in nature. Consequently, the lack of full disclosure might put the alleged abused child at greater risk. Although most agencies take such reports seriously and investigate them, many agencies and most states do not have specific mandates or policies regarding the investigation of child abuse/neglect reports through an anonymous tip (Tower 1993, 234).
What is difficult about being a mandated reporter?
What else can you do to support the child after reporting?
Brainstorm a list of “to dos” and “don’t dos”
Each person writes down three sentences they can memorize if ever a child discloses to them.
Practice your sentences with your neighbors, 3 times!
The profound impact of a supportive adult to a child.

Maine Resources, CAN Councils in every county (YA in Cumberland, Advocates for Children in Androscoggin…) can help with training, support, referrals…

Your local DHHS office

REPORTING REQUIREMENTS FOR CHILD ABUSE AND NEGLECT

Physical abuse, neglect, and emotional maltreatment are all defined by law to be acts committed by parents or caregivers.

A stranger or acquaintance is not subject to charges of physical abuse or neglect of a child. Sexual abuse and exploitation, however, can be committed by parents, caregivers, friends, and strangers--anyone who gains access to the child.

Most states and the federal government have enacted laws and specified professionals who are mandated to report child abuse and neglect.

These mandated reporters are individuals who, in their professional relationship with the child and family, may encounter child maltreatment.

Some states are more specific in delineating those mandated to report abuse, but most states do include physicians, other medical professionals, counselors, social workers, and school personnel.

In addition to delineating who must report, most states provide language that addresses the following:

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In working with child victims, either as victims or witnesses, it is important to remember the following:

- Children experience emotional reactions just the same as adults do and can experience posttraumatic stress disorder.
- Children are often more traumatized than adults when a casual acquaintance is victimized.
- Trauma in children can take years to manifest.
- Children's traumatic reactions cannot be prevented but can be minimized when assistance is provided as soon as possible.

Delay should not occur because the caregiver, service provider, or support person feels the child is "too young" to understand.
Practicing Restraint

By Scott Kirkwood

Restraint and seclusion were once considered acceptable, even valuable tools in maintaining control of unruly children in residential group homes. But the call for alternatives is growing louder.

The 11-year-old girl stood outside New York's Andrus Children's Center with a pile of rocks at her feet. She picked up one of those rocks and started carving words into the side of the agency's van--words that can't be printed here. When the staff tried to approach her, she threatened them, grabbed a rock from the pile at her feet, and took aim.

What would you do?

In the past, many supervisors at residential facilities would have found a way to physically restrain the child, bringing an end to the vandalism and the threat to the staff. But for some time now, Andrus staff have sought alternative approaches to restraint, recognizing the danger it poses to residents and staff alike, and the conflicting message it sends in what is ostensibly a therapeutic environment.

So the staff stood by and watched closely to make sure the girl was in no danger until her rage subsided, she put down the last rock, and she simply walked away. In the end, the child was spared any physical trauma, the workers were unharmed, and the agency had a memorable automobile insurance claim.

More Harm than Good

The negative effects of restraint have been well-publicized in recent years, most notably in a 1998 series in the Hartford (Connecticut) Courant implicating restraint in the death of dozens of children each year.

"Facilities that use seclusion and restraint have a much higher rate of injuries and sometimes deaths than institutions that don't use seclusion and restraint," says Kevin Ann Huckshorn, Director of the Office of Technical Assistance for the National Association of State Mental Health Directors in Virginia. "Before the Hartford Courant expose, many people thought, 'We use restraint because we have to--it's a serious intervention that must be done well,' but now we're starting to ask why we're using restraint at all."

If the Courant series revealed the lethal physical component of restraint, new research reveals the mental component is just as important.

"Children who are victims or witnesses to abuse experience significant changes in the way they regulate their emotions over time, creating all kinds of problems as they get older," Huckshorn says. And yet as these children escape violent, abusive surroundings, they are all too often subject to violence in a venue designed to protect them.
"I think we’ve confused what’s therapeutic in terms of intervention," says Janice LeBel, Director of Program Management for the Child and Adolescent Division of Massachusetts's Department of Mental Health (DMH). "There was a tacit belief that containing children, setting harsh limits, and imposing a physical restraint or seclusion was somehow therapeutic. How we got the idea that meeting a child’s history with violence was somehow going to be palliative and restorative, we don’t know."

If a child's past is the powder keg that makes potential conflict so explosive, it's often the staff that provides the spark. "In reviewing restraint episodes involving children, we noticed a pattern," says Nan Stromberg, Director of Nursing and Licensing for Massachusetts DMH. "When kids were in trouble and in distress, the staff would set limits, and the kids would then become more agitated--a recipe for restraint."

"Research that looks at why restraint increases [stress] points to the phenomenon of counter aggression," says Paul Jones, Staff Development Coordinator at Home of the Innocents in Louisville, Kentucky. "When you feel like you’re being attacked, there may be an [instinctive] reaction, and a staff member [may be contributing to that situation]. Counter aggression prevents people from being able to let those verbal assaults or other things go."

"Everyone [is vulnerable to counter aggression], whether they admit it or not," Jones warns, "but the extent to which it happens decreases with experience and training."

When Stromberg and LeBel decided to investigate the backgrounds of children involved in the most restraints, they found that more than 85% had significantly well-documented trauma histories.

"These kids weren’t seeking out restraint, they were traumatized," Stromberg says, "and their needs were being expressed and being poorly met. Restraint was not only counter therapeutic; it was [repeating] the abuse they had already experienced. Once we understood that was a critical variable, we were forced to step back and do business in a different way."

At New York’s Bellevue Hospital, where restraint is not used at all in the child unit, and only rarely in the adolescent unit, Stromberg and LeBel found a staff committed to doing whatever it took to see a child through a crisis by talking through the situation.

"In the adolescent unit, we saw a remarkable example where a girl was very out of control, pounding the wall," Stromberg says. "Instead of offering the usual 'You've got to lower your voice and get in control,' the nurse manager was validating her anger, saying, 'I know you’re angry, and that makes sense--I’d be angry too.'" The staff were able to escort the other children from the room, and in that quieter setting, the situation was quickly diffused.

But to the DMH officials, it all seemed too simple. "We grilled the directors," LeBel says, "looking at numbers of staff and training and how much they paid their workers, figuring there had to be some big difference that allowed them to be restraint free, but there wasn’t one. But there was crystal-clear, rock-solid leadership [committed to finding another way], and a group of people who understood they could negotiate any kind of crisis without resorting to restraint."

Stromberg and LeBel brought others to Bellevue and immersed them in the experience as well. And because they knew it was not enough to mandate the abolition of restraint, they set up training opportunities, connected agencies to one another so they could share best practices, brought in a consultant
to answer questions, and supported the effort statewide. After just 2 1/2 years, the use of restraint and seclusion was down 78% in licensed child facilities across Massachusetts, 65% in agencies with a mix of child and adolescent services, and 44% in adolescent service agencies.

A Philosophical Change

Of course, the numbers aren't an end in and of themselves. Often, the numbers are just the beginning. Many agencies find the process of simply monitoring restraint more closely has a remarkable affect on its use.

"Once you start measuring something, it's a pretty powerful tool to get people to start looking at their actions," says Steve Karp, Chief Psychiatric Officer for the Pennsylvania Department of Public Welfare. "When we throw a graph up on the wall, [staff at one hospital] can recognize they're not doing as well as some of the other hospitals, and that really motivates them to bring their numbers down. There was a decent disparity among hospitals initially, but now they're all very successful because the ones that weren't doing so well communicated with the others and asked what they were doing to get their numbers down."

When a physical intervention raises a red flag, people think twice before choosing restraint. Karp and others say making people accountable for such decisions forces them to ask, "Is this really worth the trouble?" Of course, management needs to show the new approach is designed to help residents, not punish staff.

"In the past, a staff person got called on the carpet if they performed a hold and something went wrong--if a kid got hurt, or someone filed a complaint, or child protective services filed a report," says Brian Farragher, Director of Campus Programs for Julia Dyckman Andrus Memorial in Yonkers, New York. "But the idea of [reviewing these incidents] all the time diminishes that. It's not that you screwed up when you hurt a kid, it's that this is an intervention we prefer we not use. If you're doing it because you think you're trying to keep a kid safe, you need to justify that decision and be sure the child's behavior was more risky than the hold. That's a tough call to make."

If the issue turns into nothing more than a numbers game, agencies can find ways around it. Some agencies have manipulated medication levels to reduce restraint numbers. One agency called the police for every conflict, preventing the staff from resorting to restraint. That's why a complete philosophical change is a big part of the transition.

"Our belief now is that restraint is a treatment failure," Farragher says. "We end up physically holding kids when our program isn't holding them. To change that requires a team approach." Andrus's restraints went from 40 in one month to 20 the next, and then slowly continued to decrease until only two holds were done in the month last tracked--and Farragher believes those could have been avoided as well.

A big part of that philosophical change must come from the leaders of the organization. Several people interviewed for this article have seen agencies try to make changes, only to have the leadership end the process. "If you don't have 100% buy-in from management, you're wasting your time," Jones says. "That's why senior managers, even CEOs, should get the same training as staff, so they know firsthand what's expected."

Many crisis-resolution training programs spend 90% of the allotted time focusing on restraint techniques,
while others spend 90% on negotiation skills and only 10% on safe restraint. If the CEO doesn’t understand the content, he or she can’t choose the right training and can’t help his or her staff by supporting and reinforcing their work after training.

**Finding Better Ways**

But if the leadership backs the new approach, the rewards can be handsome. When workers are forced to stop relying on restraint, they find different ways to negotiate the inevitable conflicts, and that often reveals deeper reasons for their causes.

Farragher tells of a young girl who was restrained on a regular basis. Once that option was removed, the root of the problem was exposed.

"Every night, [she] would get very agitated, and she would end up moving furniture around her room," Farragher says. "As soon as the staff heard noises, they would come into her room, correct her, and move the furniture back where it belonged. Inevitably this would escalate into a hold. But once we sat down and talked about [the situation], we learned she had a history of sexual abuse at bedtime--she was moving her furniture against her bed to make a barricade. The staff were getting agitated by all this activity when she should have been settling down to sleep, so it turned into this tragic reenactment--all of these provocative activities led the staff to respond by holding her down."

Two simple things ended the vicious cycle: The agency bought the girl a bunk bed, even though she was in a single room, thinking she might like having something above her, and they bought her a giant stuffed dog for her to sleep behind. She went from being restrained about eight times in a two-week period to not being restrained for six or seven weeks, and only rarely after that. "We put our heads together and figured out a different strategy," Farragher says. "If you have no motivation to do that, if you don't see restraint as a treatment failure, you have no motivation to change."

But motivation isn’t always enough. It’s easy to tell staff not to restrain residents, but unless you provide alternatives, you’re unlikely to change their actions. As one supervisor noted, "If the only tool in your toolbox is a hammer, you'll treat everything like it's a nail." So how do you increase the selection of tools with a limited amount of time and an already overworked staff?

"These kids require your time one way or the other," Farragher says. "You can either give it, or they'll take it. Sure, [training new approaches] is labor-intensive, but restraints are too, and they usually happen when you least want to invest that time. These kids are complicated; they're not so easy to figure out. Restraint takes a lot of brawn, but not a lot of brains. Sometimes, it's easier to use restraint than to think through a situation and figure out how to avoid it."

The move away from physical restraint may have an unforeseen positive effect on workforce retention and turnover. "We recruit a lot of kids out of college … who don't think of this work as rolling around on the floor wrestling with kids," Farragher says. "The work they want to do is more cognitive. Turnover is exacerbated by an environment with lots of restraints. Our retention has improved dramatically over the last couple of years, and the fact that staff aren't wrestling with kids every day is a contributing factor."
Stromberg agrees. "Instead of functioning as custodians and police, staff have been elevated to be teachers and role models." Minimizing restraint goes beyond a single staff member dealing with a single child. That's where witnessing and debriefing come into play. Some agencies make sure that as soon as a potential conflict situation arises, at least one staff member is brought into the room to observe. When the debriefing occurs within 24 hours of the restraint, it's much easier for that individual to provide the most objective view of the event.

It's also a good idea to talk to the patient and speak to family members if possible to see if some deeper issues may be at work. Huckshorn recalls a case in a Florida mental hospital: A large young man in his mid-20s had entered the hospital's care; based on his record, the staff was very prepared for problems. He was surrounded by security guards and watched closely--staff were instructed to physically restrain him as soon as any conflict arose. The third day of his stay, the young man was put into restraint, and the process left him and three staff members with serious injuries.

When the staff analyzed the situation afterward, they learned the young man was manic-depressive and had entered a manic stage during group therapy, when he was expected to stay seated. When he tried to leave the room to watch television, three male guards told him to stay put, and the physical assault began. A debriefing with the patient's mother revealed the patient had been abused by his father for years and had grown leery of men; if he had been approached by a woman, he would have been more likely to talk through the situation. Once the staff accounted for the man's special needs, he was never again restrained in the two years Huckshorn remained at the hospital.

**Relinquishing Control**

Such situations point to potential problems that can occur when staff perceive the need to control residents. "[In] any residential environment where people are being treated in an institutional sense ... the traditional culture is characterized by control," Huckshorn says. "The mantra has been when you have a large group of people in [your care]; you need to control them ... That's extremely conducive to using violence to make people do what they think they should do."

Mental hospitals may need to rely on physical interventions more than do children's residential centers, but if that field can make a commitment to lowering restraint, critics charge, then surely residential facilities for children can do the same.

"If you're looking at facilitating the growth or rehabilitation of kids who've already been traumatized and haven't had good role models, and you're trying to make them productive adults, you don't do that by forcing, coercing, controlling, and ruling them," Huckshorn says. "If you include the people in your facility in some of the decisions, give them some choices, and allow them to make some decisions, you have much less conflict."

When Andrus changed its approach, "there was an initial sense that we were giving away the store, the kids were going to walk all over us, and we were going to have terrible behavior management problems," Farragher says. "But all the ... major behavioral indicators, like AWOL, physical aggression, property damage, and assault, have gone down, and I think it's because aggression breeds aggression. The more you try to control, the more resistance you're going to encounter. Ultimately, we're not going to make these kids change [if they don't want to], so it's important they be in an environment where they understand they
have some responsibility, some role in their own treatment."

"All models of recovery are based on empowerment, self-determination, collaboration, partnerships," Huckshorn adds. The more control an agency yields to its residents, the more opportunity for growth.

The notion of relinquishing control also applies in more systematic ways, too. Several hospitals and agencies have abandoned structured programs for some of their more challenged residents, adapting programs that allow for greater choice. For example, rather than require residents to attend group therapy or other activities based on a rigid schedule, some facilities provide four or five activities simultaneously and allow residents to choose.

Many agencies let their clients tell them what they need. The children at Pittsburgh's Bradley Center came up with 10 ways to cope with crisis and made posters that were distributed all over the units. "When Johnny is having trouble, the rest of the kids will say, 'Pick number eight, or pick number seven!'" says COO Dan Hunt. "Although leadership must drive the change, it can't be [forced on people]--your frontline staff, your kids, and families all have to get involved."

Odds are any approach to lowering restraint will also improve conditions on every level as children begin to see staff as supportive agents rather than potential adversaries. "Our agency is a kinder, gentler place--and these places have to be safe, because kids come here with multiple traumas, where people who were supposed to take care of them hurt them," Farragher says. "There's a real pull to use physical force because of the way some of the kids behave and some of the issues they bring in, but we've lost the sense that we need to control the kids--the kids are encouraged to control themselves."

"I was looking out the window of my office," he continues, "and saw two members of my staff with a kid who was storming the grounds, but they've just been shadowing her, making sure she's safe, and nobody's touching her. She'll blow off steam, then she'll be able to talk ... Ten years ago, we would've tackled her, and what would that do? She's not unsafe, she's not running into traffic, she's walking around a fairly pristine little campus here. Sure, it's frustrating for the people shadowing her, but at the end of the day, they'll all be OK."

Scott Kirkwood is Managing Editor of Children's Voice.

In Harm's Way

Those who cling to restraint as a valuable practice generally cite one potential problem with other approaches: What do you do if a child poses a serious danger to himself or others?

"Whoever is asking the question hasn't thought ahead," says Janice LeBel, Director of Program Management for the Child and Adolescent Division of Massachusetts's Department of Mental Health (DMH). "When you get to the point where somebody is self-harming, you've lost the chance to intercede early, to respond to the triggers that preceded that self-harming behavior."

"Behavior does not come out of the blue--it's triggered by something," adds Nan Stromberg, Director of Nursing and Licensing for DMH. "To work with a child and the parents to identify those triggers [beforehand], you need to plan and identify some actions that will help if the child gets upset--maybe
coloring, maybe being in a rocking chair, being held, playing a game, telling jokes." LeBel cites a push in Massachusetts for providers to adopt a public health approach. "The primary component is doing all your frontloading--thinking, planning how to avoid the use of physical intervention, and creating policies and procedures that can mitigate the need for restraint. The second component involves looking at the tools: Do we have the tools? Are they being used? Are they being incorporated into treatment plans? And lastly, if something untoward does happen, the third stage allows you to debrief: What happened? What went wrong? What can we learn? And it feeds right back into the process of retooling your whole system."

No matter how much planning one does, there's always a chance a youth will attempt to hurt herself or others. But even then, is restraint the only solution?

"If a kid is punching out windows, he could really be hurt, so we teach our staff to position themselves between the object and the kid, to reduce risk, and to try to talk them down," says Andrus Memorial's Brian Farragher. "But in reality, kids rarely do things like that--they may punch a window, but usually that's the end of it. They punch a window, it breaks, they're either scared by it, or they just stop. It's very rare for a kid to go from window to window. In the past, if a kid broke a window, we'd tackle him, but once the damage is done, it's done."

It's also rare for a youth to strike a staff member without warning or provocation. In general, Farragher says, if a resident hits a staff member, that means the staff member got too close. "Your first step is backwards," he says. "It's hard to train people to do something that counterintuitive, or to tell someone who just got punched in the nose that they made a mistake, but people are starting to get it--they realize there's a lot of risk involved in putting their hands on a child."

**Silent Killer**

Certain restraint positions can result in positional asphyxia, a condition that occurs when a person's body position interferes with respiration, resulting in suffocation. Any body position that obstructs the airway or interferes with the muscular or mechanical components of breathing may result in positional asphyxia.

For breathing to occur, the central nervous system must activate the respiratory muscles, causing the ribcage to expand and the diaphragm to descend into the abdomen, creating a larger internal chest space. This size change causes the internal chest air pressure to be less than the external air pressure. When the airway opens, this pressure difference causes air to flow into the lungs, producing inhalation.

Relaxing the diaphragm and ribcage muscles results in a smaller chest space, and internal air pressure becomes greater than external air pressure. When the airway opens, the pressure differences causes air to flow out of the lungs, producing expiration. If the internal chest air pressure cannot change because the size of the chest space cannot be changed, no air movement occurs.

When a patient is placed facedown, with forceful compression of the shoulders and chest, chest expansion is seriously restricted or prevented altogether. By forcefully compressing the patient's lower back or hips against a surface, the abdomen is compressed, preventing the diaphragm from descending into the abdomen and changing the size of the chest space. Thus, forceful prone restraint significantly restricts or prevents inhalation. Abdominal fat places overweight individuals at greater risk for interference in breathing and a more rapid onset of restraint asphyxia when forcefully prone restrained.
Often, a patient is restrained after aggressive or violent behavior and extreme physical exertion brought on by alcohol or drug use, traumatic head injury, psychiatric disorders, low blood sugar, or seizures—all of which can result in extreme total body exhaustion. The patient usually expends more energy wrestling with or avoiding interveners.

Physical intervention at this point frequently involves forceful prone restraint—the patient is placed facedown, usually with one or more people kneeling on the patient’s shoulders or back and lower back or hips. This position immediately impedes the exhausted patient’s ability to breathe. The patient's body continues to expend extreme energy in a desperate struggle to breathe. This struggle is often misinterpreted as a continued threat to the patient and others, so the forceful prone restraint is maintained.

The energy required to fuel the patient's muscular ability to breathe can become completely exhausted within seconds. Once the patient cannot change the size of his or her chest space to move air in and out of the lungs, he or she rapidly enters respiratory arrest, followed swiftly by cardiac arrest.

In addition, during the extreme physical activity preceding and during the restraint, the patient's body produces abnormally large amounts of adrenalin and other body chemicals, creating a hyper catabolic state that weakens all muscles, but especially results in severe respiratory muscle fatigue, and stresses the heart by increasing its workload. When a patient with severe respiratory muscle fatigue, an increased heart workload, and an increased need for oxygen is placed in a body position that interferes with or prevents breathing, it’s easy to understand why certain restraint positions can be dangerous.

SEXUAL
ASSAULT

PRESENTED BY:
KATHY BEEBE
SEXUAL ASSAULT

Objectives:

*Upon completion of this module the participant will be able to:*

- Define sexual assault; discuss current trends and common myths about sexual assault.
- Describe the dynamics of sexual assault and its mental and physical health impact on victims and secondary victims.
- Discuss a comprehensive/collaborative VES approach to responding to sexual assault victims.
DEFINITIONS OF SEXUAL ASSAULT

The terms sexual assault or sexual abuse refer to acts of sexual contact or conduct performed upon one by another either without mutual consent or when one person is unable to give consent due to age, mental, or physical incapacity. Usually a sexual assault is a one-time incident and sexual abuse refers to ongoing victimization.

Child Sexual Abuse is a betrayal of trust that takes on a sexual form. The term refers to an incident of forcible sexual assault involving child victims or sexual contact between a child and another person in which this sexual contact may or may not include threats, bribery or similar methods to get the child to participate in any sexual contact with an adult. Such events are likely to be repeated over a long period of time.

New Hampshire and Maine have different legal terms that define specific forms of sexual assault. The word “sexual assault” is not a legal word even though the media often uses it in their news stories. In NH, the legal terms are aggravated felonious sexual assault, felonious sexual assault, and sexual assault. Regardless of which term applies to the actions, the survivor experiences a loss of power and control over what is happening to her/him.

The \textbf{LEGAL AGE of CONSENT} is 16 in New Hampshire and 14 in Maine.

The \textbf{STATUTE OF LIMITATIONS} to report a sexual assault in NH is 6 years for an adult and 22 years after the age of 18 (until age 40) for a child. This law changed in 1990. The old statute was 6 years after the age of 18 for a child sexual assault survivor.

In 1991 Maine passed a new law that states that there is no statute of limitations in child sexual abuse cases. This law applies to occurrences after October 1991.

SEXUAL ASSAULT IS A CRIME AGAINST THE STATE

This means that the victim in a sexual assault case does not need to hire an attorney. The County Attorneys office in NH or the District Attorney’s office in Maine will prosecute the case and the victim then becomes the key witness for the state.

A. Acquaintance vs. stranger sexual assault

Although a sexual assault may not always be physically traumatic, it is always psychologically traumatic for the survivor. The possible emotional states of a person who has been assaulted may differ depending on whether the attack was perpetrated by a stranger or by someone the victim knows.

Someone the victim knows perpetrates more than 3/4 of all sexual assaults (85%). The prior association between the victim and the assailant could range from casual acquaintance; someone the victim met at a party, in a bar, at work, etc. to an intimate partner, a husband, good friend, old boyfriend, date, etc. No
matter how casual or intimate the contact was between the victim and the assailant prior to the assault, sexual assault is sexual assault!

Since the majority of sexual assault survivors know their offender, it is crucial to remember that the classic scenario of the man in the dark alley jumping out of the bushes and raping a girl at gunpoint is far from the norm in this event. People often say that the above example constitutes "real sexual assault" because the girl was taken by surprise, overpowered and threatened with a lethal weapon. This type of sexual assault is viewed as a random act of violence and it tends to elicit a more sympathetic response from those who hear of the incident.

While it is true that stranger sexual assault is real; it should by no means imply that acquaintance sexual assault is any less real to the survivor. Keep in mind that all rapists threaten their victims either by verbal intimidation ("Tell anyone and I'll kill you", "Nobody will believe you were sexual assaulted so you might as well shut up and enjoy it".), or by the presence of a lethal weapon. All sexual assault survivors have been overpowered in some way and forced to submit.

There are 3 important differences between stranger and acquaintance sexual assault:

1. Circumstances surrounding the assault
2. Reporting patterns
3. Attitude society has towards victims

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**CIRCUMSTANCES SURROUNDING THE ASSAULT**

**STRANGER**
- Frequently the victim is threatened with force and weapons
- Identity of rapist is unknown to victim
- Assailant may disguise appearance
- Victim senses danger immediately

**ACQUAINTANCE**
- Assailant rarely carries a lethal weapon. Instead verbal intimidation or physical force is used to subdue the victim
- Identity of assailant is known to the victim and has had some prior relationship with the rapist, ranging from casual to intimate
- Victim had no reason to fear the rapist before the attack, danger was not sensed until force was used

**B. Reporting patterns**

Acquaintance sexual assaults are far more under-reported than stranger assaults. The majority of sexual assault survivors remain silent because of feelings of shame, fears about retaliation by the offender and concerns about how they will be treated by family, friends, medical personnel, police and the general public. The concern that nobody will believe them keeps many survivors silent, particularly survivors of acquaintance sexual assault. When a stranger assaults a person, the community is likely to support that victim because it is referred to as a “random act of violence”. The community in stranger sexual assault scenarios is more likely to encourage law enforcement and policy makers to create a safer place to live.
Acquaintance sexual assault survivors are frequently blamed for putting themselves "in harm's way". In other words, these survivors are blamed for putting themselves in the situation from which the attack occurred. They tend to be disbelieved, and often blame themselves for the assault; therefore assuming others will similarly blame them. This, unfortunately, is often true. Another reason for keeping the attack silent and not reporting, especially in the case of acquaintance sexual assault, is the fear of public scrutiny. It is often difficult, and sometimes impossible, to protect the survivor's identity and their privacy. Survivors who experienced an acquaintance sexual assault often share many friends and may travel in the same social circles as the offender. Upon disclosure, the survivor's behavior and character (past and present), may become the subject of debate and most certainly the target of gossip.

C. Attitudes commonly held towards the victim

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<thead>
<tr>
<th>STRANGER</th>
<th>ACQUAINTANCE</th>
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<tr>
<td>Victim often seen as helpless; not responsible for, or in control of the situation</td>
<td>Victim often blamed for &quot;setting-up&quot; the circumstances surrounding the assault. (&quot;It's his/her own fault or s/he asked for or wanted it.&quot;&quot;)</td>
</tr>
<tr>
<td>Victim likely to receive empathy and support.</td>
<td>People focus on what victim was doing prior to assault and victim is not supported</td>
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<tr>
<td>Societal attitudes encourage prosecution.</td>
<td>Societal attitudes discourage prosecution.</td>
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VICTIM BLAMING

There is a tendency in today's society to blame the victims of sexual assault but especially acquaintance sexual assault for contributing to the circumstances/situations out of which the assault occurred. Victim blaming has become even more pervasive in our culture, and therefore, is becoming a real serious problem for us in the field of sexual assault victim assistance.

It is in our nature to speculate and consciously, or unconsciously, pass judgment on how others act or react in any given situation. We all have our own code of ethics and tend to judge people accordingly - "I would have done that..." or "S/he should have done this...". By thinking this way, by speculating and passing judgment, victim blaming can often be the result. As victim assistance professionals, it is important to examine and sometimes question your own attitudes and beliefs, particularly when dealing with an acquaintance sexual assault survivor.

In cases of sexual assault, victim blaming is most commonly the result of fear. If the victim can somehow be held responsible for creating the situation leading up to the assault, then it is easier for us to distance ourselves from him/her by thinking, "I would never go into a bar by myself", or, "I would never have worn that". By separating and distancing ourselves in some way from the survivors of sexual assault, we try to convince ourselves that it can never happen to us. The grim truth is that it can and it does.

Victim blaming is a defense mechanism and must be viewed as such. Look for it in the media, the legal system, and in yourself. It is there, sometimes subtly, sometimes in varying degrees. It is important to
remember that the victim, particularly those of acquaintance sexual assault, is often victimized twice - once by the offender and then again by society.

One in three women will be sexually assaulted in her lifetime; 1 in 4 by the age eighteen. 1 in 7 men will be assaulted in their lifetime. It does not matter what she/he was wearing, what she/he was drinking, how many sexual partners she/he has had prior to the assault, what color her/his skin is, etc. This kind of information is irrelevant and dangerous, as that it shifts the responsibility for the assault away from the offender. **THE OFFENDER IS ALWAYS 100% RESPONSIBLE FOR THE ASSAULT.** For instance, we do not tend to blame victims of muggings for having attractive purses. And we do not tend to blame a shopkeeper who has been robbed for having a lovely display case. Then why is it that sexual assault victims are blamed for their attack?

When dealing with victims of acquaintance sexual assault, keep in mind that she/he is already blaming her/himself tremendously for the assault, much more so than a survivor of stranger sexual assault is. That person needs reassurance that the assault was NOT her/his fault. The survivor needs to know that although she/he may have exercised poor judgment in some way, she/he was not asking to be assaulted. She/he may have been looking for attention, affection, companionship, even sex, but was not looking to be violently assaulted through the criminal act of sexual assault. Think of a hitchhiker, for example. Although we all may believe hitchhiking is dangerous and reflects poor judgment, a hitchhiker is asking for a ride, not to be assaulted. By helping a survivor to view the assault in this way, you may be helping her/him to diminish the self-blame that can be and often is, psychologically devastating. We must work towards exposing society's victim blaming for what it really is - a human defense mechanism.

Sexual assault survivors do not come out of the experience unscathed. There can be psychological and/or physical damages. The trauma can vary, depending on whether the attack was perpetrated by a stranger or by someone the victim knows.

It is crucial to keep the differences between stranger and acquaintance sexual assault in mind as you work in the field of sexual assault crisis intervention. By being aware of victim blaming and its harmful effects on sexual assault survivors, you will be in a better position to help someone that has survived the assault.

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**WORKING WITH ADOLESCENT SEXUAL ASSAULT VICTIMS**

Adolescents are the least supported age group, especially when they are victims of sexual assault. A young child is protected, and many perceive children as relatively helpless. Some also assume that he/she had been experimenting and then panicked, crying sexual assault. Adolescence is a difficult period in life. The dependency/individualization conflict is at its height; the body is changing dramatically. If a teenager is assaulted they (and others) may be expected to able handle any situation as an adult but teenagers often lack the experience of being assertive. It is a time of extreme peer pressure to conform, and almost no peer support for problems or differences. When an adolescent is sexually assaulted, all of these issues are compounded with feelings of guilt, powerlessness, mistrust, confusion, fear of pregnancy or sexually transmitted diseases, and a faltering of self-esteem.
Helpful hints for working with adolescents:

• Believe and support him/her - Many times a teen has already disclosed to a parent who doesn't believe the assault occurred or may even blame the teen. The teen may have finally got up enough courage to reach out for help and desperately needs support.

• Establish a rapport and trust

• Reassure the victim that the sexual assault was not his/her fault. Particularly, in acquaintance sexual assaults the victim may blame himself or herself for the assault because they were hitchhiking, drinking, wearing seductive clothing, flirting, etc. Adolescents can be more rigid in stereotypes and myths than adults.

• Share information about sexuality. Adolescents will often be afraid to ask questions or admit their lack of understanding of sex and other issues. Instead of asking teens questions about what sex information they know, go ahead and provide them with appropriate information. The adolescent will let you know if they are already familiar with the information.

• Inform teens about changes to expect. Such as eating and sleeping habits, bouts of depression, nightmares, paranoia, and changes in intimacy behaviors.

• Allow and encourage teens to grieve in reaction to the assault/abuse. An adolescent may grieve the loss of his/her virginity, which was taken away, or they may grieve the loss of a normal childhood.

• Know that adolescents will probably not share their experience with peers. Adolescents may be afraid of what their friends and classmates will think of them and therefore will keep the assault a secret. If the teen was assaulted by a peer or classmate, she/he may likely be concerned about what rumors might be spread around at school.

• Give adolescents as much control as possible. Aside from the assault/abuse in which their power and control were taken away, the life of a teen is run by adults who make the rules. Empower the teen with options and choices.

• Understand how teens may view the assault/abuse as punishment for normal adolescent experimentation.

• Find out how they coped with any prior crisis. Brainstorm together on ideas to get through the present crisis - it can and will pass.

• Prepare them for legal and medical procedures. Be sure to inform the adolescent of the NH and Maine mandatory reporting laws.

• Understand specific concerns about telling their parents. For example, an adolescent may keep the sexual assault from his/her parents because he/she is concerned that they will find out that he/she was drinking or went out without the parent's permission.
• Support adolescents and their parents separately. The teen will need you to be there for him/her. Another advocate can provide support to parents.

• Know that if they have no way of dealing with their sexual assault/abuse effectively, the teen may run away or escape into drugs, promiscuity, etc. They may view these as their only options.

• And finally, accept that many young victims are not yet ready to deal with the issues of sexual assault and they will need to put them on hold for awhile until they get some other aspects of their lives worked out. If it is not their priority right now, we can't and should not try to change that. The feelings will come when they are ready.

CHILD SEXUAL ABUSE

The DYNAMICS of Child Sexual Abuse:

Child sexual abuse often begins with an ordinary touch, which leads to a barely exploitative touch. For example, a father may linger over his daughter's vagina while giving her a bath and after doing this for several baths may then begin to touch her at bedtime. This type of molestation can go on for months with the offender slowly instituting other forms of abuse until he gradually leads up to penetration.

Over time, the child silently complies with the offender's demands and behaviors. However, more often than not, even young children know that something is wrong with this behavior because the offender says "not to tell anyone", or that it is "our little secret". The offender's secret depends on the child's silence. As the child grows older and becomes more independent, the threat that the abuse will be discovered increases. Therefore, the child's independence is discouraged. The offender is likely to try very hard to keep the child isolated without access to outside support.

The child often feels guilty and may blame herself/himself for the assault. Wanting affection and tenderness. The child may blame the abuse on his/her own need to feel loved. Or the child may feel that they are bad and are being punished.

The offender may use many types of coercion to involve the child: "You'll be sent away to a foster home", "We won't love you any more...". The child feels responsible for keeping the family together. Without peers, adult protection or understanding, the child of sexual abuse is alone.

During abuse, it is not uncommon for victims to experience physical pleasure, and on occasion, orgasm. A child feels, then, as though their own body has betrayed them. Experiencing physical pleasure compounds the child's guilt. The offender may capitalize on the child's confusion, implying that s/he liked the touching. Making the child believe that they are no longer an innocent victim, but an accomplice. This self-doubt reinforces the child's silence. The child needs to realize that the body's biological response to stimulation is very different from wanting the abuse to occur.

In an effort to keep the abuse a secret, a child may lie. The child may lie about their whereabouts at the time of the abuse, or may lie in the hopes of getting protection, unable to tell the truth about why s/he may need this protection. The child may lie to protect the offender and maintain the illusion of normalcy. Children who are repeatedly assaulted by someone that they know give us clues to indicate that they are
distressed. But unless we are open to the possibility that sexual assault can happen to children, these signs can be easily overlooked. Child victims tell us in their own way that they are hurting: they may do poorly in school or look as though they need more sleep or food. They may "act out" their feelings of hurt and anger by running away, or engaging in vandalism or self-mutilation. But often the symptoms are reprimanded while cause of the behavior is ignored.

When child sexual abuse is discovered the reaction of professionals and family members are important. When child sexual abuse is identified in a family, the offender often tries to deny or justify his/her actions. The offender might blame their spouse, the child or other circumstances, rarely accepting any responsibility for the abuse. Treatment for the sex offender begins when the offender recognizes and accepts complete responsibility.

HEALING

For the survivor of childhood sexual abuse, healing must focus on the strengths and rights of the survivor; for the reclamation of power is healing. Survivors can move from the position of the victim to regaining control over their bodies and their lives.

A child needs to be encouraged to find his/her outrage, anger, and loss of trust and strength. A survivor who sees the assault as a violation of their basic rights is clearly taking steps to regain control over their life and self.

Stopping the cycle of abuse is directly connected to empowering children. Teaching children that they have the right to their body can radically alter a child's feeling of self-worth. Teaching children that they have a right to say "NO" to an adult, the right to determine how and by whom their bodies can be touched, and the right to talk about secrets that confuse or hurt them will empower children. If we follow these messages by teaching actual skills in self-defense, assertion, and communication, we can help initiate a life for our child that is free from abuse.

COPING MECHANISMS

It is also important to note that because the adult survivor of CSA has internalized much from early life experiences, s/he may have developed both positive and negative styles of coping. These might include one or more of the following:

- Eating disorders
- Promiscuity
- Depression
- Sexual dysfunction
- Anti-social behavior
- Suicidal thought patterns
- Alcohol/substance abuse
- Patterns of abusive relationships
- Mental health problems
- Multiple Personality Disorder

An understanding of how these issues relate to victimization during childhood is crucial. As victim assistance professionals, our role is not to address these issues, but rather to be able to point out these behaviors to the survivor as coping mechanisms that have been created for a reason. Help the survivor make the connection between current life difficulties and the past abuse.
FEELINGS THAT CHILD VICTIMS MAY CARRY OVER INTO ADULT LIFE

1. **Loss of Control** Learned powerless pattern when sexually abused, abuser controlled and dominated victim (there was nothing victim could have done). Often threatened, "If you tell, I'll leave, harm you, etc..." Survivors need to know that they did not have the power to change the circumstances during abuse, but they do have the capacity to empower themselves now to break the pattern of helplessness.

2. **Confusion** Still have mixed feelings toward the offender. If the survivor physically responded to touch or sexual pleasure, this often leads to feelings of shame and/or guilt.

3. **Guilt** Often the offender will make the survivor feel like they are to blame for the abuse. The child believes the offender when s/he says, "I'm doing this because I love you", or "It will be your fault if you tell and I have to leave". Even into adulthood, the survivor feels that the abuse was their fault. Survivors need to recognize that they are not to blame for the abuse, and that the blame belongs to the perpetrator. As mentioned before, the body’s biological response to stimulation is different than wanting the abuse to occur.

4. **Shame** Adult survivors sometimes feel "bad" or "worthless". Keeping the secret for so long sometimes makes the survivor believe that s/he IS bad. Survivors need to recognize that they are NOT bad, and that they did not deserve to be treated that way.

5. **Fear** Adult survivors fear being harmed. If threatened as a child or told that they wouldn't be loved if anyone ever found out, survivors often carry these feelings over into adult life. The fear of abandonment for a child by their parents often leads to an overwhelming fear of abandonment as an adult. Looking at the issues surrounding these fears will allow the survivor to face the fears head-on.

6. **Anger** Since the child had no way of expressing anger at what was happening, the adult is likely to have carried that anger into adulthood. Adult survivors often express anger towards their "lost childhood".

7. **Depression** Survivors may have a feeling that something is wrong, but may not know what it is. Often physical reactions are associated with depression and include:
   a. Feeling tired all the time
   b. Being sick
   c. Headaches or body reactions

8. **Repressed Memory** Survivor may have no recollection of their abuse. Regardless of whatever the adult survivor is feeling and expressing, it is important to remind survivors that ALL feelings are okay and can be worked through as part of the healing process.
The parents of survivors of sexual assault/abuse are also in many ways victims of the abuse and may experience feelings similar to that of the survivor. Often when parents call the hotline, they are looking for information on how to help the survivor and haven't yet realized that they too need support for how they are feeling. It is important for the parent to recognize that although s/he would like to help the survivor with his/her feelings, the parent also needs to deal with their own feelings about what happened and the impact it has had on their relationship with the survivor.

Some Common Feelings of Parents of Survivors:

Concern for the survivor: How to help the survivor deal with the trauma.

Helplessness: The parent may wish they could have protected their child and want to fix the situation so life can get back to "normal."

Feeling out of control: Just as the survivor is feeling the effects of the loss of control in their lives, so too does the parent. The abuse/assault has changed their relationship with the survivor and it is out of the parent’s control to change that.

Wanting to harm the offender: This is a natural reaction, but not a realistic one. This creates further crisis, and the child might feel the need to protect the offender (especially if the offender is known to the survivor).

Loss of intimacy/trust: Because the survivor needs time to work on trust issues, the loss of trust affects any relationship in which he/she is involved.

Guilt: Parents often have guilt in having their own feelings of anger at 'why this has disrupted their whole family' and feeling guilty because it wasn't them who had this violence forced on them and because they know it is not the survivor's fault.

Difficulty expressing their own feelings: The parent may feel like because they are not the victim, they should be able to handle it and 'get over it'.

All of these can be the effects on the parents of survivors who have been sexually assaulted or abused. It is important to recognize that sexual assault/abuse affects everyone involved with the primary victim of the crime. Parents, in particular, need to learn how to support the survivor through his/her healing process, as well as find the support they need to deal with how it is impacting them.

Ways Parents Can Help

1. Examine Thoughts About Rape and Sexual Abuse: Parents need to examine any myths or preconceived notions about sexual assault and confront those things that may prevent them from being open, honest, and supportive with the survivor. It is also helpful to learn more about the effects sexual violence has on survivors and the healing process in order to understand some of the survivor's actions.
2. **Give Survivor Control:** Because the loss of control is so great when someone is victimized, survivors need to be empowered to have control over all aspects of their lives. Parents can assist in empowering the survivor by allowing them to decide when, if and how they choose to talk about their abuse/assault. The parent needs to let them know that he/she is there when needed.

3. **Be Willing To Listen and Believe:** It is very difficult for a parent to listen to someone they care about disclose details about their rape or child sexual abuse. It is very important that the parent is able to hear about what happened. Society has conditioned survivors to believe that they are to blame and they need to know that the parent is a safe person they can talk to and that he/she can take it.

4. **Cannot Blame the Victim:** It is very important for parents to be able to convey to the survivor that they know the abuse/assault was not the survivor's fault. Sometimes a parent may feel guilty for any feelings of blame or anger they have towards the survivor and need to be informed about prevalent myths in society that blame the victim. It is important for the advocate to help the parent understand that NO ONE deserves to be sexually assaulted or abused.

5. **Let The Survivor Follow Their Emotions:** It is important for the parent to VALIDATE whatever feelings the survivor is having. Many survivors were not allowed to express emotions as children and as adults they often feel guilty, out of control, or "not normal" when they frequently get upset. If the survivor is angry, the parent can help the survivor to direct their anger in a safe and constructive way.

6. **Be Patient:** The parent needs to recognize that everyone reacts differently to trauma and that regardless of what happened to the survivor, there is no time limit on the healing process. There was no way to predict or ask for this crisis and there is no way to change or resolve it. All one can do is to find the strength to meet this challenge and grow. In order to grow, BOTH the survivor and parents need to develop ways to cope with feelings, changes and acceptance of life as it is now.

7. **Get Support:** The best way for a parent to help a survivor of sexual assault/abuse is to get support for her/himself. Parents can utilize the hotline as needed and could also join our Non-offending parents group.

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**WORKING WITH PARTNERS OF SEXUAL VIOLENCE VICTIMS**

The partners of survivors of sexual assault/abuse are also, in many ways, victims of abuse and may experience feelings similar to that of the survivor. Often partners seek information and help for the victim and haven't yet realized that they too need support. It is important to recognize that a sexual assault affects everyone involved with the survivor of the crime. Partners, in particular, need to learn how to support the survivor through the healing process as well as find the support THEY need to deal with how it is impacting them.

**Some Common Feelings of Partners of Survivors:**

*Concern for the survivor:* How to help the survivor deal with the trauma.

*Helplessness:* Partners may wish they could have protected their partner and want to fix the situation so life can get back to "normal".
**Feeling out of control:** Just as the survivor is feeling the effects of the loss of control in their lives, so too does the partner. The abuse/assault has changed their relationship with the survivor and it is out of the partner’s control to change that.

**Wanting to harm the offender:** - This is a natural reaction, but not a realistic one. This creates further crisis and the survivor might feel the need to protect the offender (especially if the offender is known to the survivor).

**Loss of intimacy/trust:** Because the survivor needs time to work on trust issues, the loss of trust affects any relationship in which he/she is involved.

**Guilt:** Partners often have guilt in having their own feelings of anger at ‘why this has disrupted their whole family’ and feeling guilty because it wasn’t them who had this violence forced on them and because they know it is not the survivor’s fault.

**Difficulty expressing their own feelings:** Partners may feel like because they are not the victim, they should be able to handle it and 'get over it'.

**Ways Partners Can Help**

1. **Examine Thoughts About Rape and Sexual Abuse:** Partners need to examine any myths or preconceived notions about sexual assault and confront those things that may prevent them from being open, honest, and supportive with the survivor. It is also helpful to learn more about the effects sexual violence has on survivors and the healing process in order to understand some of the survivor’s actions.

2. **Give Survivor Control:** Because the loss of control is so great when someone is victimized, survivors need to be empowered to have control over all aspects of their lives. Partners can assist in empowering the survivor by allowing him/her to decide when, if and how they choose to talk about their abuse/assault. The partner needs to let the survivor know that he/she is there when needed.

3. **Be Willing To Listen and Believe:** It is very difficult for a partner to listen to someone they care about disclose details about their rape or child sexual abuse. It is very important that the partner is able to hear about what happened. Society has conditioned survivors to believe that they are to blame and they need to know that their partner is a safe person they can talk to.

4. **Cannot Blame the Victim:** It is very important for the partner to be able to convey to the survivor that they know the abuse/assault was not the survivor's fault. Sometimes a partner may feel guilty for any feelings of blame or anger they have towards the survivor and need to be informed about prevalent myths in society that blame the victim. It is important for the advocate to help the partner understand that NO ONE deserves to be sexually assaulted or abused.

5. **Let the Survivor Follow Their Emotions:** It is important for the partner to VALIDATE whatever feelings the survivor is having. Many survivors of childhood abuse were not allowed to express emotions as children and as adults they often feel guilty, out of control, or "not normal" when they frequently get upset. If the survivor is angry, the partner can help direct the anger towards where it belongs, the offender.
6. **Let Partner’s Know that Changes in Behavior are Expected:** Often those who care do not know what to expect and the behavior of those they love can be unsettling. They need to know that these behaviors are common and that a supportive relationship is what the survivor needs in order to recover. Some common changes can include:

- Sleep disturbances
- Fear of being alone
- Isolation
- Changes in appearance
- Misdirected anger
- Depression
- Inability to concentrate
- Decreased desire for physical intimacy

7. **Be Patient:** The partner needs to recognize that everyone reacts differently to trauma and that regardless of what happened to the survivor, there is no time limit on the healing process. There was no way to predict or ask for this crisis and there is no way to change or resolve it. All one can do is to find the strength to meet this challenge and grow. In order to grow, BOTH the survivor and partner need to develop ways to cope with feelings, changes and acceptance of life as it is now.

8. **Get Support:** The best way for a partner to help a survivor of sexual assault/abuse is to get support for her/himself.
DEFINITIONS OF SEXUAL ASSAULT

The terms sexual assault or sexual abuse refer to acts of sexual contact or conduct performed upon one by another either without mutual consent or when one person us unable to give consent due to age, mental, or physical incapacity. Usually a sexual assault is a one-time incident and sexual abuse refers to on going victimization.

Child Sexual Abuse is a betrayal of trust that takes on a sexual form. The term refers to an incident of forcible sexual assault involving child victims or sexual contact between a child and another person in which this sexual contact may or may not include threats, bribery or similar methods to get the child to participate in any sexual contact with an adult. Such events are likely to be repeated over a long period of time.

New Hampshire and Maine have different legal terms that define specific forms of sexual assault. The word “sexual assault” is not a legal word even though the media often uses it in their news stories. In NH, the legal terms are aggravated felonious sexual assault, felonious sexual assault, and sexual assault. Regardless of which term applies to the actions, the survivor experiences a loss of power and control over what is happening to her/him.

The **LEGAL AGE of CONSENT** is 16 in New Hampshire and 14 in Maine.

The **STATUTE OF LIMITATIONS** to report a sexual assault in NH is 6 years for an adult and 22 years after the age of 18 (until age 40) for a child. This law changed in 1990. The old statute was 6 years after the age of 18 for a child sexual assault survivor.

In 1991 Maine passed a new law that states that there is no statute of limitations in child sexual abuse cases. This law applies to occurrences after October 1991.

SEXUAL ASSAULT IS A CRIME AGAINST THE STATE

This means that the victim in a sexual assault case does not need to hire an attorney. The County Attorneys office in NH or the District Attorney’s office in Maine will prosecute the case and the victim then becomes the key witness for the state.

A. Acquaintance vs. stranger sexual assault

Although a sexual assault may not always be physically traumatic, it is always psychologically traumatic for the survivor. The possible emotional states of a person who has been assaulted may differ depending on whether the attack was perpetrated by a stranger or by someone the victim knows.

Someone the victim knows perpetrates more than 3/4 of all sexual assaults (85%). The prior association between the victim and the assailant could range from casual acquaintance; someone the victim met at a party, in a bar, at work, etc. to an intimate partner, a husband, good friend, old boyfriend, date, etc. No
matter how casual or intimate the contact was between the victim and the assailant prior to the assault, sexual assault is sexual assault!

Since the majority of sexual assault survivors know their offender, it is crucial to remember that the classic scenario of the man in the dark alley jumping out of the bushes and raping a girl at gunpoint is far from the norm in this event. People often say that the above example constitutes "real sexual assault" because the girl was taken by surprise, overpowered and threatened with a lethal weapon. This type of sexual assault is viewed as a random act of violence and it tends to elicit a more sympathetic response from those who hear of the incident.

While it is true that stranger sexual assault is real; it should by no means imply that acquaintance sexual assault is any less real to the survivor. Keep in mind that all rapists threaten their victims either by verbal intimidation ("Tell anyone and I'll kill you", "Nobody will believe you were sexual assaulted so you might as well shut up and enjoy it".), or by the presence of a lethal weapon. All sexual assault survivors have been overpowered in some way and forced to submit.

There are 3 important differences between stranger and acquaintance sexual assault:
1. Circumstances surrounding the assault
2. Reporting patterns
3. Attitude society has towards victims

CIRCUMSTANCES SURROUNDING THE ASSAULT

STRANGER
- Frequently the victim is threatened with force and weapons
- Identity of rapist is unknown to victim
- Assailant may disguise appearance
- Victim senses danger immediately

ACQUAINTANCE
- Assailant rarely carries a lethal weapon. Instead verbal intimidation or physical force is used to subdue the victim
- Identity of assailant is known to the victim and has had some prior relationship with the rapist, ranging from casual to intimate
- Victim had no reason to fear the rapist before the attack, danger was not sensed until force was used

B. Reporting patterns

Acquaintance sexual assaults are far more under-reported than stranger assaults. The majority of sexual assault survivors remain silent because of feelings of shame, fears about retaliation by the offender and concerns about how they will be treated by family, friends, medical personnel, police and the general public. The concern that nobody will believe them keeps many survivors silent, particularly survivors of acquaintance sexual assault. When a stranger assaults a person, the community is likely to support that victim because it is referred to as a “random act of violence”. The community in stranger sexual assault scenarios is more likely to encourage law enforcement and policy makers to create a safer place to live.
Acquaintance sexual assault survivors are frequently blamed for putting themselves "in harm's way". In other words, these survivors are blamed for putting themselves in the situation from which the attack occurred. They tend to be disbelieved, and often blame themselves for the assault; therefore assuming others will similarly blame them. This, unfortunately, is often true.

Another reason for keeping the attack silent and not reporting, especially in the case of acquaintance sexual assault, is the fear of public scrutiny. It is often difficult, and sometimes impossible, to protect the survivor's identity and their privacy. Survivors who experienced an acquaintance sexual assault often share many friends and may travel in the same social circles as the offender. Upon disclosure, the survivor's behavior and character (past and present), may become the subject of debate and most certainly the target of gossip.

C. Attitudes commonly held towards the victim

<table>
<thead>
<tr>
<th>STRANGER</th>
<th>ACQUAINTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim often seen as helpless; not responsible for,</td>
<td>Victim often blamed for &quot;setting-up&quot; the circumstances</td>
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<tr>
<td>or in control of the situation</td>
<td>surrounding the assault.</td>
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<td></td>
<td>(&quot;It's his/her own fault or s/he asked for or wanted it.&quot;)</td>
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<tr>
<td>Victim likely to receive empathy and support.</td>
<td>People focus on what victim was doing prior to assault and</td>
</tr>
<tr>
<td></td>
<td>victim is not supported</td>
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<tr>
<td>Societal attitudes encourage prosecution.</td>
<td>Societal attitudes discourage prosecution.</td>
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VICTIM BLAMING

There is a tendency in today's society to blame the victims of sexual assault but especially acquaintance sexual assault for contributing to the circumstances/situations out of which the assault occurred. Victim blaming has become even more pervasive in our culture, and therefore, is becoming a real serious problem for us in the field of sexual assault victim assistance.

It is in our nature to speculate and consciously, or unconsciously, pass judgment on how others act or react in any given situation. We all have our own code of ethics and tend to judge people accordingly - "I would have done that..." or "S/he should have done this...". By thinking this way, by speculating and passing judgment, victim blaming can often be the result. As victim assistance professionals, it is important to examine and sometimes question your own attitudes and beliefs, particularly when dealing with an acquaintance sexual assault survivor.

In cases of sexual assault, victim blaming is most commonly the result of fear. If the victim can somehow be held responsible for creating the situation leading up to the assault, then it is easier for us to distance ourselves from him/her by thinking, "I would never go into a bar by myself", or, "I would never have worn that". By separating and distancing ourselves in some way from the survivors of sexual assault, we try to convince ourselves that it can never happen to us. The grim truth is that it can and it does.

Victim blaming is a defense mechanism and must be viewed as such. Look for it in the media, the legal system, and in yourself. It is there, sometimes subtly, sometimes in varying degrees. It is important to
remember that the victim, particularly those of acquaintance sexual assault, is often victimized twice - once by the offender and then again by society.

One in three women will be sexually assaulted in her lifetime; 1 in 4 by the age eighteen. 1 in 7 men will be assaulted in their lifetime. It does not matter what she/he was wearing, what she/he was drinking, how many sexual partners she/he has had prior to the assault, what color her/his skin is, etc. This kind of information is irrelevant and dangerous, as that it shifts the responsibility for the assault away from the offender. **THE OFFENDER IS ALWAYS 100% RESPONSIBLE FOR THE ASSAULT.** For instance, we do not tend to blame victims of muggings for having attractive purses. And we do not tend to blame a shopkeeper who has been robbed for having a lovely display case. Then why is it that sexual assault victims are blamed for their attack?

When dealing with victims of acquaintance sexual assault, keep in mind that she/he is already blaming her/himself tremendously for the assault, much more so than a survivor of stranger sexual assault is. That person needs reassurance that the assault was NOT her/his fault. The survivor needs to know that although she/he may have exercised poor judgment in some way, she/he was not asking to be assaulted. She/he may have been looking for attention, affection, companionship, even sex, but was not looking to be violently assaulted through the criminal act of sexual assault. Think of a hitchhiker, for example. Although we all may believe hitchhiking is dangerous and reflects poor judgment, a hitchhiker is asking for a ride, not to be assaulted. By helping a survivor to view the assault in this way, you may be helping her/him to diminish the self-blame that can be and often is, psychologically devastating. We must work towards exposing society's victim blaming for what it really is - a human defense mechanism.

Sexual assault survivors do not come out of the experience unscathed. There can be psychological and/or physical damages. The trauma can vary, depending on whether the attack was perpetrated by a stranger or by someone the victim knows.

It is crucial to keep the differences between stranger and acquaintance sexual assault in mind as you work in the field of sexual assault crisis intervention. By being aware of victim blaming and its harmful effects on sexual assault survivors, you will be in a better position to help someone that has survived the assault.

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**WORKING WITH ADOLESCENT SEXUAL ASSAULT VICTIMS**

Adolescents are the least supported age group, especially when they are victims of sexual assault. A young child is protected, and many perceive children as relatively helpless. Some also assume that he/she had been experimenting and then panicked, crying sexual assault. Adolescence is a difficult period in life. The dependency/individualization conflict is at its height; the body is changing dramatically. If a teenager is assaulted they (and others) may be expected to able handle any situation as an adult but teenagers often lack the experience of being assertive. It is a time of extreme peer pressure to conform, and almost no peer support for problems or differences. When an adolescent is sexually assaulted, all of these issues are compounded with feelings of guilt, powerlessness, mistrust, confusion, fear of pregnancy or sexually transmitted diseases, and a faltering of self-esteem.
Helpful hints for working with adolescents:

- Believe and support him/her - Many times a teen has already disclosed to a parent who doesn't believe the assault occurred or may even blame the teen. The teen may have finally got up enough courage to reach out for help and desperately needs support.

- Establish a rapport and trust

- Reassure the victim that the sexual assault was not his/her fault. Particularly, in acquaintance sexual assaults the victim may blame himself or herself for the assault because they were hitchhiking, drinking, wearing seductive clothing, flirting, etc. Adolescents can be more rigid in stereotypes and myths than adults.

- Share information about sexuality. Adolescents will often be afraid to ask questions or admit their lack of understanding of sex and other issues. Instead of asking teens questions about what sex information they know, go ahead and provide them with appropriate information. The adolescent will let you know if they are already familiar with the information.

- Inform teens about changes to expect. Such as eating and sleeping habits, bouts of depression, nightmares, paranoia, and changes in intimacy behaviors.

- Allow and encourage teens to grieve in reaction to the assault/abuse. An adolescent may grieve the loss of his/her virginity, which was taken away, or they may grieve the loss of a normal childhood.

- Know that adolescents will probably not share their experience with peers. Adolescents may be afraid of what their friends and classmates will think of them and therefore will keep the assault a secret. If the teen was assaulted by a peer or classmate, she/he may likely be concerned about what rumors might be spread around at school.

- Give adolescents as much control as possible. Aside from the assault/abuse in which their power and control were taken away, the life of a teen is run by adults who make the rules. Empower the teen with options and choices.

- Understand how teens may view the assault/abuse as punishment for normal adolescent experimentation.

- Find out how they coped with any prior crisis. Brainstorm together on ideas to get through the present crisis - it can and will pass.

- Prepare them for legal and medical procedures. Be sure to inform the adolescent of the NH and Maine mandatory reporting laws.

- Understand specific concerns about telling their parents. For example, an adolescent may keep the sexual assault from his/her parents because he/she is concerned that they will find out that he/she was drinking or went out without the parent's permission.
• Support adolescents and their parents separately. The teen will need you to be there for him/her. Another advocate can provide support to parents.

• Know that if they have no way of dealing with their sexual assault/abuse effectively, the teen may run away or escape into drugs, promiscuity, etc. They may view these as their only options.

• And finally, accept that many young victims are not yet ready to deal with the issues of sexual assault and they will need to put them on hold for awhile until they get some other aspects of their lives worked out. If it is not their priority right now, we can't and should not try to change that. The feelings will come when they are ready.

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CHILD SEXUAL ABUSE

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Over time, the child silently complies with the offender's demands and behaviors. However, more often than not, even young children know that something is wrong with this behavior because the offender says "not to tell anyone", or that it is "our little secret". The offender's secret depends on the child's silence. As the child grows older and becomes more independent, the threat that the abuse will be discovered increases. Therefore, the child's independence is discouraged. The offender is likely to try very hard to keep the child isolated without access to outside support.

The child often feels guilty and may blame herself/himself for the assault. Wanting affection and tenderness. The child may blame the abuse on his/her own need to feel loved. Or the child may feel that they are bad and are being punished.

The offender may use many types of coercion to involve the child: "You'll be sent away to a foster home", "We won't love you any more...". The child feels responsible for keeping the family together. Without peers, adult protection or understanding, the child of sexual abuse is alone.

During abuse, it is not uncommon for victims to experience physical pleasure, and on occasion, orgasm. A child feels, then, as though their own body has betrayed them. Experiencing physical pleasure compounds the child's guilt. The offender may capitalize on the child's confusion, implying that s/he liked the touching. Making the child believe that they are no longer an innocent victim, but an accomplice. This self-doubt reinforces the child's silence. The child needs to realize that the body's biological response to stimulation is very different from wanting the abuse to occur.

In an effort to keep the abuse a secret, a child may lie. The child may lie about their whereabouts at the time of the abuse, or may lie in the hopes of getting protection, unable to tell the truth about why s/he may need this protection. The child may lie to protect the offender and maintain the illusion of normalcy. Children who are repeatedly assaulted by someone that they know give us clues to indicate that they are
distressed. But unless we are open to the possibility that sexual assault can happen to children, these signs can be easily overlooked. Child victims tell us in their own way that they are hurting: they may do poorly in school or look as though they need more sleep or food. They may "act out" their feelings of hurt and anger by running away, or engaging in vandalism or self-mutilation. But often the symptoms are reprimanded while cause of the behavior is ignored.

When child sexual abuse is discovered the reaction of professionals and family members are important. When child sexual abuse is identified in a family, the offender often tries to deny or justify his/her actions. The offender might blame their spouse, the child or other circumstances, rarely accepting any responsibility for the abuse. Treatment for the sex offender begins when the offender recognizes and accepts complete responsibility.

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**HEALING**

For the survivor of childhood sexual abuse, healing must focus on the strengths and rights of the survivor; for the reclamation of power is healing. Survivors can move from the position of the victim to regaining control over their bodies and their lives.

A child needs to be encouraged to find his/her outrage, anger, and loss of trust and strength. A survivor who sees the assault as a violation of their basic rights is clearly taking steps to regain control over their life and self.

Stopping the cycle of abuse is directly connected to empowering children. Teaching children that they have the right to their body can radically alter a child's feeling of self-worth. Teaching children that they have a right to say "NO" to an adult, the right to determine how and by whom their bodies can be touched, and the right to talk about secrets that confuse or hurt them will empower children. If we follow these messages by teaching actual skills in self-defense, assertion, and communication, we can help initiate a life for our child that is free from abuse.

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**COPING MECHANISMS**

It is also important to note that because the adult survivor of CSA has internalized much from early life experiences, s/he may have developed both positive and negative styles of coping. These might include one or more of the following:

- Eating disorders
- Promiscuity
- Depression
- Sexual dysfunction
- Anti-social behavior
- Suicidal thought patterns
- Alcohol/substance abuse
- Patterns of abusive relationships
- Mental health problems
- Multiple Personality Disorder

An understanding of how these issues relate to victimization during childhood is crucial. As victim assistance professionals, our role is not to address these issues, but rather to be able to point out these behaviors to the survivor as coping mechanisms that have been created for a reason. Help the survivor make the connection between current life difficulties and the past abuse.
FEELINGS THAT CHILD VICTIMS MAY CARRY OVER INTO ADULT LIFE

1. **Loss of Control** Learned powerless pattern when sexually abused, abuser controlled and dominated victim (there was nothing victim could have done). Often threatened, "If you tell, I'll leave, harm you, etc..." Survivors need to know that they did not have the power to change the circumstances during abuse, but they do have the capacity to empower themselves now to break the pattern of helplessness.

2. **Confusion** Still have mixed feelings toward the offender. If the survivor physically responded to touch or sexual pleasure, this often leads to feelings of shame and/or guilt.

3. **Guilt** Often the offender will make the survivor feel like they are to blame for the abuse. The child believes the offender when s/he says, "I'm doing this because I love you", or "It will be your fault if you tell and I have to leave". Even into adulthood, the survivor feels that the abuse was their fault. Survivors need to recognize that they are not to blame for the abuse, and that the blame belongs to the perpetrator. As mentioned before, the body’s biological response to stimulation is different than wanting the abuse to occur.

4. **Shame** Adult survivors sometimes feel "bad" or "worthless". Keeping the secret for so long sometimes makes the survivor believe that s/he IS bad. Survivors need to recognize that they are NOT bad, and that they did not deserve to be treated that way.

5. **Fear** Adult survivors fear being harmed. If threatened as a child or told that they wouldn't be loved if anyone ever found out, survivors often carry these feelings over into adult life. The fear of abandonment for a child by their parents often leads to an overwhelming fear of abandonment as an adult. Looking at the issues surrounding these fears will allow the survivor to face the fears head-on.

6. **Anger** Since the child had no way of expressing anger at what was happening, the adult is likely to have carried that anger into adulthood. Adult survivors often express anger towards their "lost childhood".

7. **Depression** Survivors may have a feeling that something is wrong, but may not know what it is. Often physical reactions are associated with depression and include:
   a. Feeling tired all the time
   b. Being sick
   c. Headaches or body reactions

8. **Repressed Memory** Survivor may have no recollection of their abuse. Regardless of whatever the adult survivor is feeling and expressing, it is important to remind survivors that ALL feelings are okay and can be worked through as part of the healing process.
PARENTS OF SEXUAL ASSAULT SURVIVORS

The parents of survivors of sexual assault/abuse are also in many ways victims of the abuse and may experience feelings similar to that of the survivor. Often when parents call the hotline, they are looking for information on how to help the survivor and haven’t yet realized that they too need support for how they are feeling. It is important for the parent to recognize that although s/he would like to help the survivor with his/her feelings, the parent also needs to deal with their own feelings about what happened and the impact it has had on their relationship with the survivor.

**Some Common Feelings of Parents of Survivors:**

**Concern for the survivor:** How to help the survivor deal with the trauma.

**Helplessness:** The parent may wish they could have protected their child and want to fix the situation so life can get back to "normal."

**Feeling out of control:** Just as the survivor is feeling the effects of the loss of control in their lives, so too does the parent. The abuse/assault has changed their relationship with the survivor and it is out of the parent’s control to change that.

**Wanting to harm the offender:** This is a natural reaction, but not a realistic one. This creates further crisis, and the child might feel the need to protect the offender (especially if the offender is known to the survivor).

**Loss of intimacy/trust:** Because the survivor needs time to work on trust issues, the loss of trust affects any relationship in which he/she is involved.

**Guilt:** Parents often have guilt in having their own feelings of anger at 'why this has disrupted their whole family' and feeling guilty because it wasn't them who had this violence forced on them and because they know it is not the survivor's fault.

**Difficulty expressing their own feelings:** The parent may feel like because they are not the victim, they should be able to handle it and 'get over it'.

All of these can be the effects on the parents of survivors who have been sexually assaulted or abused. It is important to recognize that sexual assault/abuse affects everyone involved with the primary victim of the crime. Parents, in particular, need to learn how to support the survivor through his/her healing process, as well as find the support they need to deal with how it is impacting them.

**Ways Parents Can Help**

1. **Examine Thoughts About Rape and Sexual Abuse:** Parents need to examine any myths or preconceived notions about sexual assault and confront those things that may prevent them from being open, honest, and supportive with the survivor. It is also helpful to learn more about the effects sexual violence has on survivors and the healing process in order to understand some of the survivor's actions.
2. **Give Survivor Control:** Because the loss of control is so great when someone is victimized, survivors need to be empowered to have control over all aspects of their lives. Parents can assist in empowering the survivor by allowing them to decide when, if and how they choose to talk about their abuse/assault. The parent needs to let them know that he/she is there when needed.

3. **Be Willing To Listen and Believe:** It is very difficult for a parent to listen to someone they care about disclose details about their rape or child sexual abuse. It is very important that the parent is able to hear about what happened. Society has conditioned survivors to believe that they are to blame and they need to know that the parent is a safe person they can talk to and that he/she can take it.

4. **Cannot Blame the Victim:** It is very important for parents to be able to convey to the survivor that they know the abuse/assault was not the survivor's fault. Sometimes a parent may feel guilty for any feelings of blame or anger they have towards the survivor and need to be informed about prevalent myths in society that blame the victim. It is important for the advocate to help the parent understand that NO ONE deserves to be sexually assaulted or abused.

5. **Let The Survivor Follow Their Emotions:** It is important for the parent to VALIDATE whatever feelings the survivor is having. Many survivors were not allowed to express emotions as children and as adults they often feel guilty, out of control, or "not normal" when they frequently get upset. If the survivor is angry, the parent can help the survivor to direct their anger in a safe and constructive way.

6. **Be Patient:** The parent needs to recognize that everyone reacts differently to trauma and that regardless of what happened to the survivor, there is no time limit on the healing process. There was no way to predict or ask for this crisis and there is no way to change or resolve it. All one can do is to find the strength to meet this challenge and grow. In order to grow, BOTH the survivor and parents need to develop ways to cope with feelings, changes and acceptance of life as it is now.

7. **Get Support:** The best way for a parent to help a survivor of sexual assault/abuse is to get support for her/himself. Parents can utilize the hotline as needed and could also join our Non-offending parents group.

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**WORKING WITH PARTNERS OF SEXUAL VIOLENCE VICTIMS**

The partners of survivors of sexual assault/abuse are also, in many ways, victims of abuse and may experience feelings similar to that of the survivor. Often partners seek information and help for the victim and haven't yet realized that they too need support. It is important to recognize that a sexual assault affects everyone involved with the survivor of the crime. Partners, in particular, need to learn how to support the survivor through the healing process as well as find the support THEY need to deal with how it is impacting them.

**Some Common Feelings of Partners of Survivors:**

*Concern for the survivor:* How to help the survivor deal with the trauma.

*Helplessness:* Partners may wish they could have protected their partner and want to fix the situation so life can get back to "normal".
Feeling out of control: Just as the survivor is feeling the effects of the loss of control in their lives, so too does the partner. The abuse/assault has changed their relationship with the survivor and it is out of the partner’s control to change that.

Wanting to harm the offender: This is a natural reaction, but not a realistic one. This creates further crisis and the survivor might feel the need to protect the offender (especially if the offender is known to the survivor).

Loss of intimacy/trust: Because the survivor needs time to work on trust issues, the loss of trust affects any relationship in which he/she is involved.

Guilt: Partners often have guilt in having their own feelings of anger at 'why this has disrupted their whole family' and feeling guilty because it wasn't them who had this violence forced on them and because they know it is not the survivor’s fault.

Difficulty expressing their own feelings: Partners may feel like because they are not the victim, they should be able to handle it and 'get over it'.

Ways Partners Can Help

1. Examine Thoughts About Rape and Sexual Abuse: Partners need to examine any myths or preconceived notions about sexual assault and confront those things that may prevent them from being open, honest, and supportive with the survivor. It is also helpful to learn more about the effects sexual violence has on survivors and the healing process in order to understand some of the survivor's actions.

2. Give Survivor Control: Because the loss of control is so great when someone is victimized, survivors need to be empowered to have control over all aspects of their lives. Partners can assist in empowering the survivor by allowing him/her to decide when, if and how they choose to talk about their abuse/assault. The partner needs to let the survivor know that he/she is there when needed.

3. Be Willing To Listen and Believe: It is very difficult for a partner to listen to someone they care about disclose details about their rape or child sexual abuse. It is very important that the partner is able to hear about what happened. Society has conditioned survivors to believe that they are to blame and they need to know that their partner is a safe person they can talk to.

4. Cannot Blame the Victim: It is very important for the partner to be able to convey to the survivor that they know the abuse/assault was not the survivor's fault. Sometimes a partner may feel guilty for any feelings of blame or anger they have towards the survivor and need to be informed about prevalent myths in society that blame the victim. It is important for the advocate to help the partner understand that NO ONE deserves to be sexually assaulted or abused.

5. Let the Survivor Follow Their Emotions: It is important for the partner to VALIDATE whatever feelings the survivor is having. Many survivors of childhood abuse were not allowed to express emotions as children and as adults they often feel guilty, out of control, or "not normal" when they frequently get upset. If the survivor is angry, the partner can help direct the anger towards where it belongs, the offender.
6. **Let Partner’s Know that Changes in Behavior are Expected:** Often those who care do not know what to expect and the behavior of those they love can be unsettling. They need to know that these behaviors are common and that a supportive relationship is what the survivor needs in order to recover. Some common changes can include:

- Sleep disturbances
- Fear of being alone
- Isolation
- Changes in appearance
- Misdirected anger
- Depression
- Inability to concentrate
- Decreased desire for physical intimacy

7. **Be Patient:** The partner needs to recognize that everyone reacts differently to trauma and that regardless of what happened to the survivor, there is no time limit on the healing process. There was no way to predict or ask for this crisis and there is no way to change or resolve it. All one can do is to find the strength to meet this challenge and grow. In order to grow, BOTH the survivor and partner need to develop ways to cope with feelings, changes and acceptance of life as it is now.

8. **Get Support:** The best way for a partner to help a survivor of sexual assault/abuse is to get support for her/himself.
DOMESTIC VIOLENCE & THE ELDERLY

PRESENTED BY:
FRANCINE STARK
DOMESTIC VIOLENCE

I. OBJECTIVES:

Upon completion of this module the participant will be able to:

• Discuss the historical context of domestic violence, history of the movement, the diverse population it impacts, current statistics, prevalence, reporting issues, and common myths.
• Discuss the dynamics of domestic violence including power and control issues, barriers to leaving, and minimization.
• Discuss the civil and legal options available to victims of violence.
• Discuss the roles and responsibilities of various advocates for victims of domestic violence and challenges/opportunities for collaboration.
• Identify best practices and/or components of a coordinated response to domestic violence including risk assessment and safety planning.
• Discuss stalking, its impact, and recourse for victims.
Domestic Violence
Presentation by
Francine J.G. Stark
Spruce Run Association
Bangor, ME
207-945-5102

Definition of Domestic Abuse
- A pattern of coercive control one person exercises over another in an intimate relationship through the use of intimidating, threatening, harmful, or harassing behavior.
- These tactics can be physical, sexual, emotional, and psychological.
- The abuse is both purposeful and chosen

Diversity
- Domestic abuse/violence crosses all lines to include all people, regardless of race, religion, sexual orientation, wealth, social status, education, profession, geographic location, ethnicity, age or childhood experience
- The perpetrators are mostly men
- The victims are mostly women
Prevalence of Domestic Violence

- One out of every four American women (26%) report that they have been physically abused by a husband or boyfriend at some point in their lives. (Lieberman Research Inc., 1996)
- From 1992 to 1996, victimization by an intimate accounted for about 21% of the violence experienced by females. It accounted for about 2% of the violent crime sustained by males. (USDOJ, 1998)

Male violence toward men

- Victims of male homicide
  - 76% = men
  - 24% = women
- Violence against men or women
  - 70% of violent crimes against strangers are committed against men
  - 77% of crimes against relative/partners are committed against women

Domestic Violence and Health

- Murder is the leading cause of death for pregnant women. (Journal of the American Medical Association, 285(11), 2001)
- In addition to injuries sustained during violent episodes, physical and psychological abuse are linked to … arthritis, chronic neck or back pain, migraine and other frequent headaches, stammering, problems seeing, sexually transmitted infections, chronic pelvic pain, and stomach ulcers. (Archives of Family Medicine, 9, 2000)
Maine Statistics

- From 2000-2003, 65% of the women killed were killed by their intimate partners.
- In 2004, 14,922 people used Maine Coalition to End Domestic Violence member project services.
- In 2003, 5,364 domestic assaults were reported to law enforcement.

Pity me. I need you.

Threats and violence.
“You and the kids are everything to me.”

“I’ll find you wherever you go.”

Regarding Elder Abuse –
Research shows:
- A significant portion of elder abuse is spouse/partner violence… more than abuse by adult children
- No profile of an elder abuse victim has been identified
- A significant number of abusers suffer some form of impairment

Interdependency
- Housing, transportation, personal care
- Finances
- Faith community
- Family
- Long-standing relationship
- Culture and tradition
- Reluctance to involve formal interventions
Being Helpful

- Make no excuses for abusive behavior
- Seek to understand the individual’s particular concerns, hopes, and barriers to safety
- Focus on safety
- Report elder abuse and neglect to Adult Protective Services
- Be informed about services and make appropriate referrals

Mixed Messages

- Marriage is for life
- Divorce is bad for children
- Forgiveness is important
- Women should stay home and take care of the children
- Battereds women should leave
- Children should not witness abuse
- Battereds women should call the police
- Welfare recipients are taking advantage of tax paying citizens

Domestic abuse project services

- 24 hour hotline/helpline
- Support and education groups
- Specialized advocates: legal, welfare, child protection, youth
- School-based programs
- Shelter
- Transitional housing and services
- Consultation
- Education and training
Domestic abuse project approach to crisis intervention & advocacy

- Non-directive
- Validating and supportive
- Informative and collaborative
- Confidential
- Free
- No eligibility requirements for hotline
- Formal referrals are not necessary

Signs of increased danger

- Increased frequency or severity of abuse
- Lack of concern that there are witnesses
- Threats of suicide
- Use of weapons
- Victim’s plans/actions to leave or reduce batterer’s control

Components of a Helpful Response

- Confidentiality
- Validation of feelings and experience
- Acknowledgement of the injustice
- Safety planning assistance
- Respect for the person’s autonomy
- Information about and bridge to community services
When someone tells us about being abused, they are reaching out for support. Our response can either contribute to their safety, their ability to act effectively on their own behalf, or escalate the danger they face.

A Few Helpful Things to Say

- I am so sorry that this happened to you.
- I'm here to listen, if you want to talk.
- No one has the right to be abusive . . . No matter what.
- You don't deserve to be treated this way.
- I am afraid for your safety.
- I am afraid for the safety of your children.
- I’m glad that you told me this.

Books

ADVOCACY GOALS FOR VICTIMS OF DOMESTIC VIOLENCE

- Empower women with the ability to make significant changes and solve problems.

- Increase a victim's ability to make a successful transition from a battering environment to independence.

- Connect the victim—both in the short- and long-term—with community resources that provide support, encouragement, and assistance.

- Provide information and support throughout the criminal justice system and beyond.
The power and control wheel demonstrates the pattern of coercive behavior in a domestic violence relationship. At the heart of the wheel is power and control. This is the motivation behind the abuse—the answer to the question: *Why does a person engage in domestic violence?* The outside of the wheel contains the cement of the abusive relationship: the threat of or actual use of physical and sexual violence. Inside the wheel are a variety of behaviors, known as tactics, which the abuser uses to gain and maintain control. Not all of these tactics are used in every relationship, and the tactics may be changed as the victim’s response changes.
Physical violence in the home is a crime. It may take many forms, including pushing, shoving, spitting, throwing things, choking, kicking, stabbing, and shooting. Some of the impact of physical abuse is obvious: bruises, broken bones, and black eyes. Physical violence reinforces and intensifies the impact of all other forms of abuse, but it is only one of the many tactics batterers use to exert and maintain control. Some abusers are never physically violent.

Some women respond to such tactics by breaking off the relationship quickly – though it may take years for the batterer to leave her alone. Other women may believe that their partner’s abusive behavior is the result of a bad childhood, stress, or some other issue which she may be able to help her partner overcome. She may think that a short-term compromise of her own choices is a reasonable sacrifice for the long term happiness she believes possible for herself and the partner she loves. Some believe the justifications the batterer gives for the abuse and lose their ability to accurately name their experience as abuse. People who are abusive blame their victims for their violence, saying such things as ‘it was because of the way she kept the house, the tone of her voice, the look on her face, the way she spent the money’.

An abused woman may respond initially by trying to prove herself to him, changing how she looks and acts, hoping that he will come to trust and appreciate her. She may hope that if she proves her love, he will be kind and loving in return. As the abuse intensifies, she responds by focusing all her time and energy on monitoring his moods, looks, demands, and slightest movement in a desperate attempt to avoid abuse.

For women, the experience or threat of physical violence becomes the context for future choices. Her emotional and physical survival depends on being in tune with him and complying with his wishes. He may be warm and loving one day, telling her she has no reason to be afraid, while being threatening, violent, or sullen the next. This serves to keep her off-balance and feeling crazy, one day hopeful about the relationship, the next terrified and seeking a way out. Her eating and sleeping patterns may be disrupted and injuries left untreated. Her overall health may deteriorate.

Once these patterns are in place, it becomes extremely difficult to break away.

At some point, intent upon ending the abuse in her life, a battered woman may leave, hoping that her leaving may inspire her abuser to recognize the impact of his behavior and change. She may or may not want to end the relationship. She does, however, want the abuse to end. The abuser usually responds by apologizing, promising to go to counseling, to support her goals for schooling or employment. He’ll say whatever it takes to win her back. She may go back, hoping his promises will come true. She may feel defeated by the challenges and loneliness she faces in establishing a separate life for herself and the children.

The real and perceived threat of physical violence does not immediately cease when a battered woman ‘leaves’ the person who is abusing her. Abusers often are the most dangerous when they realize that their partners are preparing to leave or have left -- when it becomes clear that the tactics that have persuaded her to stay with him in the past are no longer effective. The batterer may continue to abuse her even if she leaves, using such tactics as telephone harassment, stalking, and manipulating visitation arrangements with children, as well as ongoing threats to her emotional and physical well-being.
One might reasonably ask, “What could be worse than staying in a relationship with someone who is abusive?” Here are some answers from battered women:

**Worse battering** — Unsuccessful attempts to get away may lead to escalated violence. Perhaps the abuser will carry out threats of suicide and/or homicide.

**Harm to the children** -- Most battered women and some batterers try to protect their children from the worst of the violence. Few battered women are willing to leave their children unprotected in the care of a batterer, and some do not have sufficient resources to take their children with them when they leave. In addition, many batterers threaten that they will gain full legal custody of the children if their wives leave.

**Retaliation against parents, other close relatives, friends, or others** -- Some batterers make a point of threatening to kill their in-laws if their partners ever leave them. Some threaten to harm anyone who helps her to leave.

**Starvation and homelessness** -- Many batterers are careful to keep their partners economically powerless. Property and bank accounts are kept exclusively in the batterer’s name. With no money available to them, how can the women leave without starving? Where will they stay if their husbands have socially isolated them from friends and relatives? Those women who do have friends with whom they could stay often fear endangering their friends by hiding out at their homes. Many battered women do not understand their legal rights to household property or are afraid to take anything when they leave.

**Shame, failure, and public sin** -- It is common for battered women to take responsibility for the continuation of even a violent marriage. The shame of admitting failure can be very great. In the case of women who religious, staying in violent marriages and protecting the children as best they can are the only ways to avoid being defined as sinfully irresponsible. They may believe that their personal sacrifice is their duty to God.

**Loss of social identity, loneliness, and one’s entire way of life** -- Violence has a way of creeping into an otherwise comfortable life, increasingly polluting it but never changing it too much all at once. Thus, battered women may maintain their social identities through most if not all of the abuse. Leaving the abuser often means losing all that is familiar in their lives. In cases where the couple is part of a small cultural or ethnic community, leaving could result in isolation from the woman’s heritage and from others who speak her language.

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1 Many of these battered women’s responses are included in *A Battered Woman’s Problems are Social, Not Psychological*, by L.H. Bowker in *Current Controversies on Family Violence*, R. Gelles & D. Loseke, eds., Sage Publications, 1993, pp. 158.
When battered women leave, they face numerous challenges in the community, for example:

- Lack of real alternatives for employment and financial assistance
- Lack of affordable legal assistance to obtain a divorce, custody order, or permanent protection from abuse order
- Limited availability of subsidized housing and lack of public transportation, particularly in rural communities
- The structure of family law, which approaches parental rights and responsibilities with the presumption that joint custody is best, and that spouse abuse is an exception that requires careful proof.
- Public disdain for single parents
- Lack of affordable childcare and health care

Every individual person who is abused has a unique story to tell, resources to muster, and fears to overcome. Amazingly, many women muster the strength from within and break free.

About half of the people who call Spruce Run for support have already separated physically from the abuser and are trying to establish abuse-free lives for themselves and their children. Others have plans to leave in the future if the batterer fails to follow through with promises to change.

The process of safely separating from an abuser can take a long time. Essential to their successes are the responses of the people and institutions in their lives.

Any of us may play a crucial role in helping people who have been abused to establish emotional and/or physical safety in their lives. For example, if the police aggressively enforce orders of protection and conditions of release, the abuser is more likely to get the message that they cannot continue to control this woman, that law enforcement supports her demand for safety. Health care providers who continually give the message that they are concerned for her well being and offer support may give a battered woman the encouragement she needs to make positive change.

To be helpful, however, we must be open to receive the information she gives us, willing to ask questions, and recognize the limits of legal remedies and social services. Above all, we must consistently give the unequivocal message that everyone has the right to be treated with respect and that there are no justifications for abuse.
Safety Planning
By: Susan Bradford and Francine Stark

Strategies to reduce a batterer’s ability to use power and control over the lives of his/her partner and children

Battered women, while unable to prevent their abuser’s violence, can make plans to increase their safety. Friends, family, and service providers may all be part of helping to develop and/or implement safety plans.

In order to contribute to her safety and not cause harm, it is important to appreciate and build on the strategies that a battered woman has already identified. As you talk with a woman about safety planning, know that this woman has thought many times and for many hours about how to make herself safe and free from abuse and has tried a number of strategies. If she is still being abused, those strategies have not worked completely. The fact that she is still able to lead a functional life means that they have worked to some degree.

Anyone offering assistance to battered women must remember two critical facts: only the batterer controls the abuse; the battered woman and children will live with the consequences of the strategies used in the attempt to decrease the batterer’s ability to abuse them.

What is safety?

Safety is not simply having a place to go where the batterer cannot find her, although that may be part of a larger safety plan. In reality, safety involves many things that most of us take for granted. These are a few examples:

♦ Having a place to live (long term)
♦ Having enough food
♦ Having enough money to maintain housing, healthcare, food, and transportation
♦ Being free of scrutiny (being watched in the course of daily life)
♦ Having the right to establish a routine – going to the same grocery store every week or taking a walk in the park every lunch hour,
♦ Living without fear
♦ Sharing hopes, concerns, and pleasure with friends and family
♦ Sleeping soundly

What kinds of safety plans are there?

It takes time, experience, and a variety of strategies to create personal safety. Battered women may be seeking help in accomplishing any number of different safety goals.

♦ Immediate -- How do I get away tonight? Should I call the police?
♦ Short term -- How do I survive the next month?
♦ Longer range – How can I keep him away from me? Is there any realistic possibility he’ll change – How will I know? How do I live with the loneliness? What can I do about how hurt and angry I feel? How can I remain safe while exchanging the children for visitation? How will I support myself and the children?
How do battered women make safety plans?

Most of us have been in situations where we had to make difficult decisions. For example, even when we may recognize that we are unhappy with our job, few of us are able to simply walk away from that job immediately. There are many things to be taken into account: How will I pay my bills? What will future employers think? How long will I be unemployed? Am I qualified or worthy of a better job? What will my choices mean to my family? What will happen to the projects I have started? Will I lose the friendships I’ve made through this job? Until there are answers to at least several of these questions, leaving our job, however unsatisfying, is not a viable option. Sometimes the process of changing jobs takes years for people in such a situation.

For battered women, making plans to get free from abuse follow a similar path, but she is considering her options and developing plans under the constant scrutiny of her abuser, subject to his abusive tactics to keep her from making any changes. Battered women’s safety plans may include a wide variety of things. The following pages list some of the things she may consider. She recognizes the threats to her safety, thinks of ways to reduce them, tries out her plans, learns from what happens, and reassesses her situation, options, and plans for the future.

Helping battered women with safety plans

One thing that everyone can do is to be sure that their place of work, worship, or community gathering place (such the library) has easily accessible information about contacting the local domestic violence project.

Domestic violence advocates have been helping battered women with safety plans for many years and are uniquely able to provide accurate information in response to battered women’s questions. They have specialized training in active listening and crisis intervention skills. Hotlines allow women to remain anonymous and take as much time as they need to express their feelings, tell their experiences, and engage in problem solving. They are expert at supporting battered women in their safety planning process, without telling the woman what she should do. Hotline workers recognize that battered women are experts on their experience of abuse and know best what strategies may enhance their safety or increase their danger.

Because domestic violence advocates have heard many battered women describe their experiences and the threats they were able to overcome, domestic violence advocates are more likely to be able to explore the question ‘what will happen if …?’ and will be well informed of local services and other options.

It is difficult for most of us to avoid giving advice, particularly when we are afraid of what will happen to someone we are concerned about. However, the helper must recognize that, no matter what, only the battered woman and her children will live with the consequences of the choices she makes. Whatever strategy she chooses, only the batterer controls future abuse.

A battered woman may have many people involved in her life who can be helpful in a variety of ways:

Domestic violence projects – someone to talk to, validation, support, information, advocacy, shelter, problem solving, and safety planning
Family/friends – a place to stay, childcare, transportation, money, people to talk to

The criminal justice system (police officers, the district attorney, judges) – arresting the batterer, following up on conditions of release, prosecution of charges, informing the battered woman about the criminal process.

Clergy – offer information about local services, especially the domestic violence project, addressing her theological questions in ways that prioritize her safety, autonomy, and right to a violence-free life; offer assistance with shelter, childcare, transportation, money, and the support of a caring community.

Employers – involving workplace security in the enforcement of any court orders, screening phone calls for her, offering flexible hours and time off for things she need to do (court, house hunting, caring for children).

Support groups – a place to talk, gain perspective, make friends, and create a sense of community.

Maine’s domestic violence projects provide safety planning assistance through their 24-hour hotlines, support groups, and shelters. Encouraging people to use these free local resources helps break their isolation, establish new contacts, and gain a greater sense of personal power and hope. At the very least, be sure to give them the hotline number, and, if possible, offer them access to a private phone to make the call.
## Safety Planning in the Community Context

<table>
<thead>
<tr>
<th>Battered Woman’s Risk Analysis*</th>
<th>Regardless of staying, leaving, or something in between</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stay</strong></td>
<td><strong>Leave</strong></td>
</tr>
<tr>
<td>Die</td>
<td>Support system – telling/engaging people in daily life (family, friends, clergy, employer, doctor …)</td>
</tr>
<tr>
<td>Injury</td>
<td>Hotline, support group</td>
</tr>
<tr>
<td>Physical</td>
<td>Accurate information about abuse, its causes and effects</td>
</tr>
<tr>
<td>Emotional</td>
<td>Safe place to go</td>
</tr>
<tr>
<td>Child abuse</td>
<td>-- short term – Shelter</td>
</tr>
<tr>
<td>Lose children</td>
<td>-- long term – home/housing</td>
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<tr>
<td>Modeling behavior to children</td>
<td>Calling police</td>
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<tr>
<td>Suicide</td>
<td>Protection from Abuse</td>
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<tr>
<td>Depression</td>
<td>Legal information and services</td>
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<tr>
<td>Homicide</td>
<td>Divorce or parental rights action</td>
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<tr>
<td>Poverty</td>
<td>Healthcare</td>
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<tr>
<td>Loss of –</td>
<td>Childcare</td>
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<tr>
<td>Credibility</td>
<td>Transportation</td>
</tr>
<tr>
<td>Family</td>
<td>$ - TANF, job (keeping, getting, changing, training)</td>
</tr>
<tr>
<td>Friends</td>
<td>Helping the children understand</td>
</tr>
<tr>
<td>Job</td>
<td>and cope with the changes in their lives -- stability, maintaining connections with friends, school, family, safe visitation, comfort, fun</td>
</tr>
<tr>
<td>Self</td>
<td>Single parenting support (How do I take a shower and take care of a 2 yr old and a 3 yr old? How do I cope with the behavior problems my children have from living with DV?)</td>
</tr>
<tr>
<td>Health</td>
<td>Relations messages about the batterer’s behavior from throughout her community.</td>
</tr>
<tr>
<td>Physical</td>
<td>Recognition of the fact that getting free from abuse – legally, financially, and emotionally – can take years.</td>
</tr>
<tr>
<td>Mental</td>
<td>Aware, sensitive, and competent service provision as regards domestic abuse.</td>
</tr>
</tbody>
</table>

Some indicators of abuse at home

♦ Repeated bruises or injuries
♦ Seasonally inappropriate clothes – long sleeves, turtlenecks
♦ Pattern of cancelled appointments
♦ Signs of being frightened
♦ Changes in job performance
♦ Unusually quiet – changed demeanor
♦ Unusual number of phone calls from a family member
♦ Sensitive about home life or hints that there are troubles at home
♦ Disruptive personal visits to the workplace
♦ Direct observations of her/his partner’s behavior

Components of a Helpful Response

* Confidentiality
* Validation of feelings and experience
* Acknowledgement of the injustice
* Safety planning assistance
* Respect for the person’s autonomy
* Information about and access to community services

When someone tells us about being abused, they are reaching out for support. Our response can either contribute to their empowerment, their ability to act effectively on their own behalf, or escalate the danger they face.

A Few Helpful Things to Say

♦ I am afraid for your safety.
♦ I am afraid for the safety of your children.
♦ You don’t deserve to be treated this way.
♦ What can I do to help?
♦ I am so sorry that this has happened to you.
♦ I’m here to listen, if you want to talk.
♦ No one has the right to be abusive . . . no matter what.
♦ Spruce Run might be able to give you some ideas and support. The number for their helpline is 1-800-863-9909

Things to Consider About Yourself
In Your Interaction with a Battered Woman
By: Sue Bradford

• What is she hoping you can do?
• What may she fear you will do?
• What is your role?
• What is your potential impact?
• Do you have the time and/or skill?
• Who else is involved?
• What do you do when you don’t like her choices?
• Don’t make assumptions:
  • - regarding her experience
  • - regarding her options
  • - about how she’s been treated
  • - about what she’s got to lose

• Do ask . . . if you have time to listen.
It is very tempting to take the side of the perpetrator. All the perpetrator asks is that the bystander do nothing. He appeals to the universal desire to see, hear, and speak no evil. The victim, on the contrary, asks the bystander to share the burden of pain. The victim demands action, engagement, and remembering … In order to escape accountability for his crime, the perpetrator does everything in his power to promote forgetting. If secrecy fails, the perpetrator attacks the credibility of his victim. If he cannot silence her absolutely, he tries to make sure that no one listens … The more powerful the perpetrator, the greater is his prerogative to name and define reality, and the more completely his arguments prevail.2

Why do men batter? Inadequate theories --

- Common explanations tend either to individualize or psychologize the problem, disregarding the larger social-cultural context.

- Battering is often defined as a psychological problem, an anger management problem, or a communication problem. How the problem is defined in many ways determines the response (or non-response) by the community.

- Battering is sometimes referred to as learned behavior, especially if a man witnessed violence or was abused as a child. Although this approach has merit, it overlooks the fact that most men also have available models of non-violent behavior. Battering is more complicated than this theory allows.

- Sometimes battering is approached as a problem within the individual, such as difficulty with recognizing and expressing feelings. However, battering is not an inability to express feelings or wants, but rather a method by which a man does so.

- Is battering an anger management problem? Men who batter typically manage their anger quite effectively. A batterer directs his anger against women and not against the legal system or his employer, for example. In fact, many batterers use anger as their justification for their abusive behavior. It’s important to remember that men who batter express feelings, including anger, when and to whom they want.

- Is battering a problem of poor communication? Again, batterers use feelings often selectively or may decide to withhold the expression of feelings as tactics to batter. Battering is a choice and not the result of poor communication.

Why do men batter? A socio-cultural analysis of power --

The most adequate explanation for battering understands it as a choice that someone makes in order to gain something that he desires. Men batter to gain power and control over another person. Therefore, it’s

important to focus not only on what men do, but also on what they gain by what they do. Men receive rewards from their abusive behavior, including obedience, compliance, and loyalty from those they abuse.

Battering is purposeful. Batterers believe they are entitled to control another person, that battering will be effective in establishing and maintaining that control, that there will be few if any negative consequences for their abusive behavior, and that they can maintain a sense of themselves as responsible persons in spite of their abuse.

But why do men want power and control? Men’s abusive behavior should be viewed within the context of sexism, which may be defined as gender prejudice plus power. As such, sexism is not the “cause” of battering as much as the environmental wellspring from which arises men’s power to batter and abuse. Battering is not merely a personal problem, but rather a social and systemic problem. As long as men as a social group retain disproportionate power and institutional arrangements reinforce male privilege and status, the problem of male battering will not disappear. Far from it. Sexist cultural norms and values support notions of male superiority and the right to rule and discipline others, which some men play out violently. Sexism doesn’t cause any man to choose to be violent, but it does provide the impetus and cultural legitimation from which such choices are made.

When institutions, including the church, promote or at least fail to challenge sexist beliefs, they collude with batterers in supporting their right to control women. Institutions thereby increase men’s power to batter by reinforcing sexist norms, colluding with men by accepting their justifications, and often blaming women as the real source of the problem.

Understanding sexism as the root of battering means that working for change is counter-cultural work. It includes the personal work of showing genuine respect for women and supporting women’s safety and empowerment, but also involves social change, including changing the sexism norms that devalue women and altering institutional power structures that grant privileges to men as men.
Answers to some common questions about batterers … 3

Can he really change?

Yes, but progress will depend on his recognizing he has a problem and being prepared to work hard on it for a long time, without expecting rewards or support from his partner for his efforts. Change does not occur overnight, if it occurs at all, and many men give up along the way. Long term improvement in behavior is more likely for a man who completes a 48 week batterers intervention program, but even that is no guarantee; many men continue to be violent and controlling after completing the program.

If he’s sorry, will he change?

A man may be apologetic after being abusive. But this doesn’t mean he has changed. In fact, many batterers have a repeating cycle where there’s a stage of increasing abusiveness, then an incident of violence, and then a period of regret and attempts to make up. He may try to use apologies and promises to get you to take him back, to drop a restraining order, or to drop criminal charges. This remorseful stage is another tactic of his abuse and control of you, and does not lead to any lasting changes.

Is he violent because he drinks?

Alcohol does not cause a man to be abusive, it just gives him a convenient excuse. If he is violent and also abuses alcohol or drugs, then he has two problems which he has to take care of. A substance abusing batterer typically has a period of improved behavior when he first gets off the substance, and then heads rapidly back to his old abusive ways.

Should there be couples counseling?

No. Couples counseling allows him to stay focused on his criticisms of his partner, instead of dealing with his own problems. He may even retaliate against his partner physically or verbally for what she says to the counselor. He may put pressure on his partner to give up certain things that are important in return for his giving up his violence. Abuse is a problem in the abuser, not a problem in the relationship.

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3 This information is taken largely from a brochure distributed by Emerge, a batterer intervention project in Cambridge, Massachusetts.
How Do I Know If He's Changing?

You are the best judge of whether he is changing or not, if your feeling is that he has not changed, trust that regardless of other signs. Some of the things to look for are:

- Has he completely stopped doing and saying things which frighten you?
- Can he express anger towards you without being punished for it?
- Does it feel safe to bring up topics that you know upset him?
- Can he listen to your opinion and respect it even when he disagrees?
- Can he argue without being abusive or domineering?
- Does he respect your wishes about sex and physical contact?
- Has he stopped expecting you to do things for him?
- Can you spend time with friends without being afraid that he'll retaliate?
- Can you do other things that are important to you, such as go to school or get a job?
- Are you comfortable with the way he interacts with the children? Do you feel safe leaving them alone with him?
- Is he being supportive and giving compliments? Does he listen well to you?
- Does he do his share of housework and childcare?

Some signs that he is not changing include:

- Does he tell you that you are abusive?
- Is he pressuring you to go to therapy for yourself or couples counseling for the two of you?
- Does he make his abuse sound like less than it really is when he talks about it?
- Does he tell you that you owe him another chance? Does he say that he can’t change without your support?
- Does he try to get you or the children to feel sorry for him?
- Do you have to keep after him to attend his meetings and appointments?
- Does he expect something in return from you for the fact that he’s attending a batterers intervention program?
- Is he pressuring you to make up your mind about the relationship or to move back together?
- Is he pressuring you to drop criminal charges or your restraining order?

Should I Stay With Him?

It is your decision. Your first consideration should be safety for you and your children. Get support for yourself, if it is safe to do so. He may pressure you to stay with him while he attends a batterer intervention program. This is a tactic of abuse and control. If he is serious about changing, he’ll respect your limits and wishes about the relationship.

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4 Ibid.
SYSTEM OVERVIEW

PRESENTED BY:
LAURA YUSTAK SMITH
SYSTEM OVERVIEW

OBJECTIVES:

Upon completion of this module the participant will be able to:

- Describe the overall structure, case flow process, and roles of professionals in the adult and juvenile justice processes including the dual system of state and federal courts.
- Discuss the roles and responsibilities of professionals (law enforcement, prosecution, courts, corrections, and juvenile system) along the criminal justice system continuum.
- Discuss the interactions among individuals and agencies involved in the criminal justice system, challenges and opportunities for collaboration, and the extent to which they support victim participation during each phase of the justice system.
- Identify the origins of the rule of law in the United States.
- Discuss the special needs of child victims and witnesses in the criminal justice process.
The Criminal Justice System: An Overview

Laura Yustak Smith
Assistant Attorney General
Office of the Attorney General
Augusta, Maine

Topics

- Court Systems
- Civil or Criminal (and What’s the Difference?)
- Key Players in the System
- What Happens after the Police Arrive?
- Barriers to Prosecution
- Civil Legal Needs

I. State Court Systems

- Each state has its own variation
- ME & NH: District Court
- Superior Court (jury trials)
- Supreme Judicial Court (ME) or Supreme Court (NH)
- Probate Court
- Pilot Projects & Specialized
  - ME: Consolidated..., Drug Court
  - NH: Family Division
Federal System (Separate)

- United States District Courts
- Circuit Courts (Maine, NH go to the First Circuit)
- United States Supreme Court
- Fewer criminal cases

II. Civil or Criminal?

Yes, same incident can sometimes be both

A Civil Case Looks Like:

- Plaintiff v. Defendant
- Seeking $, specific performance, declaration of rights or duties
- Standard of proof: preponderance of evidence
- Judge, Jury, Marital Master (NH) or FCMO (ME)
- District or Superior Court
### Examples of Civil Stuff

- Divorce, Custody
- Protection from Abuse/Harassment
- Child Protective
- Guardianships (Probate Court)
- Everything that’s not a crime (traffic, boundary disputes, contracts, wills, L-T, PI, MM)

### A Criminal Case Looks Like:

- State (or U.S.) v. Defendant
- Sanctions: jail, fine, restitution, probation, com. service
- Standard of proof: beyond a reasonable doubt; who has it?
- Judge or Jury
- District or Superior Court

### Examples of “Minor” Crimes (Class D, E or Misdemeanor)

- assault
- criminal threatening
- terrorizing
- stalking
- reckless conduct
- threatening display
- unlawful sexual contact
- criminal restraint
Minor Crimes (cont.)
- criminal mischief
- driving to endanger
- disorderly conduct
- harassment by telephone
- criminal trespass
- violation of protection order
- violation of bail condition

Serious Crimes (Felony or Class A, B, C)
- murder
- manslaughter
- kidnapping
- burglary
- reckless conduct w/dw
- criminal threatening w/firearm (ag person'; 1yr mm)
- terrorizing w/firearm
- tampering

More Felonies (Class A, B, C)
- gross sexual assault
- Some misdemeanors w/priors, e.g., assault, stalking, theft
- aggravated assault
- elevated aggravated assault
- elevated agg. assault on pregnant person
- unlawful sexual contact
- violation of bail condition, protective order
III. People in the CJ System

- Law Enforcement; First Responders
- Advocates (Project/Community and Prosecution-Based)
- Prosecutor
- Grand Jury
- Traverse Jury
- Judge
- Corrections/Probation (Adult and Juvenile)
- Defense Counsel, Private Investigators

IV. What Happens after the Police Arrive?

- Arrest (not always)
- Evidence Collection (statements, photos, things)
- Bail Conditions (if arrest, or after arr.)
- State files complaint with court and/or presents to GJ
- State could refuse to file complaint (insuf evid)
- GJ could return indictment or no bill

IV. (cont.) If complaint is approved or GJ indicts:

- Arraignment and entry of plea (ng; g; nolo; ncr)
- Bail Conditions might first appear here
- Trial
- District Court, or transfer to Superior for jury
- Superior Court if murder, A, B, C or “felony”
- Motions
- Verdict (ng; g; ncr)
- Sentencing
- Appeals
- Revocation of probation
Sentencing

- VWA, DA and Judge will ask for input from victim
- The victim has a great deal of influence
- Past conduct of defendant may count, even if no conviction

Sentencing Options

- Incarceration
- Fine
- Restitution
- Probation w/conditions (no contact, counseling)
  - BIP must be state certified
- Community service
- “Split sentence”
- Administrative Release
- Deferred Disposition

Collateral Consequences of Conviction

- DNA Registry
- Sex Offender Registry
- Possession of Firearms
- Professional Licenses and Employment
- Immigration Consequences
- Child Support/Custody
V. Barriers to Prosecution

- Lack of corroborative or sufficient evidence
- No written statement from victim
- Key witness unable or unwilling to cooperate
- Inadequate investigation or prosecution
- Overflowing dockets

Overcoming the Barriers

- Educate the victim
- Support-emotional and logistical
- Corroboration: photos, letters, tapes, broken objects, torn clothes, witnesses, medical records and medical professionals
- Educate the providers outside the CJ system (Trickle-down Effect)
- Train everyone in the system
- More judicial resources

VI. Civil Legal Needs

- Protection from Abuse
- Divorce, Parental Rights
- Asset Protection
- Establishing Credit
- Name Change
- Child Protective
- Real Estate Transactions
SYSTEM OVERVIEW

An understanding of the role and functions of the various court systems in the United States provides victim service providers with a solid foundation for understanding the dynamics of the law.

The U.S. judicial system can be confusing and frustrating to victims when they are first exposed to it. Knowing some of the rationale for its present day composition may help victims and their advocates understand the foundations of our judicial system and the manner in which laws operate and interact.

“…Offender focus…”
Victims of crime have historically been treated less than adequately within the criminal justice system. The vestiges of a victim-oriented or victim-driven system, with private prosecution or so-called "vigilante" justice, have given way over the last decades to an offender-based criminal justice system. Much progress has been made in recent years to begin balancing the system to provide victims with rights and services (Carrington 1975; Shapland 1985).

Historically each of the thirteen original states had their own unique court structure. This independence continued after the American Revolution and resulted in widespread differences among the various states, some of which still exist today.

While state courts had their origin in historical custom, federal courts were created by the U.S. Constitution. Section 1 of Article III established the federal court system with the words providing for "one Supreme Court, and . . . such inferior Courts as the Congress may from time to time ordain and establish."

From this beginning, Congress has engaged in a series of acts that has resulted in today's federal court system.

The first Congress established a federal court system, and the individual states were permitted to continue their own judicial structure.

There was general agreement among our nation’s founders that individual states needed to retain significant autonomy from federal control.

Under this concept of federalism, the United States developed as a loose confederation of semi-independent states having their own courts, with the federal court system acting in a very limited manner.

In the early history of our nation, most cases were tried in state courts. It was only later that the federal government and the federal judiciary began to exercise jurisdiction over crimes and civil matters. Jurisdiction in this context simply means the ability of the court to enforce laws and punish individuals who violate those laws.

A dual system of state and federal courts. As a result of this historical evolution, a dual system of state and federal courts exists today. Therefore, federal and state courts may have concurrent jurisdiction over specific crimes. For example, a person who robs a bank may be tried and convicted in state court for
robbery, then tried and convicted in federal court for the federal offense of robbery of a federally-chartered savings institution.

*Court system performs its duties with little or no supervision.* Another characteristic of the American court system is that it performs its duties with little or no supervision. A Supreme Court Justice does not exercise supervision over lower court judges in the same way that a government supervisor or manager exercises control over his or her employees. The U.S. Supreme Court and the various state supreme courts exercise supervision only in the sense that they hear appellate cases from lower courts and establish certain procedures for these courts.

A third feature of the U.S. court system is one of specialization that occurs primarily at the state and local level. Many state courts can be divided into three levels:

- Trial courts
- Appellate courts
- Supreme courts

**TRIAL COURTS**

Trial courts are where criminal cases start and finish.

The trial court conducts the entire series of acts that culminate in either the defendant’s release or sentencing.

State trial courts can be further divided into courts of:

- Limited or special jurisdiction.
- Courts of general jurisdiction.

The nature and type of case determines which court will have jurisdiction.

**Limited jurisdiction.** Courts that only hear and decide certain limited legal issues are courts of limited jurisdiction:

- Courts of limited jurisdiction hear and decide issues such as traffic tickets or set bail for criminal defendants.
- Typically, these courts hear certain types of minor civil or criminal cases.
- There are approximately 13,000 local courts in the United States.
- They are called county, magistrate, justice or municipal courts.
- Judges in these courts may be either appointed or elected.

In many jurisdictions, these are part-time positions, and the incumbent may have another job or position in addition to serving as a judge.

However, simply because they handle minor civil and criminal matters does not mean these courts do not perform important duties.

Often, the only contact the average citizen will have with the judicial system occurs at this level.
In addition, courts of limited jurisdiction may hear certain types of specialized matters such as:

- Probate of wills and estates.
- Divorces.
- Child custody matters.
- Landlord-tenant disputes.
- Juvenile proceedings.

These types of courts may be local courts or, depending on the state, may be courts of general jurisdiction that are designated by statute to hear and decide specific types of cases.

For example, in California, a superior court is considered a court of general jurisdiction; however, certain superior courts are designated to hear only juvenile matters, thereby becoming a court of limited jurisdiction when sitting as a juvenile court.

**General jurisdiction.** Courts of general jurisdiction are granted authority to hear and decide all issues that are brought before them. These are courts that normally hear all major civil or criminal cases. These courts are known by a variety of names, such as:

- Superior Courts.
- Circuit Courts.
- District Courts.
- Courts of Common Pleas.

Since they are courts of general jurisdiction, they have authority over all types of cases and controversies and, unless otherwise geographically limited, may decide issues that occur anywhere within the state. Some larger jurisdictions such as Los Angeles or New York may have hundreds of courts of general jurisdiction within the city limits.

It is important to be certain about the correct terminology for courts in each jurisdiction. For example, the New York Supreme Court is the state’s trial court and its highest court is called the Superior Court. Just the reverse is true in many jurisdictions.

Typically, these courts hear civil cases involving the same types of issues that courts of limited jurisdiction hear, although the amount of damages will be higher and may reach millions.

- These courts also hear the most serious forms of criminal matters including death penalty cases.
- Courts of general jurisdiction traditionally have the power to order individuals to do or refrain from doing certain acts.
- These courts may issue injunctions that prohibit performing certain acts or require individuals to perform certain functions or duties.
- This authority is derived from the equity power that resides in courts of general jurisdiction.

Equity is the concept that justice is administrated according to fairness as contrasted with the strict rules of law.
In early English Common Law, such separate courts of equity were known as Courts of Chancery.

These early courts were not concerned with technical legal issues; rather they focused on rendering decisions or orders that were fair or equitable.

In modern times, the power of these courts has been merged with courts of general jurisdiction, allowing them to rule on matters that require fairness as well as the strict application of the law.

- The power to issue temporary restraining orders (TROs) in spousal abuse cases comes from the equitable powers of the court.

**APPELLATE JURISDICTION**

Appellate jurisdiction is reserved for courts that hear appeals from both limited and general jurisdiction courts.

- These courts do not hold trials or hear evidence.
- They decide matters of law and issue formal written decisions or "opinions."

There are two classes of appellate courts:

- *Intermediate*, or Courts of Appeals.
- *Final*, or Supreme Courts.

**Courts of appeals.** The intermediate appellate courts are known as courts of appeals. Approximately half the states have designated intermediate appellate courts.

- These courts may be divided into judicial districts that hear all appeals within their district.
- They will hear and decide all issues of law that are raised on appeal in both civil and criminal cases.
- Since these courts deal strictly with legal or equitable issues, there is no jury to decide factual disputes.
- These courts accept the facts as determined by the trial courts.
- Intermediate appellate courts have the authority to reverse the decision of the lower courts, and to send the matter back with instructions to retry the case in accordance with their opinion.
- They also may uphold the decision of the lower court.

In either situation, the party who loses the appeal at this level may file an appeal with the next higher appellate court.
SUPREME COURTS
Final appellate courts are the highest state appellate courts. They may be known as supreme courts or courts of last resort. There may be five, seven, or nine justices sitting on this court depending on the state. This court has jurisdiction to hear and decide issues dealing with all matters decided by lower courts, including ruling on state constitutional or statutory issues. This decision is binding on all other courts within the state. Once this court has decided an issue, the only potential appeal left is to file in the federal court system, but only if grounds for federal appellate jurisdiction exists.

In many states, courts of limited jurisdiction hear misdemeanor cases. Other state courts of general jurisdiction try felonies. Still other courts may be designated as juvenile courts and hear only matters involving juveniles. This process also occurs in certain civil courts that hear only family law matters, probate matters, housing matters, or civil cases involving damages. At the federal level, there are courts such as bankruptcy that hear only cases dealing with specific matters.

Geographic organization of the American court system. The fourth characteristic of the American court system is its geographic organization.

State and federal courts are organized into geographic areas.

In many jurisdictions, these are called judicial districts and contain various levels of courts. For example, on the federal level, the 9th Circuit Court of Appeals has district (trial) courts that hear matters within certain specific boundaries, and an appellate court that hears all appeals from cases within that area.

Several studies have been conducted regarding the difference in sentences for the same type of crime in geographically distinct courts. For example, in Iowa the average sentence for motor vehicle theft was forty-seven months while the average sentence for the same offense in New York was fourteen months. (Pursley 1994). This should not be taken as a criticism; rather it may reflect different social values and attitudes within specific geographic areas.

FEDERAL DISTRICT COURTS
Federal District Courts are the lowest level of the federal court system. These courts have original jurisdiction over all cases involving a violation of federal statutes or other instances of statutorily-defined federal jurisdiction. These district courts handle thousands of cases per year.

FEDERAL CIRCUIT COURTS
Federal Circuit Courts of Appeals are the intermediate appellate level courts within the federal system. These courts are called circuit courts because the federal system is divided into 11 circuits. A Twelfth Circuit Court of Appeals serves the District of Columbia area. These courts hear all appeals from U.S. District Courts and habeas corpus appeals from state court convictions. These appeals are usually heard by panels of three of the appellate court judges rather than by all the judges of each circuit.
U.S. SUPREME COURTS
The United States Supreme Court is the highest court in the land. It has the capacity for judicial review of all lower court decisions, as well as state and federal statutes.

By exercising this power, the Supreme Court determines which laws and lower court decisions conform to the mandates set forth in the U.S. Constitution. The concept of judicial review was first referred to by Alexander Hamilton in the Federalist Papers, where he described the function of the Supreme Court as ensuring that the will of the people will be supreme over the will of the legislature (The Supreme Court of the United States, no date). This concept was firmly and finally established in the U.S. judicial system when the Supreme Court asserted its power of judicial review in the case of Marbury v. Madison (1803).

Although it is primarily an appellate court, the Supreme Court has original jurisdiction in the following cases:

- Cases between the United States and a state.
- Cases between states, and cases involving foreign ambassadors, ministers, and consuls.
- Cases between a state and a citizen of another state or country.

The court hears appeals from lower courts including the various state supreme courts. If four justices of the U.S. Supreme Court vote to hear a case, the court will issue a Writ of Certiorari. This is an order to a lower court to send the records of the case to the Supreme Court for review. The court meets on the first Monday of October and usually remains in session until June. The court may review any case it deems worthy but it actually hears very few of the cases filed. Of approximately 5,000 appeals each year, the court agrees to review about 200, but may not issue an opinion on each case.

Law Enforcement/Investigation = Source of input for cases in Court

- Receive complaint/”call for service”
- Investigate, collect evidence
- Arrest

Prosecution/Court = Source of input for cases in Corrections

- Determine guilt/innocence through evidence
- Determine sentence for convicted offender

Corrections
- Probation
- Incarceration
- Parole
- Programs/Services

Law Enforcement
- State
- County
- Municipal
Evolving from the earlier vestiges of sheriffs or constables, modern police forces are highly structured organizations that are accorded considerable authority, particularly the power of arrest that is provided each sworn law enforcement officer (Pacific Law Journal 1992).

Law enforcement agencies have traditionally addressed issues involving the general welfare of the public at large.

As the "first responders" to most crimes, police departments serve a critical and primary role in providing immediate intervention and assistance to victims of crime.

Unlike most social service agencies, police departments are typically open every day of the year, twenty-four hours a day. As such, there is tremendous responsibility on the part of law enforcement officers and civilian personnel to provide sensitive and supportive victim services.

It is important to keep in mind that the three primary functions of law enforcement are to do the following:

- Protect life and property.
- Prevent crime.
- Apprehend offenders (Barlow 1990).

**Police role in victim services**

Although police departments today tend to provide more and better victim services, these services were not always part of traditional policing.

The positive change on behalf of providing quality victim services has been very encouraging; however, some police officials have perceived their victim assistance responsibilities as a secondary responsibility, at best.

Victim sensitivity training for police officers comprises an important improvement. In the past, police academies have not provided adequate training for law enforcement personnel regarding victimization and the effect that crime has on crime victims.

This means that when under trained law enforcement personnel come into contact with an emotionally distraught victim, a victim's confidence and willingness to participate in the criminal justice system may be undermined.

Officers, who initially respond to a crime scene, as well as investigating officers, are responsible for gathering evidence that can lead to arrest and prosecution of alleged perpetrators.

Police officials who interview victims must clearly establish that their role is to obtain relevant facts and evidence. While their line of questioning may appear to be judgmental or blaming, that is not their intent. This simple clarification can help officials obtain pertinent information without contributing to further victim trauma.
When effective victim service programs are provided through a police department, law enforcement officers are able to devote their time to the primary law enforcement responsibilities of investigating crimes and arresting suspects.

Victims are well served because basic services are provided by law enforcement.

This is extremely important because in a large majority of crimes, no perpetrator is ever apprehended. This means that court-based programs will never come into contact with large numbers of victims. Victims’ only hope for assistance from the criminal justice system is at the police-based level.

The move toward community policing in many jurisdictions has important implications for victims and those who serve them.

Community policing involves partnerships with people who reside in neighborhoods that officers regularly patrol to increase opportunities for crime prevention, early intervention for people at risk of offending or victimization (especially juveniles), and services to individuals and neighborhoods that have been hurt by crime.

At its best, community policing creates a network of involved individuals who are available and willing to provide important witness information, as well as support for their neighbors who have been affected by crime.

Police-based services provide essential assistance to victims of crime, including on-site crisis intervention and securing emergency medical assistance. Additionally, law enforcement programs may provide information and referrals to services and resources that can aid in a victim’s short- and long-term reconstruction. Essential services should include the following:

- Provision of contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Orientation to the law enforcement and investigatory process.
- Provision of or referral and accompaniment to crisis intervention and psychological first aid.
- Accompaniment to emergency medical services in cases involving injury.
- Contacting a victim service professional to provide on-site assistance and support, upon request from the victim.
- Providing information to crime victims about their constitutional and statutory rights, victim compensation availability, and referrals for assistance to complete compensation forms.
- Securing the victim’s property if personal safety has been compromised as a result of crime, or if it is to be used for evidentiary purposes.
- Personally contacting the victim by telephone or in person twenty-four to forty-eight hours following the initial response to see if assistance has been sought and/or received.
- Providing immediate referrals (verbally and in writing) to community agencies that offer emergency services and information about financial assistance to all victims. For example, brochures that include information about emergency and long-term services and victim compensation should be developed in different languages and given to victims. Similarly, TTY telephone services should also be made available.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.
Law enforcement agencies should also establish and enforce strict property return protocol and procedures. Essentially, police-based services, when adequately staffed and funded, can provide critical assistance and information to victims as they progress through the criminal justice system.

Perhaps most important, every law enforcement agency at the federal, state, and local levels should assign a staff member to serve as a liaison to crime victims and victim services. This designation will enhance all roles and responsibilities described above and will coordinate and streamline victims’ rights and the delivery of victim services.

**Prosecutor**
- State
- County
- Municipal

When law enforcement has investigated a crime and a suspect has been arrested, the case is then referred to a prosecutor.

Although each state's laws and procedures provide for different ways to initiate a criminal action, this is usually handled through either an initial court appearance or some process leading to charging and arraignment.

At this point, information regarding the investigation and facts of the crime is presented by law enforcement to the court with the assistance of prosecutors, and appropriate charges are levied against the defendant. When appropriate, he or she is "bound over for trial" on the charges levied.

Again, victim advocates should be mindful that the prosecutor's primary role is the successful prosecution of criminal cases.

This is accomplished within specific budgetary and human resources limitations. The typically limited resources made available to prosecutors to dispose of each case in the most just, yet efficient manner possible is a tremendous motivation to dispense cases, in light of the often overwhelming workload handled by most prosecutors’ offices.

This motivation/pressure often conflicts with the needs and desires of individual victims, who want their particular perpetrator prosecuted to the full extent of the law.

Consequently, victims' expectations are often not fulfilled, and the case is disposed of early on, most often through the use of a non-trial settlement, usually referred to as **plea bargaining**.

**Plea bargaining**

Plea bargaining allows the defendant to avoid a trial and the possibility of a verdict that may result in a more severe sentence by agreeing to plead guilty to a lesser offense.

Victims are often most distressed at the perceived ability of the defendant to "get off easy" by bargaining with the prosecutor to reduce the severity of the offense of which they may actually be guilty. Many victims
and advocates rightfully consider victim participation in the plea negotiation process as essential to providing victims with a voice in the system.

Any plea negotiation should include an opportunity to present the impact of the crime on the victim—a victim impact statement—as well as the opportunity for the victim to consult with the prosecutor prior to any plea agreement.

**Diversion**

In non-violent and/or first-time offenses, prosecutors can recommend diversion of the case. Essentially, in diverted cases, the offender will be required to complete certain conditions—such as paying restitution, community service, victim/offender programming (with the victim’s consent), and/or educational or treatment programs—in order to avoid having a criminal record.

Diversion agreements should be confirmed only with the consent and agreement of any victim(s) involved in the case. Diversion agreements can be revoked at any time if an offender fails to comply with the conditions of the diversion agreement.

**Trial**

Assuming a case goes beyond the plea negotiation stage to trial, the defendant continues to receive basic protections found in the United States Constitution, state constitutions, and pertinent statutory law and case law.

Volumes of materials are available about defendants' rights. These include, for example, the right to obtain all exculpatory evidence from the prosecution, which would tend to prove the innocence of the defendant.

Also, the defendant has the right to confront and cross-examine his or her accusers. Often, this is very difficult for the victim, who must be well prepared to withstand the onslaught of cross-examination by an often aggressive defense counsel.

Defense counsel typically uses methods that involve the strategy of "defense by distraction." This approach is based on the notion that in order to place any possible "reasonable doubt" within the minds of the jury, a defense lawyer will attempt to focus attention on any other possible factor than the defendant's own actions.

If the defendant is not released on various technical violations of his or her rights that may arise (for example, from search and seizure issues), attempts will be made to blame others for the situation.

The police will be accused of other violations, society may be implicated as the true cause of the problem, and especially victims are often blamed for their "contribution" to their own victimization. This can be a very difficult process for victims, and they need to be well prepared and supported. Prosecutors should also be knowledgeable about victim trauma, specifically as it relates to a victim’s role as a witness.

At the scene of the crime and shortly thereafter, victims may be unable to recall critical facts related to their victimization as a result of their trauma. Their knowledge of the details of the crime can increase significantly with appropriate crisis intervention and trauma response. However, any changes in their original witness statements may be challenged by defense counsel.
As a result, prosecutors need to be able to explain the relationship of crisis reactions to victims' original statements, and how consistent ventilation about the crime and appropriate validation from supportive individuals can actually help victims better remember and articulate vital details as witnesses.

A number of services can and should be provided by prosecutor-based victim assistance programs. The most important of these are appropriate notification programs regarding the status of the case and the delays that often occur in the progress of a criminal prosecution.

Victims are most often distressed by a perceived or real lack of progress in their cases and the need to repeatedly rearrange their personal and work lives to attend court hearings that are often delayed.

Also, victims may require assistance in attending and participating in court proceedings, protection from intimidation and harm, basic orientation to the criminal justice system and their appropriate role within it, and other services and interventions such as obtaining restraining orders and filing victim impact statements. Of course, referrals to appropriate victim assistance and victim compensation programs should be made by the prosecutor's office.

The American Bar Association has provided numerous guidelines for prosecutors and others within the criminal justice system regarding the incorporation of victims' rights and needs in daily practice (see National curriculum chapter References).

Regarding prosecutorial roles, issues such as protection from intimidation and harm are recognized as well as the effect of continuances and case delays, notification services, and prosecutors' involvement in assisting victims in obtaining restitution. The ABA guidelines provide a useful compilation of victims' issues within the criminal justice system, and they are commended to the reader for further review (ABA Guidelines; Kelly 1991).

While the prosecutor's role is to present the government's case to the court, and see that justice is achieved in every case forwarded to his or her office, many important activities rely upon the involvement of victims.

Although they are not the "victim's attorney," prosecutors have opportunities to keep victims informed and involved, to provide appropriate accommodations in the pre-trial and court settings, and to follow up with information and referral, as needed. These opportunities should include the following:

- Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Providing orientation to the criminal justice process.
- Providing information about the criminal justice system and proceedings in simple, layperson's terms to help victims understand the maze of the criminal justice system. Victim information should be available in multi-lingual formats.
- Providing notification of case status at key stages of the criminal justice system.
- Sponsoring witness alert programs to place witnesses on "stand-by" to come to court appearances, thus saving victims' time and money.
- Coordinating witness appearances, i.e., scheduling witnesses; providing witness fees, per diem fees and accommodations for out-of-town witnesses; and providing assistance with transportation.
- Sponsoring victim/witness information telephone lines (including TTY services) to provide up-to-date information after hours to subpoenaed witnesses.
• Providing educational and accompaniment programs to familiarize victims with the courtroom and court processes.
• Providing a waiting area for victims and witnesses and their families in the courthouse that is separate by sight and sound from the defendant. These areas should be "child-friendly," safe, and secure.
• Offering assistance to victims in completing victim compensation applications.
• Coordinating the inclusion of victim impact information, such as written statements, allocution, and audio or video statements, into court proceedings (including diversion agreements, plea bargains, pre-sentence reports, and sentencing) with probation and the judiciary and incorporating victim input into conditions of sentencing such as financial/legal obligations, community service, and offender treatment programs.
• Offering employer, landlord, and/or creditor intervention services.
• Expediting the prompt return of property, and closely coordinating such efforts with law enforcement.
• Providing intervention, protection, and recourse to victims and witnesses who are being intimidated or harassed by perpetrators or their colleagues.
• Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.

A significant prosecutorial development is the establishment of "vertical prosecution units," especially for domestic violence and sexual assault cases, where specially trained prosecutors maintain caseloads of one type of victimization.

Vertical prosecutors work on cases from the initial filing of charges through final disposition, streamlining this stage of the criminal justice system for the victim. Instead of several prosecutors working on the case at various stages in the prosecution, one prosecutor is assigned the case from the point of charging through trial.

**Defense Counsel**

Defense attorneys are an integral part of the continuum of criminal justice.

In the eyes of the crime victim, defense counsels are often seen as second only to the perpetrator in their contribution to secondary victimization.

However, the role of defense counsel has longstanding significance in our justice systems and must be understood. Indeed, in certain innovative victim-offender programming, defense counsel can even play an important role in assisting victims.

The Sixth Amendment to the Constitution, a part of the Bill of Rights, provides the basis for the right to criminal defense in the United States. In part, this Amendment reads that "In all criminal prosecutions the accused shall enjoy the right to have the assistance of counsel for his defense." Indeed, this provision of the U.S. Constitution has been expanded to require, or at least strongly favor, defense attorney involvement even before criminal prosecution commences (i.e., while the accused is being questioned after arrest when a lawyer is requested). Regrettably, victims of crime enjoy no such protections under federal constitutional law.
Significant components of the role of defense counsel include the following:

- Defending their client's constitutional rights and, therefore, defending the integrity of the constitution itself.
- Conducting an independent investigation of the case to reveal facts not known to, or revealed by, the prosecution, such as violations of their client's rights by law enforcement or inconsistencies in witness statements, forensic or other evidence.
- Preparing for trial by preparing the defendant to best aid in his or her defense, preparing witnesses that may be called by the defense, and/or preparing to cross-examine prosecution witnesses.
- Objecting to the introduction of evidence by the prosecution through witness testimony or otherwise.
- Introducing evidence that casts reasonable doubt on the prosecution's case.

Since it is, indeed, the duty and obligation of defense counsel to defend their client's constitutional and other legal rights in the most competent manner possible, it is, unfortunately, not atypical that defense counsel's actions will re-victimize the victim.

Victims must be prepared for this possibility.

The obvious position that defense counsel assume, as juxtaposed with the victim's or survivor's perspective, is a natural outcome of the adversarial system of justice practiced in the United States.

Ideally, two opposing sides equally equipped with resources and legal rights come before a neutral decision-maker, the court, to have issues settled according to the prevailing law.

Of course, even a casual observer is aware of the significant failing of this system vis-à-vis the crime victim. However, the roles and responsibilities of defense counsel are deeply rooted in our system of justice.

Despite the adversarial nature of our legal system, there are ways in which defense counsel have and may continue to be of assistance to victims. Among these are the following:

- Defending victims of crime who are prosecuted for their own actions (e.g., battered women who kill or harm their batterers, or adult survivors of abuse or parents of abuse victims who take the law into their own hands.)
- Respecting victims' legal and constitutional rights and not unreasonably challenging them merely to harass the victim.
- Adopting and adhering to voluntary codes of ethics or practice that respect victims' rights and accommodations in criminal proceedings.
- Becoming full participants in restorative justice programs that attempt to bring victims and offenders together voluntarily in ways that may benefit both parties and even contribute to larger issues such as crime reduction. (Of course, the focus of these efforts must remain first and foremost on addressing victims' needs.)

Whether defense counsel are viewed as necessary evils or potential participants in programs that may even assist victims (and even though some individual defense counsel may not be ethical in their criminal defense tactics) the role of defense counsel in our system of justice is firmly secured and must be acknowledged for the principle it represents.
The judiciary is a neutral entity that oversees the progress of a criminal action.

Judges should strive to equally weigh and protect the rights of all parties involved in a criminal prosecution. Of course, a judge can typically take only those actions that are specified by law and procedural rules, or are otherwise within the discretion mandated by law.

Judges can provide essential protections to victims. For example, when cases involve children, certain accommodations such as allowing the victim to testify through closed circuit television or granting orders requiring defense counsel to lower themselves to the child’s eye level and not raise his or her voice, as well as other methods of making the courtroom less intimidating to a child, can be ordered.

Judges can also expedite trials so as not to further victimize the crime victim due to additional delays during an already difficult process.

Judges can deny motions by defenses that are clearly aimed at offending or intimidating victims.

One common technique is for defense counsel to subpoena the victims’ family members as potential witnesses, request that the court order witnesses be excluded from the courtroom (sequester), and then never call the victim’s family to testify, thereby preventing their attendance in the courtroom.

Meanwhile, the defendant’s family is allowed to sit in the courtroom, showing support for their family member who is on trial, while the victim’s family may appear to be uninterested in supporting the victim or the prosecution’s case because they are sequestered.

Such motions, when made for such manipulative purposes, can and should be denied.

Judges are empowered to sentence convicted criminals for their crimes.

It is important that judges include information regarding the full impact of the crime on the victim in their assessment of appropriate sentences. Often this information is provided through the prosecutor-based victim assistance program, a probation office, or another official source, and is typically referred to as a victim impact statement (VIS).

VIS information and pre-sentence investigation reports (PSIs) are often the only comprehensive assessment of the actual injuries and losses caused by the offender available to the judge; it is crucial that this information be conveyed in a timely fashion to the sentencing court.

Judges are also involved in various post disposition decisions, such as reconsideration of sentences and appeals.
Judges can help assure that victims are provided their legal rights as well as adequate court-based services, which should include the following:

- Providing contact information for assistance and protection from the court that victims can access twenty-four hours a day, seven days a week.
- Providing courtroom orientation for victims.
- Providing victims with physical waiting accommodations that are safe, secure, and separate by sight and sound from the defendant, his/her family and friends, or the news media.
- Considering victim impact information in all cases prior to sentencing (including change of plea hearings if they do not coincide with the sentencing).
- Asking prosecutors if they have consulted with the victim prior to agreeing to sentencing recommendations.
- Including any reasonable measures requested by the victim to ensure his or her safety and security, such as protection or "no contact" orders.
- Ordering restitution that reflects the full amount of loss, including payment schedules that are realistic and making sure that restitution receives priority above fines and other legal/financial obligations.
- Ensuring that restitution orders do not "fall through the cracks" by developing a system of collection, disbursement, enforcement, and victim recourse (that involves probation, the clerk of court, corrections, and parole).
- In inter-familial criminal cases, ordering convicted offenders to pay financial obligations such as child support, costs of counseling, legal fees, or mortgage/rent payments that help the victim gain independence from the perpetrator.
- Ensuring that all relevant victim information be included in convicted offenders' files--with victim confidentiality and the security of this information guaranteed to the degree possible--that are sent to probation, parole, or institutional corrections.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.
- Ensuring that victims have appropriate input into any conditions of supervision if probation is ordered.

Finally, judges can steer their courts toward processes that are not only "offender directed," but "victim centered" as well.

While conflicts can arise between the rights of the accused/convicted offender and crime victims, more often there is no disagreement about the importance of making participation the status quo for all participants in the criminal justice system.

Court Clerk/Bailiff

Corrections

- State
- County

Probation may be a condition of a plea bargain, or the actual sentence handed down by a court following a trial.
The probation officer will interview victims as part of the pre-sentence investigation (PSI) to determine the physical, financial, and emotional impact the crime has had on them. Pre-sentence Investigations in Maine are done primarily in cases of severe and violent crimes such as homicide and sexual offenses.

When offenders are sentenced to probation, they submit to community supervision by a probation officer. The probationer may be required to fulfill certain requirements called conditions of probation that might include no contact with the victim; payment of monetary obligations to the victim such as restitution, child support, etc.; payment of fines (that often support law enforcement and victim services); no use of alcohol or other drugs (with an agreement to submit to random testing); specific treatment that addresses the probationer’s criminal activities (such as sex offender treatment, alcohol or other drug counseling, anger management, etc.); and/or community service.

Restitution payments are collected by probation officers.

When an offender is sentenced to probation, victims are notified of the status and location of the offender when released from incarceration.

An important condition of probation is that probationers commit no new crimes during their period of community supervision.

If probationers violate any condition of their sentence, the probation agency can rescind or "revoke" probation, which may result in incarceration in jail or prison.

Probation officials' roles and responsibilities to victims include:

• Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
• Contacting victims as part of the pre-sentence investigation (PSI) to sensitively assess the psychological, financial, and physical impact the crime had on them and their family.
• Incorporating any victim impact statement (allocution, written, audio, or visual) into the official PSI report to the court.
• Determining any specific conditions of probation that will ensure the victim's safety and security.
• Soliciting victims' opinions relevant to appropriate community service sanctions for the probationer, including direct service to the victim (if requested), or service to a victim assistance or community service/assistance organization.
• Determining the amount of appropriate restitution payments and developing a realistic schedule for the collection and disbursement of restitution to the victim. In Maine, probation officers are charged with physically collecting restitution payments and forwarding them to victims.
• Supervising the probationer's involvement in any victim/offender programming such as victim offender dialogue.
• Monitoring probationers to ensure full compliance with all conditions of probation that affect the victim's rights, safety, and security, as well as the general orders of probation.
• Providing information and referrals to victims who require assistance.

When convicted offenders are sentenced to a term of imprisonment, the State Department of Corrections or Federal Bureau of Prisons assumes responsibility for their supervision.
The offenders' files, which contain details from the crime, court case and sentence, pre-sentence investigation reports, and victim impact statement (when applicable), recommendations for treatment and services during the period of incarceration, and personal information, are utilized as a basis for offender classification.

The purpose of classification is to place the offender in the most appropriate incarceration setting (minimum, medium, maximum, or super-maximum facility).

The State Department of Corrections (or Federal Bureau of Prisons) houses offenders for their period of incarceration; implements and monitors work; makes educational and treatment activities available to inmates; and coordinates any release into the community with probation authorities.

Maine and New Hampshire state corrections departments and the federal system now have victim service programs. All the roles and responsibilities enumerated below are generally sponsored and/or implemented by such programs.

Corrections officials' roles and responsibilities to victims should include:

- Providing contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Obtaining relevant victim information, including victim impact statements and protection orders, from court documentation for inclusion in the offender's file.
- Protecting the confidentiality of victim information through protected automated databases or "flags" on paper files that delineate that this information is not available to inmates or their counsel.
- Providing victims and witnesses with information and recourse relevant to inmates who attempt to intimidate, harass, or harm the victim during their period of incarceration.
- Upon request, notifying victims of an offender's status, including current location, classification, potential release date, escape, or death.
- Implementing and monitoring victim/offender programming such as victim impact panels, victim/offender mediation or conciliation, or "Impact of Crime on Victims" programs.
- In some departments monitoring, collecting, and disbursing restitution payments to victims and/or fines to state victim compensation programs.
- Coordinating the physical location and logistics of parole release hearings with paroling authorities, victims, and victim service providers.
- Providing information and referrals to victims who require assistance.

When inmates are released from prison, their reintegration back into the community is accomplished through supervised community confinement or the parole process.

Parole is the supervised release of prisoners to the community, with conditions attached to that release that are designed to protect the safety of both the victim and the public.

Parole and supervised community confinement is considered part of the prison sentence but is served in the community.

Violations of any conditions of parole or supervised community confinement can result in revocation, which means the offender will be returned to an institutional corrections setting. It is important to note that some
states provide for sentences of "life without possibility of parole," which equates to incarceration until an inmate's death. Also, the Comprehensive Crime Control Act of 1984 abolished parole in the federal system; parole is currently available only to inmates who committed a crime or act of juvenile delinquency prior to November 1, 1987.

There are two main functions of paroling authorities: parole boards and parole agencies.

**Parole boards**
The American Correctional Association identifies four primary functions of a state parole board, which are to:

- Grant parole to prisoners.
- Supervise control of parolees.
- Discharge individuals from parole.
- Make parole revocation decisions.

In many states, paroling authorities are separate from the Department of Corrections. Parole board members in most states are appointed by and serve at the pleasure of the Governor. In some states, including California, Ohio, South Carolina, and Virginia, victims of violent crime serve as parole board members (including some through designation of a victim parole board member as a statutory provision). Each state varies in its number of board members.

Parole decisions can be made before a meeting of the full board, at hearings that have panels of three or more members present, and/or through a meeting with an individual parole board member (Wisconsin) who reports back to the full board. It is important to note that, in most states, decisions by which an inmate is considered for parole are guided by statutory requirements (state law) or by judicial decisions related to prison overcrowding.

Similar to probation, successful candidates for parole must agree to abide by certain rules, which include not committing any crimes during the period of parole; no possession of weapons; honoring protective or "stay away" orders that prevent contact with the victim; submitting to random testing for alcohol or other drugs; finding and maintaining employment and housing; paying restitution and other financial obligations, including child support, fines, and costs associated with their parole supervision; and/or limited driving privileges.

In most states, victims have the statutory and/or constitutional right to provide parole boards with victim impact information about how the crime affected them.

Since many offenders are sentenced for the crimes to which they pled in plea negotiations, it is imperative that parole boards know the facts of the crime that was actually committed.

This important input also provides victims with an opportunity to request certain conditions of parole that make them feel safer, such as protective orders or requests that the offender be paroled to a geographic location that is a certain number of miles away from where the victim resides.

In most states, victim impact statements are not confidential; offenders can access the statements (with protections sometimes afforded to the victim's contact information).
Approximately half of states have victim service programs located in state parole agencies. These programs serve many important purposes, including providing victims with information and notification about a parolee's status, as well as overviews of how the parole process works (and victims' rights that are inherent in this process). Such programs serve to make a system that has traditionally been "offender directed" also "victim centered."

**Parole agents**

Parole agents (also called "parole officers") are responsible for monitoring the supervision of parolees.

In most states, parole caseloads are astronomically high, resulting in limited supervision due to the lack of human and financial resources. The parole agent is responsible for ensuring that offenders on his or her caseload comply with all requirements of parole. When any requirement is violated, the parolee can be subject to "parole revocation."

When parole revocation is recommended by a parole agent, the parolee must submit to a hearing by the parole board (or other independent and neutral entity) to determine his or her status.

Crime victims of either the original crime for which the parolee was incarcerated or the crime for which the revocation is being processed should be notified of parole revocation hearings or outcomes.

Parole agents, in many states however, do have frequent contact with victims, especially in interfamilial crimes. It is essential that victims know who their offender's parole agent is and how the agent can be reached twenty-four hours a day.

Parole officials' roles and responsibilities to victims should include the following:

- Provision of contact information for assistance and protection that victims can access twenty-four hours a day, seven days a week.
- Providing victims with an overview of the parole process, including parole board hearings, community supervision, parole revocation, and all related victims' rights and services.
- Providing victims with the opportunity to submit victim impact statements to the parole board, including allocution, written, audio or video statements.
- Asking victims about any specific concerns they have related to their personal safety and security if an inmate is released to parole, and incorporating any reasonable concerns into parole conditions.
- When possible under state law, providing victims with the opportunity to personally present victim impact information to the board without the inmate present and without providing access to such information by the inmate and/or his or her counsel.
- Continuing restitution orders emanating from judges or, in states where parole has authority, ordering restitution payments (and ensuring that such payments are collected and disbursed to the victim).
- Ordering important legal/financial obligations that help victims in interfamilial cases seek financial independence, such as child support, money for legal counsel or mental health counseling, mortgage or rent payments, insurance premiums, etc.
- Providing information and referrals to victims who require assistance.
- Participating in multi-disciplinary efforts with other entities that comprise the criminal justice system to ensure a seamless delivery of rights and services to victims of crime.
In addition to the core criminal justice system professionals discussed above, various allied professionals have a significant impact on the criminal justice system response to involving victims. These include the following:

- Medical personnel.
- Mental health service providers.
- Child protection professionals.

**Doctors, nurses, and other hospital personnel** provide tremendous assistance to victims of crime.

In addition to police officers, medical personnel, who also are often available twenty-four hours a day, seven days a week, are commonly the first ones to come into contact with crime victims who have experienced some form of injury.

In their roles, they are uniquely suited to carefully document the condition of the victim and objectively report these findings (much of which can be utilized as evidence in criminal cases).

Of course, the immediate and appropriate treatment of the victim is paramount, but in the course of treatment, appropriate documentation provides useful information for prosecutors and victims in forwarding various criminal and other legal actions against the perpetrator. Of particular importance is the use of appropriate evidentiary collection kits to gather information in sexual assault and sexual abuse cases for later evidentiary use at trial.

This needs to be done sensitively, but competently, so that the trauma of the rape examination is minimized and evidence is accurately collected.

**Mental health professionals** are often involved in providing testimony at trial regarding the impact of crime on victims.

In addition to treating victims, mental health professionals who are expert in the evaluation of the effect of trauma on victims are often used.

It is important to note that these allied professionals and experts are heavily relied upon by the courts to make determinations regarding the damage and injuries incurred by the victims. These have important ramifications for the investigation and referral by law enforcement, by the handling of cases in prosecutor's offices, and in sentences handed down by judges.

**Child protection officials** have a significant role in cases involving child abuse and neglect. Depending on the jurisdiction and the nature of the victimization, these cases may be handled in a criminal court, juvenile court, or family court system.

In each of these systems, it is important that the child protection official cooperate in developing the best investigation report possible for presentation at trial. Increasing use of Court Appointed Special Advocates (CASAs) and Guardians Ad Litems (GALs), whose roles are to advocate to the court on a child's behalf, provides an important voice to the needs and concerns of child victims.
As almost all victims of crime may require some medical, mental health, or other social services intervention, the coordination of these efforts within and complementary to the criminal justice system is crucial to providing the most victim-centered, victim-oriented criminal justice system response possible.

**Victim Services**
- Crisis Center
- Police
- Prosecutor
- Victim Compensation
- Corrections

**History of the Juvenile Justice System**
- 16th and 17th Century Europe
- 18th Century US
- 19th Century US
- Parens Patriae/Inception of Probation
- 20th Century US
- Recent History

**Goals of the Juvenile Justice System**
- Maine: to secure for each juvenile subject to these provisions such care and guidance, preferably in the juvenile’s own home, as will best serve the juvenile’s welfare and interests of society.
- New Hampshire:

**Procedures**
Maine:
- Arrest & Detention
- Preliminary Investigation, Informal Adjustment
- Petition, Adjudication, Disposition
- Bind over
A CITIZEN’S GUIDE TO THE MAINE COURTS

The Judicial Branch Citizen's Guide to the Maine Courts describes the types of cases heard in court, what the judicial process is and how it works, how a trial proceeds, and the way in which the Maine courts are organized. The Guide is intended to be helpful to citizens generally, and in particular to students, to the media, and to those of you who may appear in a courtroom, whether as a juror, or as a party or a witness in a trial.

Revised and reformatted for Internet publication in 1997 and again in 2002
Additional Acknowledgements

Introduction

Part I: What the Courts Do
The Citizen's Role in the Judicial Process
Types of Law
Types of Cases
The Litigation Process

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Courts of Limited Jurisdiction
The District Court
The Probate Court
Court of General Jurisdiction - The Superior Court
The Supreme Judicial Court
The Administrative Office of the Courts
Other Judicial Branch programs

Part III: Visiting the Courts
Additional publications are available on this site, at the various clerks' offices, or at the Administrative Office of the Courts and include the following:
A Guide to the Small Claims Proceedings of the Maine District Court. This booklet describes the types of cases the small claims court hears, how to file a claim, and the procedure the court follows.
The Traverse Juror Handbook. This handbook describes the jury system as it is used in Superior Court, the rights and duties of jurors, and the jury selection process. See Mainejuror.com
Judicial Department Annual Report. This report, published annually, describes the activities of the Judicial Department and provides caseload statistical information.

See Court Publications available online
Citizen's Guide to the Courts

Introduction
This Guide has been revised for Internet publication by the Administrative Office of the Courts to help promote greater understanding of the way the courts operate. It describes the types of cases heard in court, what the judicial process is and how it works, how a trial proceeds, and the way in which the Maine courts are organized. We hope that the Guide will be helpful to citizens generally, and in particular to students, to the media, and to those of you who may appear in the courtroom, whether as a juror, or as a party or a witness in a trial.

This Guide is not intended to be a comprehensive description of criminal or civil procedure. Court procedure has developed over the centuries and is very complicated. The Guide, however, does present a general outline of what goes on in a trial. Your lawyer, the judge, or the court clerk's office may be able to help when more specific information is required, although court clerks are prohibited by law from giving legal advice.

Words in this Internet version that are underlined and shown in blue or other contrasting color are hyperlinks. Clicking on them will take you to other sections of this guide, or other web legal resources relating to the topic.

Citizen's Guide to the Courts -
Part I: What the Courts Do

In This Section
The Citizen's Role in the Judicial Process
Types of Law
Types of Cases
Litigation Process

Courts are institutions designed to resolve disputes by determining civil liability or criminal guilt. They also provide official approval of certain matters, such as the distribution of property after death, adoptions, and name changes, that are not in dispute.

Maine's state courts play an important role in your life. For example, they are available and may be used to protect your rights and to enforce your responsibilities if:

- you buy or sell property,
- if you get divorced,
- if you have problems at work,
- if you have a dispute with someone who provides you with a service,
- or if you are involved in an automobile accident or a fistfight.
The courts are even used after your death to determine what happens to your assets and debts. If you sue or are sued, if you are accused of committing a crime, if you are a witness to an event, if you are a victim of a crime, or if you are called to jury duty, you may be required to appear in a Maine court.

When your dispute is with a citizen of another state or is governed by federal law, you may find yourself not in a Maine state court, but in a federal court located in Maine, at Portland or Bangor. Just as some of the laws we live under are passed by the Maine State Legislature and others are passed by the United States Congress; just as the laws are enforced by the Governor of Maine, as well as the President of the United States; so disputes may be resolved by either the Maine state courts or the federal courts, depending on the law involved or the citizenship of the parties. This Guide describes the procedure and organization of the Maine state courts, although many of the basic ideas discussed apply to the federal courts as well.

Maine's state principal courts are the District Court, where lesser criminal offenses and civil actions may be tried; the Superior Court, where almost all civil and criminal matters may be tried; and the Supreme Judicial Court, which hears appeals from all lower courts. Maine also has Probate Courts for questions involving estates and similar matters. The court system is discussed in detail in Part III of this Guide.

The Citizen’s Role in the Judicial Process
Citizens come to court in several different roles.

1. As a Party to a Case:
   A party is a person who is suing or being sued. In a civil action, where one person sues another, the one bringing the suit is called the plaintiff. The person being sued is referred to as the defendant. In a criminal case, the State, which starts the proceedings, is called the prosecution. The person who is accused is called the defendant. Each party in a case is ordinarily represented by a lawyer whose job it is to prepare and present that party's case. An individual may, however, choose not to be represented by a lawyer in either a civil or criminal case. In that instance, the individual should be prepared to present evidence (witnesses and exhibits) that will present facts showing why he or she should prevail.

2. As a Witness:
   A witness is a person who has firsthand knowledge about the issue in dispute. The duty of a witness is to appear in court and testify truthfully. Witnesses are summoned to court by a document called a subpoena, a court order directing the person to appear on a specified date. Willful failure to comply with a subpoena may be punished as contempt of court, which could result in your arrest.

3. As a Juror:
   In the Superior Court, many kinds of cases are decided by a jury, whose members are citizens chosen at random. The job of a juror is to listen attentively to the case as it is presented, and then to decide the outcome fairly and impartially. The presiding judge (formally addressed as a Justice in the Superior Court) will instruct the jury on matters of law, but determination of the factual matters in dispute, including the innocence or guilt of a criminal defendant, is solely up to the jury. More information about serving as a juror in Maine is available online at www.mainejuror.com.

4. As a Visitor:
   The proceedings of the courts are open to the public unless the judge orders them closed in an unusual case to prevent harm to a party or witness, or unless they are closed by statute. Thus, any citizen may attend most proceedings in any of Maine's courts. For further information, see "Visiting the Courts" in Part IV of this Guide.
Types of Law

The resolution of disputes in the courts is governed by constitutional, statutory, and common law.

1. Constitutional Law:
Constitutional law is found in the constitutions of the State of Maine and the United States. The United States Constitution is the supreme law of the land, and its provisions must be followed at every level of government in America. The U.S. Constitution sets up the structure of the federal government and guarantees the citizens of each state a representative form of government. The Maine Constitution sets up the structure of our state government, with its bicameral (two-Chambered) legislature, its governor, and its judiciary.

The federal and Maine constitutions are important sources of rights as well. They guarantee freedom of religion, speech, press, and assembly. Each constitution prohibits unreasonable searches and seizures, involuntary self-incrimination, and cruel and unusual punishments.

Each constitution guarantees due process of law, as well as equal protection of the laws. Daniel Webster described due process as the result of a judicial system that "hears before it condemns, proceeds upon inquiry, and renders judgment only after a trial". In modern times the rights to due process and equal protection have become extremely important. They protect citizens against the passage of laws that are arbitrary, unreasonable, unreasonably discriminatory, or beyond the reach of government. The due process clause also ensures that citizens receive timely notice when they are subject to any kind of judicial proceeding and guarantees them a fair opportunity to be heard in cases which affect their personal or property interests.

2. Statutory Law:
Statutory law is passed by a legislative body. Congress passes federal statutes; the Maine Legislature passes state statutes, which are published in bound form as the Maine Revised Statutes Annotated (M.R.S.A.). Statutory law covers many subjects, including the regulation of business and industry and the definition of crimes. It must be consistent with the Constitution.

3. Common Law:
Common law is developed by courts to cover situations where statutory law does not apply or exist. The common law, which also must be consistent with the Constitution, consists of principles and rules developed, sometimes over centuries, in prior court decisions called precedents. Courts ordinarily follow the precedents established in earlier cases involving similar facts and are very reluctant to overturn them. Maine's town and city offices and most public libraries have sets of the Maine statutes. An uncertified version of the Maine Revised Statutes is maintained on the Internet by the Maine Legislature. In addition, the Judicial Branch maintains a law library for the use of judges, attorneys and the general public in each county courthouse. These libraries contain basic Maine legal materials, including statutes and the opinions of the Maine Supreme Judicial Court, as well as certain federal legal materials. The Law and Legislative Reference Library in Augusta and the Donald L. Garbrecht Law Library of the University of Maine School
of Law and the Nathan B. And Henry Cleaves Law Library, both in Portland, may also be used by the public.

**Citizen's Guide to the Courts -**  
**Part I: What the Courts Do**

**Types of Cases**

All legal matters brought before the courts are classified as either criminal or civil.

1. **Criminal Cases:**  
Criminal cases are brought by the State against persons accused of committing a crime, civil violation, or other offense. The State brings the charge because a crime is considered an offense against society. Normally, the local District Attorney's office represents the State and prosecutes the case against a defendant. If the defendant is found guilty, the penalty may be imprisonment, a fine, probation, or a combination of these. If a fine is assessed, it is paid to the State, not to the victim of the crime. In some cases, however, the judge may also order the defendant to make restitution to the victim for any losses caused by the crime. Regardless of whether restitution is or is not ordered, the victim may recover compensation for the losses by bringing a civil action against the offender.

Criminal offenses are divided by the Maine Criminal Code into classes according to the seriousness of the offense and the penalty. Classes A, B and C are the more serious offenses; Classes D and E, the least. Murder, the most serious crime, has separate sentencing provisions. The principal offenses in each class are summarized in Table I.

**Table 1 -- Criminal Offenses**

<table>
<thead>
<tr>
<th>Class</th>
<th>Examples of Offenses</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>Murder</td>
<td>25 years imprisonment to life with no possibility of release.</td>
</tr>
<tr>
<td>A</td>
<td>Kidnapping, rape, arson</td>
<td>Not to exceed 40 years imprisonment and/or $50,000 fine.</td>
</tr>
<tr>
<td>B</td>
<td>Aggravated assault, theft</td>
<td>Not to exceed 10 years imprisonment and/or $20,000 fine.</td>
</tr>
<tr>
<td>C</td>
<td>Perjury, burglary, theft of $1,000 - $5,000 and/or $5,000 fine</td>
<td>Not to exceed 5 years imprisonment</td>
</tr>
<tr>
<td>D</td>
<td>Assault, operating under the influence, Theft of property, the value of which is between $1000-$2000</td>
<td>Not to exceed 1 year imprisonment</td>
</tr>
<tr>
<td>E</td>
<td>Disorderly conduct, operating after suspension, theft of property, the value of which is less than $1000</td>
<td>Not to exceed 6 months imprisonment and/or $1000 fine.</td>
</tr>
</tbody>
</table>

*Note:* For any of these offenses except murder the judge may also impose a period of probation (with a variety of special conditions) order restitution, order the defendant to perform community service, or a combination of these.
The purpose of a **criminal trial** is to determine whether the defendant is guilty or not guilty of the charge. Since the penalty for a crime may be very serious, such as the deprivation of liberty, the State is held to a high standard of proof. The court presumes that the defendant is innocent, and the State must prove his or her guilt beyond a **reasonable doubt**. Because the defendant does not have to prove innocence, the finding is not guilty, rather than innocent, if the State fails to meet its **burden of proof**.

Except for most motor vehicle criminal violations, and some hunting and fishing offenses, persons under the age of 18 who are charged with criminal conduct are considered to be juveniles. Procedure in a juvenile case is somewhat different from that in an adult case. An intake worker advises the District Attorney whether to prosecute. The trial is heard in District Court by a judge alone. Trials of Class D and E offenses are closed to the public. A juvenile murder trial and trials of Class A, B and C offenses are open to the public. A juvenile who is charged with murder or a Class A, B or C offense may be tried as an adult, when certain legal conditions are met.

2. Civil Actions:
Civil actions are normally cases between private persons or corporations to resolve disputes involving the breach of a legal duty owed by one party to another and to fix damages for loss caused by the breach, or to fashion a remedy to prevent future loss.

The most common civil actions deal with:

- breaches of contract,
- negligently caused personal injury and property damage,
- debt collection,
- divorce,
- and landlord-tenant disputes.

The State (or any other governmental body) may also be a party to a civil action, if its interests have been injured, or if the case is one in which the Legislature has provided that the body may be sued by a citizen for causing injury.

If you are bringing a civil action, you must prove your case against the party you are suing by a **preponderance of the evidence**— a lesser standard of proof than that which the State must meet in a criminal case. You must have good grounds to bring a suit. If you file a suit frivolously or harass a person, the court may assess a monetary penalty against you or your attorney.

In the past decade the Legislature has created a special class of civil actions that includes offenses no longer regarded as serious enough to be dealt with as crimes. These less serious offenses are called **civil violations**. They include minor traffic infractions, possession of a small amount of marijuana, and violations of town and city laws (called ordinances), such as leash laws. You may be fined, but not imprisoned, for a civil violation. A law enforcement officer who believes that you have committed a civil violation will issue you a ticket or citation instructing you to appear in District Court on a certain date. At the trial, the District Attorney must prove that it is more likely than not that you acted as charged. If you do not appear in court, or pay your fine, on the day specified, the offense becomes more serious. In the case of a traffic violation, you may lose your driver's license.
Citizen’s Guide to the Courts -
Part I: What the Courts Do

The Litigation Process

Legal Representation

If you become involved in legal proceedings as a plaintiff bringing suit against another party, as a defendant
being sued, or as a defendant in a criminal case you may choose to represent yourself in court (pro se
representation), or you may retain the services of an attorney to represent you.

Finding Legal Assistance

If you do not know a lawyer who can assist you, you may want to consult friends, relatives, or business
associates, the Yellow Pages of your telephone directory, the county bar association, or the Maine State Bar
Association Lawyer Referral Service. If your income falls within certain guidelines and your case is a civil
one, you may be eligible for free or low cost legal assistance from any office of Pine Tree Legal Assistance,
Inc., from the Volunteer Lawyers Project of the Maine Bar Foundation, or the Cumberland Legal Aid Clinic
(207-780-4370) at the University of Maine School of Law in Portland. If you are 60 or over, you may be
eligible for legal assistance from any office of Legal Services for the Elderly, Inc. If your case is a criminal
one where conviction could result in imprisonment, you have a constitutional right to be represented by an
attorney. If the court finds that you cannot afford a private attorney, the court must appoint an attorney to
defend you at the State's expense.

If you are the victim of a crime, you do not need to retain an attorney. The District Attorney will bring
criminal charges against the accused on behalf of the State. However, if you wish to bring a civil suit against
the individual who committed the crime to recover any damages you may have suffered, you may wish to
seek legal advice or representation by a private attorney. See also Representing Yourself, on this site.

Pretrial Procedure - Civil Cases

To bring a civil action as a plaintiff in either the Superior Court or the District Court, you or your lawyer
must prepare a written statement, called a complaint, describing the nature of your claim. The party you
are suing (the defendant) is served with a summons (formal notification that a suit has been commenced),
as well as a copy of the complaint. The defendant must file a written response to the complaint within a
period of time specified in the summons, normally 20 days. The response is called the answer.

Once the complaint and answer have been filed, each party may obtain information about the other’s case
through a process called discovery. During the period prior to trial, you or your lawyer should be
attempting to reach settlement of the case with the opposing party. Discovery allows each party to approach
settlement discussions with a more realistic view of the chances of winning. A settlement saves both the
parties and the public the substantial costs of a full trial.

In the Superior Court, simpler cases are heard on a fast track, requiring that discovery be completed by a
specified date. A final stage in Superior Court is the pretrial conference, a session between the judge and the
attorneys at which, if the case is not settled, the scope of the trial will be determined. Most civil cases are
settled before trial; but, if yours is not, the court will set a date for the trial to begin.
Mediation - Civil Cases:
The court system provides procedures under which both parties may attempt to settle certain types of civil cases with the help of a third person. The procedures are called alternative dispute resolution and mediation and are often less time consuming, less expensive, and less acrimonious than a trial. Alternative dispute resolution and mediation take place in an informal setting with the parties (and sometimes their lawyers) working with a court appointed mediator or neutral toward an agreement. If a mutually satisfactory agreement can be reached, it is signed and submitted to the judge for approval. If the parties cannot agree, the case is scheduled for trial. In most civil cases and in alternative dispute resolution or contested divorce cases, mediation is required. Mediators and neutrals are selected from a pool of trained persons who have been placed on a roster by the Court Alternative Dispute Resolution Service (CADRES).

Pretrial Procedure - Criminal Cases:
Most criminal cases begin with the service of a citation or summons, or the arrest of an individual by a law enforcement officer. The Constitution provides that the arrest can be made only if the officer has probable cause to arrest or has a warrant issued by a magistrate who has found probable cause.

Probable cause is a reasonable belief, based on reliable information, that a crime has been committed and that the individual being apprehended committed the crime. If the arrest is made without probable cause, no evidence obtained as a result of the arrest may be used in the trial. An individual can be arrested for certain minor offenses only if they were committed in the officer's presence.

Once an individual has been arrested, he or she is brought to a police station or county jail and booked. At that time, the law enforcement agency takes the person's photograph and fingerprints and checks for the existence of any other outstanding arrest warrants. After booking, the individual must be admitted to bail or be taken before a judge within 48 hours. At that time, the person will be informed of the charge or charges filed and the right to legal assistance. Additionally, the court will set bail at a reasonable amount (unless the person is arrested for murder). Bail is a sum of money or property deposited by a person to assure that person's appearance at trial. It is not a fine, but it will be forfeited if the person does not appear at court.

When a person is arrested for murder or a Class A, B, or C offense, any trial must be in the Superior Court. A preliminary hearing may be held in the District Court to determine whether there is sufficient evidence to warrant going ahead with the case. If the judge believes that there is sufficient evidence, or if the defendant waives the hearing, the case is presented to a grand jury, a group of citizens whose task is to review the prosecution's evidence and decide whether it is sufficient to justify a trial. In many cases, evidence of wrongdoing is presented directly to the grand jury without a preliminary hearing. If the evidence appears sufficient, the grand jury will return an indictment, a formal charge of a crime. If the defendant in a Class A, B, or C offense waives the grand jury, or if the court in a Class D or E offense gives permission, proceedings are begun directly by the prosecuting attorney, who files an "information" setting forth the charge.

Following indictment or information in the Superior Court an arraignment is held. At this point the individual pleads guilty, not guilty, not criminally responsible by reason of insanity or nolo contendere (a latin phrase meaning "I will not contest the charges").

• If a person pleads guilty or nolo contendere, the judge imposes sentence, either immediately or after a pre-sentence investigation.
• If the plea is not guilty, the case is scheduled for trial. There is a process of discovery similar to that in civil cases, through which the defendant has access to any information the prosecuting attorney has.

Class D and E offenses may be brought under a simplified procedure by complaint in the District Court. The defendant pleads to the complaint at the first appearance before the court. Trial then follows on a separate date before the judge alone unless the defendant requests a jury trial in Superior Court by filing a “Jury Trial Request Form” within 21 days of the arraignment in District Court.

Criminal cases are frequently settled without trial because many defendants negotiate with the prosecuting attorney in a process known as plea bargaining. A plea bargain is an agreement between the prosecutor and the defendant that in return for a guilty or nolo plea to a certain charge or charges, the prosecutor will drop other charges or recommend a specific sentence to a judge. If the judge wishes to impose a greater sentence than recommended, the defendant may withdraw the guilty plea and go to trial.

**Trial by Jury:**

In all criminal cases and in those civil cases where monetary compensation is sought, the parties have a constitutional right to a jury trial. (In certain cases, such as divorces and actions for injunctions, there is no jury right). A trial jury (also called a “traverse jury”) is a group of citizens who determine whether the defendant is guilty in a criminal case, and decide who wins and the amount of damages in a civil action. Serving on a jury is hard work, but it is an important service that preserves our fundamental rights to liberty and property.

Jury trials are held only in the Superior Court. A defendant in a civil action in the District Court may remove the case to the Superior Court in order to have a jury. Even in the Superior Court, a civil action brought originally there will be tried by a judge unless one party demands a jury. A $300 jury fee is required in civil cases.

Criminal cases are tried in the District Court only if the defendant fails to demand a jury trial in a timely manner. If the defendant demands a jury, the case is transferred to the Superior Court for trial. Jurors are selected in a two step procedure.

1. First, citizens’ names are drawn at random from a list of people who hold Maine drivers’ licenses, or who have been issued an identification card by the Secretary of State, or who voluntarily register with the Superior Court. When an individual is chosen, he or she reports for jury duty and becomes a member of a panel. A justice of the Superior Court will speak to jurors about the nature of the service they are about to give. Then the justice may excuse those for whom jury service would cause a serious hardship.

2. The second step in the selection process is called the voir dire examination. The purpose of voir dire is to determine whether there are any reasons why a particular juror might have difficulty making a fair decision in the case. The judge asks questions of the whole panel and then may speak to each juror individually. (In special circumstances, the attorneys may be permitted to question the jurors).

Each attorney may challenge any juror for cause, and is allowed to exercise a limited number of peremptory challenges for which no cause need be shown to excuse a juror. A successfully challenged juror is excused.
from that trial. After the twelve jurors required in a criminal case (or the eight used in a civil case) are selected, they are administered the juror's oath and are impaneled.

The Trial Process:

The trial process is much the same in civil and criminal cases. Each party may present evidence and oral argument on the meaning of the evidence and the law. Then the trier of fact (the jury or, if there is no jury, the judge) must reach a decision based solely on the evidence presented in the courtroom.

Start of Proceedings
At the beginning of the trial all interested parties should be in the courtroom before the proceedings start. When the judge enters the courtroom, everyone stands and remains standing until the judge is seated.

Opening Statement
Beginning with the plaintiff's attorney, or the District Attorney in a criminal case, each attorney normally makes an opening statement outlining the facts he or she expects to establish during the trial.

Witnesses
The plaintiff's attorney or District Attorney then calls witnesses and asks questions. These questions are known as **direct examination**. The defendant's attorney may ask questions of each witness called by the other side. These questions are called **cross examination**. The plaintiff's attorney may also offer in evidence documents or objects, called **exhibits**.

After the plaintiff or the State has presented witnesses and exhibits, the defense has an opportunity to present its own witnesses and exhibits. A similar sequence of direct and cross examination takes place.

Closing Arguments
After each party has presented its case, the attorneys make their closing arguments summarizing the testimony and the law governing the case.

Judge's Instructions to Jury
In a jury trial, the judge instructs the jury on the law that governs the case, defines the issues the jury must decide, and charges the jurors to reach a fair verdict, applying the law to the facts as they find them from the evidence presented.

Jury Deliberations
The jury then adjourns to the jury room to deliberate and reach a verdict. The verdict must be that of at least three quarters of the jurors in a civil trial. The jury verdict in a criminal case must be unanimous. If there is no jury, the judge considers the evidence and arguments and states his or her findings and conclusions.

The Verdict
The **verdict** of the jury (or the finding of the judge in a non-jury trial) decides not only which party will prevail, but also the amount of damages to be awarded. In a criminal case a jury's verdict, or the judge's finding, establishes the defendant's guilt, but it is up to the judge to impose a sentence on a guilty defendant.
Admission and exclusion of evidence:

Not all evidence which the parties offer in a trial is admitted to be considered by the judge or jury. The rules of evidence, codified in Maine since 1976 but fully developed at common law before that, govern the admission of particular statements of witnesses or exhibits.

The rules of evidence treat a large number of questions, including who has the right to be a witness, the limits on the subject matter of a witness's testimony, and the methods by which exhibits can be determined to be authentic. The basic issue is whether the evidence is reliable and relevant to the case at hand. While many of the rules are highly technical, the purpose is ordinarily the same to assist the judge or jury in ascertaining truth and reaching a just determination of a dispute by excluding evidence that may mislead, confuse, or prejudice the trial, or waste time.

If you are a participant in a trial, you will notice that the lawyers will from time to time object to a question being asked by the other side or to the admission of a particular exhibit. Such objections are used to bring into play the rules of evidence, forcing the judge to decide whether the objection is valid or not.

If the objection is valid, the judge will say, "Sustained". If the objection is not well taken, the response will be, "Overruled". If there is a jury hearing the case, the judge may ask the lawyers to step to the side of the bench and present their arguments on the objection out of the hearing of the jury. This is done to prevent the jury from hearing evidence that may not turn out to be admissible.

The most common objections at trial are:
- that a particular question is leading (that the question suggests its own answer),
- that the testimony of the witness is hearsay (words that the witness heard someone say outside the courtroom),
- or that a particular piece of the testimony or an exhibit is irrelevant (has little or nothing to do with the legal issues of the case).

Appeals:
In most civil and criminal cases each party has the right to appeal the decision to the next highest court. The issues heard on appeal, however, are limited to questions of law considered in the trial court. A trial judge's decision about what the law is or whether to admit testimony is generally reviewable, but a jury's (or judge's) decision to believe or disbelieve properly admitted evidence is reviewable only for abuse of discretion or insufficiency of evidence.

Citizen's Guide to the Courts - Part II: Court Organization

In This Section
- Courts of Limited Jurisdiction
- Court of General Jurisdiction
- Supreme Judicial Court
- Administrative Office of the Courts
- Other Judicial Branch Agencies
Maine’s state government consists of three branches. The **Legislature** makes the laws. The **Executive Branch**, which includes the governor and the various administrative agencies, carries out the laws. The **Judicial Branch** decides disputes about the laws and their application.

The Judicial Branch consists of three levels of courts, as well as the Administrative Office of the Courts. Judges are nominated by the Governor to serve seven year terms and confirmed by the legislature. (Probate judges are an exception. They are elected to four year terms by the voters of each county).

Maine’s highest court, the **Supreme Judicial Court**, has general administrative and supervisory authority over the Judicial Branch. Its head, the **Chief Justice**, designates a Superior Court Chief Justice and District Court Chief Judge to oversee the day-to-day administrative operations of those courts, and also appoints the State Court Administrator, who runs the Administrative Office of the Courts. In addition, the Chief Justice takes an active hand in designing and administering procedures aimed at the speedy and just resolution of cases in the lower courts.

There are three classes of courts in Maine:

1. Courts of Limited Jurisdiction
2. Court of General Jurisdiction - The Superior Court
3. The Supreme Judicial Court

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**Citizen’s Guide to the Courts - Part II: Court Organization**

**Courts of Limited Jurisdiction**

At the first level of the Maine court system are the courts of limited jurisdiction. These are the District Court and the Probate Courts. Each of these courts has power to hear and decide different types of cases.

**District Court**

The District Court system was created by the legislature in 1961. The District Court has 33 judges who hold court in 13 districts at 31 locations throughout Maine. This court hears both civil and criminal matters and always sits without a jury. Civil suits claiming monetary damages, domestic relations cases (divorces, separations, custody and property disputes), and involuntary commitments are examples of civil cases. There is also established within the District Court a Family Division that has jurisdiction over family matters in the District Court. There are 8 case management officers who work in the Family Division.

A plaintiff who has a right to trial by jury in a civil action waives the right by bringing the action in District Court; a defendant with a right to a civil jury may remove the action to a Superior Court for jury trial.

The court also tries cases involving civil violations and Class D and E criminal offenses when the defendant waives the right to a jury trial. In addition, the court hears all juvenile matters and traffic infraction cases. Most decisions of the District Court may be appealed directly to the Supreme Judicial Court. Appeals are limited to questions of law except in small claims and forcible entry and detainer cases.

In Maine, the small claims court is a special session of the District Court held in each district on certain days determined by the Chief Judge of the District Court. In small claims court, the procedure is simplified,
hearings are informal, and parties generally appear without attorneys. Small claims proceedings are appropriate only when the amount in controversy, not including interest and costs, is not more than $4,500. Appeals from small claims judgments may be taken to the Superior Court. A defendant who appeals, and who has a right to a jury trial, may have a trial de novo (a complete retrial) before a Superior Court jury.
See also Adult Drug Court and Juvenile Drug Court.

Probate Courts
Probate Courts, established in the Maine Constitution in 1820, are courts with jurisdiction over specialized subject matter, such as estates and trusts, adoptions and name changes, guardianship and protective proceedings. These courts also sit without a jury. There are 16 Probate Courts and judges for each county. The judges, who are part-time, are elected. Probate Court decisions may be appealed to the Supreme Judicial Court on matters of law. Probate Court is not under the state court system but under county jurisdiction.

Citizen’s Guide to the Courts -
Part II: Court Organization
Court of General Jurisdiction - The Superior Court
The Superior Court forms the second tier of the Maine court system. Created by the Legislature in 1929, the Superior Court is Maine’s trial court of general jurisdiction. The Court consists of 16 justices who travel on circuit to hold court at regular intervals in each of Maine’s 16 counties. The Superior Court may hear almost any kind of civil or criminal case that may be brought to trial. Since the Superior Court is the only court that uses juries, it hears all murder and Class A, B, and C criminal cases, as well as those Class D and E cases in which the defendant asks for a jury trial. In civil actions both the Superior Court and the District Court have jurisdiction in cases seeking money damages. This means that, in such cases, the plaintiff can choose between District and Superior Court. If the plaintiff wishes to exercise a right to jury trial or prefers the location or some other feature of the Superior Court, the case may be brought in that court. There are also some actions where the plaintiff seeks something other than a simple money judgment, for example, an injunction. Many of these actions may only be brought in Superior Court. The Superior Court also hears appeals from state and local administrative agencies. Appeals from the Superior Court may be taken to the Supreme Judicial Court.

Citizen’s Guide to the Courts -
Court Organization
Supreme Judicial Court
The Supreme Judicial Court, established in 1820 when Maine separated from Massachusetts, is the state’s highest court and the court of final appeal. It has seven members, presided over by the Chief Justice, the head of the Judicial Branch. The Court's major job is to decide appeals on questions of law that arise in civil actions and criminal trials. Questions of law are presented to the Court when a case is appealed from a lower court. Lawyers for the parties present written briefs and oral arguments outlining their respective positions. The justices reflect on the questions presented and issue a written opinion deciding the issues in accordance with the Court's view of the law and reversing or affirming the lower court's decision. These opinions are published and become binding on all the Maine courts when they adjudicate similar disputes.
Published opinions are available on this web site or may be found in bound form in the Maine Reporter. In its appellate capacity (as interpreter of the laws), the Court is called the Law Court.

The Court has several other jobs. An appellate division of the Court hears appeals from criminal sentences when the penalty is one year or more of incarceration. The justices may issue advisory opinions to the Governor or Legislature on legal issues of high public importance. The Court is also responsible for overseeing admission to the bar and the conduct and discipline of lawyers and judges. Finally, the Court is the procedural rulemaking authority for all of the state’s courts.

Citizen’s Guide to the Courts -
Part II: Court Organization
Administrative Office of the Courts
The Administrative Office of the Courts administers all of Maine’s courts except for the Probate Courts, which are administered at the county level. The head of the office, the State Court Administrator, manages the business affairs of the courts. The Court Administrator reports to the Chief Justice and is responsible for collecting statistical information, investigating complaints, overseeing financial affairs, maintaining the physical facilities of the court, running educational and training programs for court personnel, preparing an annual report on the operation of the Judicial Department, and a broad range of other duties.

Citizen’s Guide to the Courts -
Part II: Court Organization
Other Judicial Agencies
A number of other agencies have been created by statute or court order to advise or assist the Supreme Judicial Court in carrying out its supervisory and administrative responsibilities over the court system and the bar. These include:
• Board of Bar Examiners, charged with supervising admission to the bar
• Board of Overseers of the Bar, charged with supervising attorney conduct and discipline
• Committee on Judicial Responsibility and Disability, charged with supervising the conduct and discipline of judges
• Court Appointed Special Advocate Program (CASA), which utilizes trained volunteers to act as guardians-ad-litem in child protective cases
• Court Alternative Dispute Resolution Service (CADRES)
• Numerous operating and advisory committees dealing with matters ranging from judicial education to the rules of court

Citizen’s Guide to the Courts -
Part III: Visiting the Courts
You are welcome to visit any of Maine’s courts (see directory).
Schedules of cases to be heard and the times that the court will be in session are available from the clerk’s office at each court.

The Maine District Court sits at thirty-one locations throughout the state, and the Superior Court sits in each of Maine’s sixteen county seats. Although the clerks’ offices usually open at 8:00 a.m., the proceedings in the courts generally take place from 8:30 a.m. to 4:00 p.m. Visitors are always welcome, but large groups should notify the clerk of the court prior to arrival. The clerk, bailiff, or court officer is usually available to explain the type of proceeding being heard.
In some courts, the clerk can arrange tours of the building. Occasionally, a judge may be available to speak to groups. Visitors are also welcome to observe the deliberations of the Supreme Judicial Court, which holds regular sessions in Portland and also sits in Bangor and other locations from time to time.

For More Information

Use the Find a Court feature on this website to locate addresses and other contact information for individual courts.

Citizen’s Guide to the Courts

Acknowledgements

The original version of this Guide was the work of Associate Professor William H. Coogan of the Department of Political Science, University of Southern Maine. Professor Coogan gratefully acknowledged the prior draft of Marcy A. Kamin-Crane as well as the efforts of Susan M. Madsen and Gloria Penney, interns with the Administrative Office of the Courts in the summers of 1983 and 1984, and their supervisor, Debra E. Olken, who was the Policy and Analysis Officer at the AOC. Editorial supervision of the original project was the responsibility of a committee of the Maine Judicial Council consisting of Murrough H. O’Brien, Esquire, Secretary of the Council; the late Hon. David G. Roberts, Associate Justice of the Supreme Judicial Court; and L. Kinvin Wroth, then Dean of the University of Maine School of Law. Nancy R. Chandler, Executive Director of The Maine Bar Foundation at the time, and Virginia Wilder Cross of Working Words, helped transform the Guide from manuscript to its initial printed form.

Updating, conversion and revision to a form appropriate for posting on the World Wide Web was accomplished in 1997 by the Electronic Distribution of Information Team under the auspices of the Administrative Office of the Courts. Team Members were Hon. Susan W. Calkins, Chair; Timothy Brooks; Judy Bennett; Pat Champagne; James Chute; Scott Clark; the late Ulrike Gaynor; James Erwin, Hon. John David Kennedy, and Hon. John C. Sheldon. Lynda Haskell also provided valuable editorial contributions. The Internet version was revised again in May 2002 by Hon. Robert E. Mullen, Deputy Chief Judge of the District Court, and the Administrative Office of the Courts.
Definition of Terms

System Response

Adjudication – determination that allegations of juvenile petition are supported by evidence beyond a reasonable doubt

Adversarial - involving opposition or disagreement

Appeal - ask higher court to reverse decision of trial court

Bail - obtaining release of defendant after pledging cash or property

Bind over Hearing – juvenile court determines whether or not to allow State to proceed against juvenile as if he were an adult

Burden of Proof – evidence sufficient to prove beyond a reasonable doubt

Case Flow - the flow of case processing in the Judicial System

Case Law – decisions of courts which interpret the law

Civil Rights – guaranteed by Bill of Rights 13th and 14th amendment, right to due process, equal treatment under the law

Commitment – transfer legal custody

Community Justice – bringing together the community and the criminal justice system to solve community problems

Compensation – amount received to make one “whole”

Constitution - document which establishes the government of a nation

Criminal Law – statutes dealing with offenses against the public

Defense Counsel – attorney representing offender

Detention – holding of a person in a facility intended to prevent a person from departing

District Court – jurisdiction of criminal misdemeanor and juvenile offenses, as well as family matters and protection from abuse/harassment orders

Due process – fundamental issue of fairness in all legal matters

Evidence – proof legally presented at trial

Family Division Court – consolidating multiple cases involving the same family

Felony – a crime carrying a sentence of more than 1 year in prison

GAL/Guardian Ad Litem – person appointed by the court to take legal action on behalf of a child

Grand Jury – hears evidence in criminal matters and decides upon indicting

Hearsay – secondhand evidence, witness not telling what he knows personally but what others have said

Initial Appearance – the first appearance of the suspect in court where he/she is informed of allegations/advised of the right to an attorney and conditions of release

Jail – a place of confinement of persons in lawful custody awaiting trial or those convicted of minor crimes

Juvenile – means any person who has not attained the age of 18 years

Misdemeanor – lesser crime punishable by fine of jail up to 1 year

Parole – release of criminal prior to completion of sentence, still under supervision by parole officer

Parties – one of the people or sides involved in a formal agreement or argument, esp. a legal one

Petit Jury – jury which hears evidence at trial

Plea – response by defendant to the criminal charge

Plea Negotiation – the negotiation of an agreement between prosecutor and a defendant whereby the defendant is permitted to plead guilty to a reduced charge

PR/Personal Recognizance - the pretrial release of a defendant without bail upon his or her promise to return to court.

Prison – an institution for confinement of persons convicted of serious crimes

Probable Cause – sufficient cause to believe a crime has been committed.
Probation — convicted person remains in community under supervision and must abide by specific conditions
Prosecutor — state’s attorney in a criminal case
Reentry — the return to the community from incarceration
Restorative Justice — a systematic response to wrongdoing that emphasizes healing the wounds of victims, offenders and communities caused or revealed by the criminal behavior
Sentence — the punishment given to a person convicted of a crime
Small Claims — court process which makes decisions regarding small amounts of money
Standing — right to bring a lawsuit
Statute — law enacted by the legislature
Superior Court — trial court
Supreme Court — appeals court
Tort — a civil wrong or wrongful act from which injury occurs to another
Trial De Novo — appeals court holds trial as if no prior trial had been held
Unjust Enrichment — a benefit by mistake which must be returned
Violation — act or instance of violating or the condition of being violated.
Voir Dire — questioning to determine possible bias of jurors or to determine competency of witnesses
Warrant — an order of the court which directs law enforcement to arrest and bring a person before the judge
Writ — a written order of a judge requiring specific action by the person or entity to whom the writ is directed
CASE STUDY

Sue and Joe have been living together in NH for the past several years, but separated approximately one month ago. They are not married, but have two biological children ages 5 and 7. Upon separating, they worked out a temporary informal visitation agreement where Sue has custody of the children but Joe takes them overnight on Sundays and Wednesdays.

During one of the Wednesday visits, the 7 year old mentions to Joe that Mommy has a ‘new boyfriend’. The next morning after dropping the kids off to school, Joe goes over to Sue’s apartment to confront her about it. Sue is there alone and when Joe goes into her apartment they get into an argument that escalates and Joe physically and sexually assaults her. After raping her, Joe leaves and Sue calls a friend who convinces her to go to the hospital.

At the hospital, a crisis center advocate is called who meets with Sue to talk about her options (reporting to the police, getting a protective order, etc.). Sue then goes into the exam room where a SANE does a rape exam and finds that Sue has minor abrasions and bruising to her head and torso. The SANE nurse talks to Sue about reporting to the police and Sue agrees so the police are called in.

Following the exam, Sue meets with the police officer (in a private room at the hospital) and gives a report. She also decides to go to the court to obtain a temporary restraining order. The advocate goes with her and Sue is granted a TRO and is given temporary custody of the kids.

Sue then decides that she doesn’t feel safe, picks the kids up from school and goes to stay with her sister in York Maine for the weekend.

Meanwhile, the NH police go to Joe’s apartment and serve Joe the order. Joe acts extremely surprised, but is very calm and accommodating to the police. He then goes into work and is seething and makes several threatening comments to coworkers indicating what he is going to do to Sue when he gets to her.

During lunch he leaves work and goes by her apartment and notices she isn’t there. When he goes by again after work and later that night and she still isn’t there, he realizes that she has probably gone to stay with her sister. He then decides to drive to York, Maine to the sister’s to see if she is there. When he gets there, he repeatedly knocks on the door, is yelling and screaming to let him in and that he is going to ‘get her’. Sue and her sister then call the police.
SAFETY PLANNING

PRESENTED BY:
FRANCINE STARK
Safety Planning Workshop for Victim Assistance Academy

By: Francine Stark

What is safety?

Some elements:
♦ Having a place to live (long term)
♦ Having enough food
♦ Having enough money to maintain housing, healthcare, food, and transportation
♦ Being free of scrutiny (being watched in the course of daily life)
♦ Having the right to establish a routine – going to the same grocery store every week or taking a walk in the park every lunch hour,
♦ Living without fear
♦ Living with joy
♦ Sharing hopes, concerns, and pleasure with friends and family
♦ Sleeping soundly

For each individual – what are the risks to his/her safety?

Life-generated risks

♦ Home location
♦ Economics
♦ Technology and communication systems
♦ Physical and mental health
♦ Inadequate responses by major social institutions (cj system, family law, CPS)
♦ Discrimination based on race, ethnicity, gender, sexual orientation, or other bias
♦ Availability, accessibility, and affordability of housing, transportation, childcare, …
♦ Immigration laws/status

Perpetrator-generated risks

The tactics available to the perpetrator differ in part due to the relationship that exists between him/her and the victim. Is the perpetrator a stranger or the victim’s:
♦ Spouse (of how many years; parent to victim’s children)?
♦ Ex-spouse (parent to victim’s children)?
♦ Co-hab (living in whose home)?
♦ Date?
♦ Co-worker (superior, senior, junior, equal)?
♦ Family (father, mother, sibling, child, extended)?
♦ Neighbor?
♦ Caregiver?
♦ Teacher?
♦ Other_____?
♦ Perpetrator’s manipulation of life-generated risks
   o Convince victim that help is unavailable
   o Using his/her own vulnerability to discrimination to convince victim not to seek help, particularly from legal system
   o Presenting themselves as the only resource for life needs
   o Threatening to use CPS to remove children from victim’s custody
   o Threatening immigration status
♦ Physical – injury, death
♦ Sexual – rape, STDs, maternal health
♦ Psychological – tearing down sense of self-worth, substance abuse, suicide, presenting him/herself as omnipotent, knowing everything about victim’s movements and decisions (stalking)
♦ Children – direct and indirect physical and psychological harm, loss, single parenting
♦ Financial – standard of living, poverty, eviction, damage/destruction of property, credit
♦ Family and friends – threats or actual physical injury, isolation of victim
♦ Relationship – abandonment, leading to loneliness and/or loss of perpetrator’s contribution to caretaking, childcare, and household maintenance
♦ Arrest – force victim to participate in illegal activity, manipulating police investigation resulting in victim’s arrest, perpetrator’s arrest leading to perpetrator’s loss of job, income, status

What are safety plans?

Safety plans are strategies to reduce a perpetrator’s ability to use power and control over the lives of his/her victim(s) and to increase the victim’s safety and capacity to act in his/her own best interest.

Effective safety plans include components to limit (or eliminate) the perpetrator’s capacity to harm the victim, physically, verbally, and emotionally. Depending upon the perpetrator’s relationship to the victim (and children) and the evolution of that relationship, the safety plan may or may not include strategies to eliminate contact for any period of time.

Safety plans are:
♦ Specific to context
   • What has been done by whom to whom in what community environment?
♦ Impactful
   • Perpetrators of domestic violence, sexual abuse and assault, stalking, and child abuse are using a variety of tactics to maintain power and control over their victims, using their particular skills, resources, and relationships in their particular community context.
   • Safety plans change the perpetrator’s access to the victim (physically and emotionally), thereby changing the effectiveness of his/her tactics and the perpetrators analysis of his/her circumstances and choices; so, the perpetrator’s tactics change.
   • Some elements of safety plans (e.g., calling the police, getting protective orders, or reporting child/elder abuse) may have long-term, negative consequences for the perpetrator and victim – job loss, financial costs, career options, child custody, loss of property.
♦ Evolutionary
  • As the perpetrator’s tactics change, the safety plan must change
  • As the victim’s experience of “safety” proceeds, the safety plan changes
    o New elements may need to be added
    o Some elements may be proven ineffective and/or dangerous
    o Some elements may no longer be needed

What kinds of safety plans are there?

♦ Immediate – what should I do right now?
♦ Short term – how will I get through the next month?
♦ Long term
  o How can I keep the perpetrator away from me forever?
  o Is the relationship over? Has or will he/she change?
  o How do I live with the loneliness?
  o How do I live with the fear, anger, and hurt I feel?
  o How will I get by financially?
  o How can I keep the children safe and happy during visitation, after school, at daycare?

What is an advocate’s role in safety planning?

Understand the victim’s perspective and safety goals.
♦ Create a safe place to talk (privacy, environment)
♦ Listen (hear, validate, explore, clarify, summarize)
  ♦ Identify past safety plans
    o What has he/she tried?
    o How did it work?
    o Would he/she try it again? If not, why not?
    o What was perpetrator’s reaction?
  ♦ Identify current safety plans
    o What is the time frame for these strategies?
    o What personal and/or public resources are involved?
    o How does he/she think perpetrator will react?
  ♦ Identify additional safety strategies that victim has not mentioned and explore with victim in the context of his/her risk analysis
  ♦ Over time, assess perpetrator lethality
    o Have the perpetrator’s actions escalated, become more severe, and more frequent?
    o Have there been threats of homicide or suicide?
    o Has the perpetrator stopped trying to conceal his/her behavior?
    o Does the perpetrator have a criminal history, abuse substances, or harm animals?
    o Does the perpetrator have and use weapons?

Respect victim’s right to make decisions for him/herself (and children)
Identify ongoing or future role for advocate (if any)
Things to Consider About Yourself In Your Interaction with a Victim

- What is s/he hoping you can do?
  [Maybe nothing more than your specialty. Maybe something you cannot do.]
- What may s/he fear you will do?
  [Breach confidentiality in some way. Report to some authority against his/her will. React in a way that makes him/her uncomfortable.]
- What is your role?
  [What is your official job or personal connection?]
- What is your potential impact?
  [What do you have the ability to provide, take away, deny, initiate…? What result may those actions have in his/her life?]
- Do you have the time and/or skill?
  [Be honest, straight-forward, and set appropriate boundaries. Refer and collaborate.]
- Who else is involved?
  [Are there other service providers with whom you might, with his/her permission, collaborate in some way?]
- What do you do when you don’t like his/her choices?
  [Respecting his/her autonomy is a challenging part of this work. How can you get support to maintain your compassionate position? Consultation?]
- Don’t make assumptions:
  - regarding his/her experience
  - regarding his/her options
  - about how s/he’s been treated
  - about what s/he’s got to lose
  [We have such different experiences as human beings, and services vary from one community to another. Differences in culture, ethnicity, faith, economy, education, race…all may be relevant in ways we cannot predict. Inaccurate assumptions about these things often lead to negative judgment.]

**Do ask . . . if you have time to listen.**
[If you do not have time, just say so. Make an appointment for another time and/or an appropriate referral.]

References:


“Brenda, Randy, and the Children*”

Brenda had her first child, a boy named Bobby, just after graduating from college. She married her college sweetheart, Robert, and moved to New Hampshire, where Robert’s family lived. Three years after Bobby was born, Robert told Brenda that he was seeing another woman. He was sorry. Brenda felt so betrayed. They had been growing increasingly distant from each other. This was just the final blow. They decided to get a divorce. Robert felt guilty and agreed to pay child support and to pay Brenda a settlement so that she would have something to live off while she resettled back in Maine near her family.

It was humiliating to go home. Brenda’s mother had never liked Robert and had told Brenda that she would regret marrying him. Still, Brenda had no other place to go, so she moved back in with her parents, hoping to get a job and her own place quickly.

She signed up with a temp agency, using the computer and organizational skills she had honed writing papers for her degree in English. She used her settlement to put a down payment on a car and pay the security deposit on an apartment. Bobby spent time with his father every month when Robert drove up to see him. When Bobby was five, he spent a month with his father in New Hampshire.

Brenda had resisted dating anyone, not wanting to get hurt again, but she volunteered to help organize her high school 10th class reunion, hoping to make some friends. She met Randy at the first meeting. He was the center of attention at the meeting, full of ideas, very energetic. She was surprised when he asked her out after the third meeting. Bobby was away, visiting his father, so Brenda had a little time to relax. She decided to take a chance and get to know Randy better. It would be fun to go out for a change. A few months later, Randy invited Brenda to move in with him. He had a big house that his uncle had left him. It was up on a hill overlooking a beautiful pond and an orchard, lots of room for Bobby to play, and they could get a dog. Hopeful and in love, Brenda accepted his offer.

Randy really wanted to have a child with Brenda, to start their own family. Besides, Bobby would love having a baby brother or sister. So, Sarah was born. Brenda didn’t have an easy labor, however, and eventually Sarah was delivered by Caesarian section. Randy fussed over Sarah. It was as if he didn’t believe Brenda knew anything about taking care of a baby. He ordered Bobby around and wouldn’t let him touch Sarah, accusing him of being rough with her or bringing home germs from school that would make her sick. He spanked Bobby frequently and slapped him across the face if he ever talked back to him. Brenda felt horrible. She tried to talk with Randy about how he treated Bobby, but it seemed to make things worse. After she talked with Randy, he would tell Bobby that he was such a baby, whining to his mommy when he didn’t get his way, acting like a little girl.

Brenda had stopped working when Sarah was born. She had a long recovery from the birth and later decided she would rather stay home and take care of the children for a while. Randy decided that they couldn’t afford to keep two cars on the road with only one income, so they parked her car in an old shed and stopped paying the registration and insurance on it. One day, her mother took her and the children shopping for the day. When they got back home, Randy told Brenda that he had gotten a great offer and sold her car. She never saw the money.

The first time he hit her, she was devastated. When he forced her to have sex, she was shocked and sickened. She had given up her apartment, her car, and every dime she had to live with him. She had
trusted him and wanted Bobby to have a better home. Meanwhile, Bobby had started asking to go live with his father. He hated Randy. She was beginning to hate him, too, but she couldn’t bear the idea of going back home. She couldn’t stand the idea of people knowing what was happening to her.

One night, Randy came home late, smelling like cigarettes. Brenda was surprised, because Randy didn’t smoke. She asked him where he had been, and he punched her in the face so hard that she fell backward into the kitchen table and knocked over a chair. Bobby heard the noise and ran into the room. Randy yelled at him to go to his room. Sarah, who had been crawling on the floor nearby started screaming. Randy told Brenda to clean herself up and picked up the baby. Meanwhile, Bobby called the police from the phone in another room.

When the police arrived, Randy was sitting in a rocking chair with Sarah and Brenda was in the bedroom with Bobby. Randy answered the door and told the police that there must have been a mistake. No one had called them. The police officer said that he understood that this might be an error, but could he please see the other members of the household. As Randy started to tell the officer that everyone else was asleep, Bobby ran out of his bedroom and said “that man hit my mother, officer”. When the officer saw Brenda, with a badly swollen cheek, Randy backed off and let the police in to the house. The officer arrested Randy and took statements from Brenda and Bobby. He gave her a card to call the local domestic violence hotline, encouraging her to go to a shelter, since Randy would likely be out on bail within a couple of hours.

Brenda was devastated. Going to a shelter was the most humiliating thing she had ever done. The morning after she arrived at shelter, one of the workers told her that they had received a call from DHS/Child Protective. Randy had told them that Brenda was an unfit mother, that she was not able to care for Sarah on her own, and that Bobby was a threat to Sarah. Brenda felt like she was drowning, afraid to do or say anything, not sure what her rights were.

She went to the emergency room to have her face checked, because it hurt a lot and the swelling wouldn’t go down. Sitting in the waiting room with Bobby and Sarah, she felt so much shame. With the children nearby, she didn’t want to answer the nurse’s questions about what had happened. She declined to have an x-ray, because there was no one to watch the children.

Bobby had to change schools, because the shelter was in a different town. He was happy to be away from Randy, though, and tried to be very brave. When he asked his mom if he could call his dad, she said that he could. Robert got very angry when he heard that they were staying in a shelter. He asked Brenda what had been going on and what had she been putting his son through. He told her that he would be filing papers to have primary custody of Bobby transferred to him. He would be in Maine to pick him up the next day, and she was to meet him at her mother’s house or else.

*This is a fictitious scenario. Any resemblance to actual people or events is accidental.*
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<th>Abuser generated risks</th>
<th>Life generated risks</th>
<th>Safety strategies to explore</th>
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What might Brenda’s goals be at the end of this scenario? In the future?

What potential role might you have in her life at that time? In the future?

What environmental factors (legal actions, systems, culture, family, etc.) influence:

  Brenda’s thoughts, feelings, and strategies?

  Randy’s thoughts, feelings, and tactics?
HOMICIDE/DRUNK DRIVING

PRESENTED BY:
Sandi Matheson
HOMICIDE

Objectives:

Upon completion of this module the participant will be able to:

- Understand the scope and impact of homicide and the unique elements that negatively impact the survivors.
- Understand the impact of homicide on the survivors and their response to it.
- Identify common problems faced by survivors
- Identify victim service provider support and services for survivors.
Homicide
Maine/New Hampshire Victim Assistance Academy
Sandra Matheson
NH Attorney General’s Office

Homicide Response
In Maine and New Hampshire

Learning Objectives

- Understand the scope and impact of homicide and the unique elements that impact the co-victims.
- Understand the impact on co-victims and their response to it.
- Identify common problems faced by co-victims.
- Identify victim service provider support and services for co-victim.
“Co-Victim”

“I felt like a victim after Nancy’s murder but there was no acceptance of that. We were outsiders – mostly ignored, rarely included, never accorded any legitimacy.”

- Nancy Spungen - 1983

Elements Unique to Homicide

- Sudden/Unexpected
- Violent
- Purposeful Act – Intent to Harm
- Stigmatization
- Media/Intrusion
- Criminal or Juvenile Justice System
- Bereavement – Grief Differs

Common Problem Areas for Co-Victims of Homicide

- Initial investigation
  - Securing of the scene – “body” as evidence – length of time until victim is released
- Cleanup of scene
- Evidence collection – holding of personal items as evidence length of time
- Autopsy (description of wounds)
- Interviewing family members – invasive questions about the victim
- Dealing with rumors
Common Problem Areas for Co-Victims of Homicide (continued)

- Criminal or Juvenile Justice System
- Financial Considerations
- Employment
- Relationships
- Children
- Religion
- Media
- Lack of Understanding by Professionals
- Substance Abuse

GRIEF AND LOSS

“Grief signifies one’s reaction, both internally and externally to the impact of the loss.”

Grief and Loss

- Victimization results in grieving process.
- Each person’s loss and coping style varies.
- Stages of grief may overlap.
- “Normal” reactions to “abnormal” circumstances.
Stages of Grief

- Denial
- Anger
- Powerlessness
- Guilt
- Acceptance

How to Help Co-Victims

- Allow grieving in whatever manner they wish for as long as they wish
- Allow them to cry freely
- Allow co-victims to talk about and personalize the victim
- Allow anger to be expressed (CJS/JJS)
- Remember co-victims at holiday times and on anniversaries

How to Help Co-Victims (con’t)

- Allow co-victims “time out”
- Reassure that they are not to blame
- Tell co-victims you are sorry, and that their victimization is horrible
- Support co-victims in their efforts to reconstruct their lives
- Let them know you are their friend
Victim Assistance: Promising Practices

- Learn about case
- Determine co-victim’s need for contact
- Be familiar with stages of grief
- Personalize the deceased
- Protect co-victims from media
- Determine needs re: funerals and notification responsibilities

Victim Assistance: Promising Practices (con’t)

- Understand financial considerations
- Provide referrals for counseling/support
- Provide information on the CJS
- Realize that each family member will have individual needs
- Review autopsy photos for suitability for family viewing

Victim Assistance: Promising Practices (con’t)

- Understand victim identification and disqualification from court processes
- Provide all available court services
- Alert CJS officials of victims’ safety concerns or emotional concerns
- Inform co-victims of right to civil action
- Provide brochure on emotional effects
- Be prepared for death penalty cases
In the State of New Hampshire all homicide cases, excluding negligent homicides, are prosecuted out of the
Homicide Unit of the Attorney General’s Office. In all but the major cities, homicide cases are investigated
by the Major Crime Unit, within the New Hampshire State Police. Negligent homicides, which include
most vehicular homicides, are prosecuted out of the ten County Attorney’s Offices and are investigated by
the local police departments.

THE STATE OFFICE OF VICTIM/WITNESS ASSISTANCE

The Office of Victim/Witness Assistance was created legislatively in 1987 to provide 24-hour direct
services and support in all of the state’s homicide cases, to standardize services for victims of crime
statewide, and to provide training to the professionals involved.

The Office has victim/witness advocates who are on call 24-hours a day. When a homicide occurs
anywhere in the state, an advocate responds to the scene along with two prosecutors from the Homicide
Unit. Once the victim has been identified, the advocate is responsible for notifying the family of the death
and providing crisis intervention and support families in the immediate aftermath of the homicide. Other
services include providing extensive services and support, notification and orientation throughout the entire
criminal justice system, including post-conviction, sentence reduction, and parole hearings. The goal of the
office is to ensure that the rights of victims of crime are protected and to reduce the impact that the crime
and the resulting involvement in the criminal justice system have on the lives of victims and witnesses.

DEFINITION OF HOMICIDE

The New Hampshire homicide statute (RSA 630) defines the various degrees of the crime, each carrying a
range of penalties:

**Capital Murder**

A person is guilty of capital murder if he knowingly causes the death of:

- A law enforcement officer or a judicial officer while in the line of duty;
- A person before, after, while engaged in the commission of, or while attempting to commit
  kidnapping, aggravated sexual assault or arson;
- A person involving a murder by hire;
A person after being sentenced to life imprisonment without parole;

RSA 318-B:26, I(a) or (b).

A person convicted of a capital murder may be punished by death. A person under the age of 17 years cannot be charged with capital murder.

**First Degree Murder**

A person is guilty of murder in the first degree if he:

- Purposely causes the death of a person; or
- Knowingly causes the death of:
  - A person before, after, while engaged in the commission of, or while attempting to commit felonious sexual assault; arson or robbery or burglary while armed with a deadly weapon and the death is caused by the use of such a weapon;
  - (2) The president or president-elect or vice-president or vice-president-elect of the United States, the governor or governor-elect of New Hampshire or any state or any member or member-elect of the congress of the United States, or any candidate for such office after such candidate has been nominated at his party's primary.

**Second Degree Murder**

A person is guilty of murder in the second degree if:

- He knowingly causes the death of a person; or
- He causes the death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the perpetrator causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.

Second degree murder is punishable by any term the court may order up to life imprisonment.

**Manslaughter**

A person is guilty of manslaughter when he causes the death of a person:

- Under the influence of extreme mental or emotional disturbance caused by extreme provocation but which would otherwise constitute murder; or
- Recklessly.
- Manslaughter is punishable by imprisonment for a term of not more than 30 years.
**Negligent Homicide**

A person is guilty of a class B felony when he causes the death of a person negligently.

A person is guilty of a class A felony when he causes the death of a person while under the influence of intoxicating liquor and/or a controlled drug while operating a propelled vehicle.

Negligent homicide is punishable by imprisonment for a term of

**STATISTICAL OVERVIEW**

From January 1990 until December of 2002, there were 259 homicides committed in the state of New Hampshire (see chart below). This does not include negligent homicides. Of those an average of 46% involved family violence.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Homicides</th>
<th>*Partners</th>
<th>*Family Members</th>
<th>*DV Related</th>
<th>Total DV</th>
<th>Total % DV</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>16</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>8</td>
<td>50%</td>
</tr>
<tr>
<td>1991</td>
<td>34</td>
<td>9</td>
<td>5</td>
<td>2</td>
<td>16</td>
<td>47%</td>
</tr>
<tr>
<td>1992</td>
<td>20</td>
<td>7</td>
<td>1</td>
<td>3</td>
<td>11</td>
<td>55%</td>
</tr>
<tr>
<td>1993</td>
<td>24</td>
<td>7</td>
<td>1</td>
<td>0</td>
<td>8</td>
<td>33%</td>
</tr>
<tr>
<td>1994</td>
<td>18</td>
<td>4</td>
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<td>2</td>
<td>8</td>
<td>44%</td>
</tr>
<tr>
<td>1995</td>
<td>19</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>10</td>
<td>53%</td>
</tr>
<tr>
<td>1996</td>
<td>23</td>
<td>6</td>
<td>5</td>
<td>1</td>
<td>12</td>
<td>52%</td>
</tr>
<tr>
<td>1997</td>
<td>24</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>17%</td>
</tr>
<tr>
<td>1998</td>
<td>15</td>
<td>6</td>
<td>0</td>
<td>1</td>
<td>7</td>
<td>46%</td>
</tr>
<tr>
<td>1999</td>
<td>20</td>
<td>6</td>
<td>5</td>
<td>1</td>
<td>12</td>
<td>60%</td>
</tr>
<tr>
<td>2000</td>
<td>14</td>
<td>4</td>
<td>7</td>
<td>0</td>
<td>11</td>
<td>79%</td>
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<tr>
<td>2001</td>
<td>20</td>
<td>3</td>
<td>4</td>
<td>0</td>
<td>7</td>
<td>35%</td>
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<tr>
<td>2002</td>
<td>12</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>42%</td>
</tr>
<tr>
<td>Totals</td>
<td>259</td>
<td>69</td>
<td>38</td>
<td>12</td>
<td>119</td>
<td>46%</td>
</tr>
</tbody>
</table>

*Partners* – Homicide where the perpetrator and victim ARE intimate partners (e.g., husband kills wife).

*Family Members* – Homicide where the perpetrator and victim ARE NOT intimate partners but ARE family members (e.g. parent kills child).

*Domestic Violence Related* – Homicide where the perpetrator and victim ARE NOT intimate partners and ARE NOT family members but it is related to domestic violence (e.g., estranged husband kills wife’s current intimate partner, or neighbor dies trying to save child from parental abuse).
The Office of the Attorney General has exclusive responsibility for the prosecution of homicide cases statewide. The Homicide Unit is part of the Criminal Division of the Office of the Attorney General.

The Assistant Attorney General of the Homicide Unit responds to all homicides and advises the law enforcement agencies that conduct investigations. The Maine State Police, Portland Police Department and Bangor Police Department investigate homicides. The prosecutors work closely with those departments and with the Office of the Chief Medical Examiner throughout the investigation and through trial. The Office of the Attorney General also handles any appeals taken from homicide convictions. Prosecutors also work with law enforcement and the Medical Examiner on unsolved homicides.

The State of Maine Victim/Witness Services Program

The Victim/Witness Services Program is a part of the Criminal Division. The Director of the Criminal Division supervises this program. There are two full time Victim Witness Advocates: Mary Farrar and Susie Miller. The primary objective of this program is to provide easy access to information regarding the criminal justice process to families of homicide survivors and witnesses. Victim/Witness advocates provide support and understanding to homicide survivors and ensure that victims’ rights are respected. Victim/Witness Advocates provide the following services:

- Death Notification
- Counseling referrals
- Court Advocacy- Advocates prepare witnesses for trial and provide information about the criminal justice system. An advocate can provide pretrial courtroom tours, and accompany and support homicide survivors throughout the court process.
- Status notification – Advocates keep homicide survivors informed of the status of cases and court dates.
- Victim Impact Statements- Advocates can help victims and survivors prepare a statement to present to the court on the impact the crime has had on the survivor and the family.
- Victims’ Compensation - Advocates can provide information regarding reimbursement for homicide survivors relating to certain expenses and losses.
- Notification of Release- Advocates will help survivors file applications with the Department of Corrections.

Offenses Against the Person

The Maine Criminal Code (17-A) defines the different degrees of the crime of murder; each contains different penalties and fines:

Murder

1. A person is guilty of murder if the person:
   A. Intentionally or knowingly causes, the death of another human being;
B. Engages in conduct that manifests a depraved indifference to the value of human life and that in fact causes the death of another human being;
C. Intentionally or knowingly causes another human being to commit suicide by the use of force, duress or deception.

A person convicted of the crime of murder shall be sentenced to imprisonment for life or for any term of years that is not less than 25. A person who has not attained the age of 18 years cannot be charged with murder as an adult, however the juvenile can be charged with the juvenile offense of murder and in the event the court believe it to be appropriate the juvenile can be bound over and tried as an adult.

MAINE'S UNSOLVED MURDERS ARE CONSIDERED OPEN FILES AND ARE STILL UNDER INVESTIGATIONS. THERE IS NOT A STATUTE OF LIMITATIONS FOR MURDER IN MAINE.

Felony Murder

1. A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an attempt to commit, or immediate flight after committing or attempting to commit, murder, robbery, burglary, kidnapping, arson, gross sexual assault, or escape, the person or another participant in fact causes the death of a human being, and the death is a reasonably foreseeable consequence of such commission, attempt or flight.

Felony murder is a Class A crime.

Manslaughter

1. A person is guilty of manslaughter if that person:
   A. Recklessly; or with criminal negligence, causes the death of another human being.
   B. Intentionally or knowingly causes the death of another human being under circumstances that do not constitute murder because the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation.
   C. Has direct and personal management or control of any employment, place of employment or other employee, and intentionally or knowingly violates any occupational safety or health standard of this State or the Federal Government, and that violation in fact causes the death of an employee and that death is a reasonably foreseeable consequence of the violation.

Manslaughter is a Class A crime.

Aiding or soliciting suicide.

1. A person is guilty of aiding or soliciting suicide if he intentionally aids or solicits another to commit suicide, and the other commits or attempts suicide.
Aiding or soliciting suicide is a Class D crime. The maximum time of incarceration can be less than one year.

**Criminal solicitation**

1. A person is guilty of solicitation if he commands or attempts to induce another person to commit murder.

Criminal solicitation is a Class A crime.

In the case of a Class A crime, the court shall set a definite period not to exceed 40 years. The court may consider a serious criminal history of the defendant and impose a maximum period of incarceration in excess of 20 years.
DRUNK DRIVING

PRESENTED BY:
SANDI MATHESON
DRUNK DRIVING

Objectives:

Upon completion of this module the participant will be able to:

• Understand the historical perspective/grassroots efforts that led to a national movement against drunk driving.

• Understand the impact of drunk driving on the victim.
Drunk Driving

Learning Objectives:
- Understand historical perspective/grassroots efforts that led to a national drunk driving movement.
- Understand the impact of drunk driving on the victim.

Introduction
- Much of homicide section applies to drunk driving.
- More Americans killed in drunk driving crashes than in wars the United States has been involved in (NHTSA 1998)
- Victim Assistance/prevention programs/public policy – changed the public’s perception and tolerance for the crime.
Historical Perspective

- Drunk driving, before 1980s was considered socially acceptable.
- Victim was at the “wrong place at the wrong time”.
- Referred to as “accidents.”
- First BAC law not passed until 1972. (NY and Nebraska).
- Fatallities went down 40% since 1980.

Impact on the Victim

- Often results in extreme anger – Justice system does not provide the same sanctions as they do for other injury/death crimes.
- Maximum sentences for those crimes only a fraction.
- NOT an accident – the result of two conscious choices – to use alcohol and drive a vehicle.
- UNEXPECTED/SUDDEN/PREVENTABLE
- VIOLENT
- Drunk driving is a CRIME.
- Words make a difference – “crash”, “crime”, or “incident” v. “accident,” “killed” v. “died”.
- Catastrophic injury resulting in permanent disability have long lasting effect on victim and family.
Death Notification……

IN TIME
IN PERSON
IN SIMPLE LANGUAGE
WITH COMPASSION

“The cornerstone of the recovery process is the initial death notification.” – Deborah Spungen
DEATH NOTIFICATION

“The cornerstone of the recovery process is the initial death notification.” – Deborah Spungen

IN TIME
IN PERSON
IN SIMPLE LANGUAGE
WITH COMPASSION

• Impact of notification on family members and person doing the notification.

• Examples of the “wrong way” to do a death notification.

• Notification of the Death
  o Preparations before making the notification.
    ▪ Confirm identification of victim.
    ▪ Get medical history of person to be notified.
  o Always do it in person – NEVER call.
  o Ideally do it in pairs – if officers have one in uniform.
  o Define each role – one communicates information, the other watches the reactions.
  o Mentally prepare for notification.

• Delivery of Notification
  o Introduce yourselves and present credentials.
  o Ask to come in.
  o Verify next of kin
  o Sit down
  o Inform Simply and Directly with Compassion
    ▪ Do not depersonalize victim – do not use word “body”
    ▪ Do not use euphemisms – use “dead” or “died” or “killed”
    ▪ Do not patronize or discount feelings
    ▪ Say you are sorry for what has happened.
  o Do not discount feelings, theirs or yours.
  o Answer all questions honestly – have information.
  o Do not leave them alone
    ▪ Offer to make calls/keep track of calls
  • Give a few expectations of what is to come – autopsy, funeral arrangements, dealing with the media, etc.
  • 10. Give them you business card before you leave.
  • 11. Process with you partner on the way home
  • 12. Next Day - Call - let them know you care.
  • 13. ALLOW THE SURVIVOR AS MANY CHOICES AS POSSIBLE
The “Stop DWI” movement in New Hampshire began on June 16, 1982 when 18 year old Damon Spencer was killed by a drunk driver. Damon, only days from his high school graduation, was driving his motorcycle home from his senior party when the drunk driver made a left turn in front of him, cutting him off.

The drunk driver had been drinking with his co-workers for several hours at a company baseball game. He was prosecuted, convicted and sentenced to prison time.

Damon’s parents, Shirley and Leo Spencer, started the New Hampshire Concerned Citizens Against Drunk Driving (CCADD). They followed their case through the Criminal Justice System and became advocates for other families in similar circumstances.

Leo researched the existing laws in New Hampshire, as well as those in other states. He became affiliated with the national organization RID, Remove Intoxicated Drivers, and set out to make New Hampshire highways safer for citizens.

Leo was invited to join Judd Gregg’s 26 member Governor’s Task Force to Prevent Impaired Driving. This group recognized a need for an agency with paid staff to work with volunteers, victims, law enforcement, legislators, educators, media, etc. The New Hampshire DWI Prevention Council was incorporated in 1984 and Leo Spencer became the Executive Director. A few years later he became a member of the New Hampshire Legislature.

Leo and the Board of Directors hired Patricia Rainboth in 1986 to become the Assistant Director and Victim Advocate. Pat worked with families throughout the State, meeting people shortly after a loved one was killed in an alcohol related crash, and following the case through the Criminal Justice System.

Pat Rainboth found that services for crash victims were non-existent in 1986. Families were not informed of court proceedings, and were not encouraged to attend trials or sentencings. There wasn’t anyone to accompany them to fatal hearings at the Department of Safety, arraignments in District Court, trials in Superior Court, appeals at the Supreme Court, parole hearings at the prison, etc.

Alcohol related crashes continued to be called “accidents”. Drug impairment among teens and young adults became a greater concern. Sentences on negligent homicide were frequently deferred or suspended.

Change was coming.

County Attorneys and the Attorney General Office hired Victim Advocates. Victims were informed and encouraged to write Victim Impact Statements. Laws were changed, sanctions enhanced.

Alcohol related fatalities reached a high of 73 in New Hampshire in 1989 and a low of 30 in 1992. The numbers were up in 1993, and rose again to a high of 52 in 1999. Opinions vary as to which laws or practices have been of greatest impact. The one overriding opinion is that the work must continue.
Several bills struggled through the New Hampshire House and Senate for many sessions before passing. These included: habitual offender, open container, enhanced penalties for second or subsequent DWIs, transportation of alcohol by minors, providing alcohol to minors, sobriety checkpoints, .08.

New Hampshire established the legal drinking age at 18 on June 3, 1973. Six years later, on May 24, 1979, the “legal” age became 20. Six years after that, June 1, 1985, the legal drinking age became 21.


Negligent Homicide, alcohol involved, went from a Class B to a Class A felony.

Aggravated DWI with serious bodily injury went from a misdemeanor to a Class B felony.

The Open Container law became effective January 1, 1992.

The Victims Bill of Rights became effective January 1, 1992.

Habitual Offender became a felony.

ALS, Administrative License Suspension, was effective January 1, 1993.

.08 BAC became effective January 1, 1994.

Transportation of alcohol by minors can now result in denial of a driver’s license, or suspension of driving privileges.

Zero tolerance for under aged drinkers (.02 BAC legal limit).

Enhanced penalties for second offense or subsequent DWI were passed.

Victims Compensation up to $5,000 became available for victims in felony cases.

Providing alcohol to minors became a misdemeanor.

Sobriety Checkpoints were deemed constitutional.

The Graduated License law became effective January 1, 1998.

Administration license suspension for a driver determined to be materially responsible for the death of another changed from a possible three year loss of license to a possible seven year loss of license in 2000.
The limit of Victims Compensation was increased to $10,000 and included misdemeanor victims. Victims and victim advocates have a strong voice during hearings on DWI bills and penalties. The people who have suffered have gained knowledge of problems and insight into solutions.

RESOURCES

VICTIMS, INC., The Joan Ellis Victim Assistance Network, was established in October 1991. It is named for Joan Ellis, who was seven months pregnant when she and her unborn child were killed in a crash in Exeter. Her two year old daughter survived serious injuries. Joan’s husband Jim, wanting to create something in her name, worked with Pat Rainboth to found VICTIMS, INC.

The mission of VICTIMS, INC. is to complete the circle of services for victims, from the onset of trauma through healing. All services are free.

The web site is www.victimsinc.org.

VICTIMS, INC. has offices in Strafford and Rockingham Counties.

The Strafford County office is located at:
107 Highland Street
East Rochester, NH 03868

The mailing address is:
P. O. Box 455
Rochester, NH 03868-0455

Telephone 603-335-7777
Email: pat.rainboth@victimsinc.org

The Rockingham County office is located at:
Cozy Corners Plaza
61 Route 27 Suite 17
Raymond, NH 03077-1273

Telephone 603-895-3339
Email: joanneleach@victimsinc.org

This agency offers many services, including:

- Reaching out to surviving family members of every fatal crash in NH
- Trauma Intervention Volunteers to respond within minutes of pages from police, fire and emergency medical personnel to assist victim families at scenes, hospitals and homes.
• Going with police officers to do death notifications, prepared to stay until family support is in place.
• Attending wakes and funerals.
• Sending sympathy cards and laminated obituaries.
• Accompanying family members through Criminal Justice and Department of Safety procedures.
• Advising family of Victims Compensation.
• Inviting negligent homicide and homicide victims to participate in the Victims’ Memorial Quilt projects.
• Sending holiday cards with snowflakes.
• Inviting families to participate in Victims Rights Week activities annually.
• Twice monthly support groups for grieving adults (GAP – Grieving Assistance Program).
• Weekly support groups in schools for grieving students (GAPS – Grieving Assistance Program for Students).
• Weekend camps for grieving students (Camp Purple Parachute).
• Providing information regarding pending legislation.
MOTHERS AGAINST DRUNK DRIVING – MADD

Mothers Against Drunk Driving is a nonprofit organization of over 400 chapters nationwide. Many of our members are indeed mothers, but fathers, aunts, uncles, and so many others can join too. In fact, the only requirement is that you care enough to keep our roads free of impaired drivers - those under the influence of alcohol. Our mission is to stop drunk driving, support the victims of this crime, and prevent underage drinking.

MADD is not opposed to responsible use of alcohol by people over 21. Drinking is a personal choice that becomes a public issue when driving impaired.

Activities include:

- **Court Monitoring** - MADD members observe court proceedings to ensure that the laws relating to driving under the influence are enforced.
- **Public Education** - MADD members speak to groups of all sizes on the consequences of driving under the influence of alcohol or other drugs.
- **Victim Assistance** - MADD members offer emotional support to victims by providing information and referrals. Victims often find comfort talking to those who have experienced a similar loss.
- **Legislative Reform** - MADD members work with legislators and law enforcement officials to strengthen laws against alcohol and other drug impaired driving.

MADD, NH is committed to protecting you, your family, and your friends from impaired drivers.

MADD – NH
President Lydia Valliere
123 Goffe Street
Manchester, NH 03102
1-800-764-6233
6-3-622-0399

SADD – STUDENTS AGAINST DESTRUCTIVE DECISIONS

SADD National
P. O. Box 800
Marlboro, MA 01752
1-877-SADD-INC.

There are SADD chapters in many New Hampshire High Schools
Technology Issues for Victims and Victim Service Providers

ME – NH Victim Academy
March 2006
Gary Palmer, NH DOJ
Sally Wusilenweber, NHCADV

Why are we talking about this?

- Advocates and victims use technology on a daily basis.
- Along with the benefits, the use of technology has many risks that may impact victim safety and advocate confidentiality.
- Many technologies can be easily used in the perpetrator surveillance behaviors common in domestic & sexual violence and stalking.

Objectives

- An overview of the relevant technology issues.
- Technology issues to consider in safety planning with victims.
- Technology issues to consider for agency practices and protocols.
- A better overall understanding of these technology issues.
Telephones – Cordless Phones

- Cordless phones are susceptible to having calls intercepted by scanners, ham radios and to “crosstalk” on devices such as baby monitors and other cordless phones up to a mile away (1/4 mile is a “normal” range).
- If you switch during your call to a corded phone and hang up the cordless phone, the cordless phone’s base continues to transmit the call.

Cordless Phones - continued

- Even new cordless phones (i.e. 2.4 GHz or 5.8 GHz phones with “spread spectrum” capability that jump frequencies during a call) are susceptible to interception by high end scanners.

Cordless Phones - Recommendations

- Do not use cordless phones unless really necessary.
- Advocates should inform victims of the possible risks of using cordless phones.
- If it is necessary to use a cordless phone, avoid mentioning any details and identifying information that would compromise victim safety or confidentiality.
Telephones – Corded Phones
- Corded phones may be tapped from inside or outside the building. The tap may be hooked directly to a tape recorder or it may transmit the call to a remote recording device/receiver.
- Recommendation: Use caution where there is a known safety risk. Avoid mentioning identifying and planning details.

Telephones – Cell Phones
- Calls can be intercepted by scanners, other cell & cordless phones and devices such as baby monitors.
- Newer digital cell phones (2.4 GHz and up) are much more secure but they can switch to the easily intercepted analog mode depending on antennae coverage (especially in rural areas).

Cell Phones - continued
- Some cell phones can be programmed to answer calls automatically. If the ring is also silenced, the abuser can “plant” the phone, call it, and hear everything going on in the room. The cell phone becomes a “bug” the abuser can call at will.
Cell Phones - continued

Enhanced 911 requires cell phones to have GPS capability. This is great if emergency dispatch needs to pinpoint your distress call. However, this capability can be used by perpetrators to track and locate victims. Subscription services are available that will allow someone to go online and pinpoint the exact real-time location of a cell phone, sometimes even when it is turned off.

Cell Phones - Recommendations

- Use newer, digital cell phones (2.4 GHz +).
- Especially avoid using cell phones anywhere you are known to frequent (i.e. home, office).
- Use caution where there is a known safety risk. Avoid mentioning identifying and planning details.
- When fleeing/leaving, leave the cell phone behind. Cell phone donation programs – no plan required to dial 911.

Telephones – Caller ID & General

- All agency phone and fax lines and any other phone lines used by advocates should have their lines blocked for Caller ID and be TESTED REGULARLY to ensure it is in place.
- Safety planning and agency policies should include education and planning in regards to Caller ID and phone use in general (if or when to call, *69, redial, etc.).
- Verify the identity of the caller before discussing anything of substance.
Global Positioning Systems (GPS)

- GPS devices map the position of the device to within a few square yards.
- Because they work off satellites, they perform even in the most remote areas.
- The devices can be very small and inexpensive. Necklaces, watches, bracelets, etc. are built containing GPS transponders to track the location of pets, children, the memory impaired, etc.

GPS Locator Sample

GPS - Recommendation

- If a victim notices their abuser showing up in places that they can’t understand how the abuser knew they were there, GPS tracking may be occurring. Try to locate a GPS device and/or get a new cell phone.
- If a GPS device is located as "planted" on the victim, law enforcement may be able to use that to trap the abuser.
Fax - Recommendations

- Use a blank fax header without the phone number of the fax machine or the agency name.
- Ensure that the fax line is blocked from Caller ID.
- Verify identity of sender.
- Do not retain faxes that may compromise confidentiality and security.

TTY - Recommendations

- Verify identity of caller.
- Clear call history and suggest the victim also do so.
- Destroy call printout.

Personal Computers – Internet Use

- Any Internet use leaves numerous traces on the computer that can easily reveal what sites were visited. Even if you clear the browser history file & locator bar and delete all the "cookies", there are still traces of the Internet sites buried in various places (i.e. cache files). These trace "footprints" of Internet use are fairly easy to find and virtually impossible to completely eliminate.
Personal Computers – Internet Use Recommendations

- Victims should be advised not use a computer that their abuser has access to for any Internet use related to their victimization. Use a friend’s or one from a library, school, etc.
- Victim service agencies should post highly visible warnings on every page of their websites and include directions, or links to directions, on how to remove the most obvious “footprints”.

Personal Computers – E-mail

- E-mail is not a confidential method of correspondence. It is subject to interception, impersonation and hacking.

Personal Computers – E-mail Recommendations

- Victims should not use a computer their abuser has access to for e-mail.
- Victims should use free, web based e-mail accounts set up with false names, etc.
- Victims should not have e-mail user names and passwords with ties to themselves. Change passwords often.
- All should verify the identity of senders.
- Do not retain email electronically or on paper that would threaten safety or confidentiality.
Personal Computers – E-mail Recommendations - continued

- Never use victim/client names and other identifying information in e-mail.
- E-mail policies should be included in your agency policies.

Personal Computers - Spyware

- Spyware can be remotely installed on your computer without your knowledge (i.e., from opening an e-mailed greeting card that appears to be from a friend).
- Spyware can send all of your computer use including e-mail, chat, Internet use, keystrokes and screen shots to the installer.
- Spyware is transparent to the user.
- Spyware protection and/or detection software does not always work.

SpyWare Sample
Keystroke Logging Hardware

Personal Computers – Spyware Recommendations

- Victims should be advised not use a computer that their abuser knows about for any Internet use related to their victimization. This includes not using the computers of friends and family known to the abuser. Use one from a library, school, etc. and use different ones when possible.
- Use virus protection software and other forms of “firewalls” but don’t depend on them to be always effective.

Computer Databases

- A name and SSN is all that is needed to get a victim’s credit report showing the most recent employment, address, bank accounts, etc.
- Governmental agencies continue to make more “public information” available online (i.e. court records, motor vehicles, tax data, voter registrations, etc.
- Retail chain stores increasingly database customer information (dept. stores, grocery, video rental, oil change, etc.).
Computer Databases - continued

- To the extent that some of this information is not available to the general public, for a fee, there’s an Internet-based detective agency or service that will get it for the abuser (i.e. the Amy Boyer case).
- Sometimes simple, easy to use, and inexpensive “hacker” software can be used to access non-public database information.

Computer Databases Recommendations

- Victims not wanting to be “found” should enroll in their State’s Address Confidentiality Program.
- Do not give out phone numbers or have them printed on personal checks.
- Google the victim’s name to see what online information is currently available.
- Also check www.zabasearch.com.
- Victim-specific information should not be stored on a computer that is hooked to the Internet.

Computer Database Recommendations (continued)

- Providers must guard against “social engineering” hacking.
- Victims should not use stores that database your name and address or use customer discount cards. These names and addresses can be hacked or sold.
Cameras

- There are a large number of "spy cams" on the market. Sometimes they are unobtrusive "nanny cams" or security cameras. Sometimes they are hidden in lamps, clock radios, smoke detectors, air purifiers, clocks, speakers, sprinkler heads, etc. Generally they use a wireless transmitter to broadcast video to a receiver which is often attached to a VCR or computer for recording. Sometimes they are activated by motion detectors.

Spy Cam Sample

Air Purifier Camera - 2.4 GHz Wireless Spy cam

<table>
<thead>
<tr>
<th>Model</th>
<th>Color</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
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<td>B&amp;W</td>
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</tr>
<tr>
<td>SCI-</td>
<td>Color</td>
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</tr>
</tbody>
</table>

Spy Cam Sample

- The World's Smallest Wireless Spy Cam

- Use it in a variety of ways...

- The World's Smallest Wireless Spy Cam

- It's almost as big as a DIME!
**General Recommendations**

- Abusers are often very clever and willing to put large amounts of effort into their surveillance activities. Many of these technology-based methods are easy and inexpensive to implement.
- If you suspect a victim is being watched somehow, try to determine what is the most likely method being used. Once identified, it can be used to protect the victim and sometimes can be used against the abuser.

**General Recommendations - continued**

- Avoid using computers, telephones, faxes, etc. for any information specific to identity, safety planning, etc.
- Do not rely on "high tech" phones, firewalls, etc. to make your electronic communication 100% secure.

**Resources**

- National Network to End Domestic Violence [www.nnedv.org](http://www.nnedv.org)
- Stalking Resource Center (National Center for Victims of Crime) [www.ncvc.org/src](http://www.ncvc.org/src)
I. OBJECTIVES:

Upon completion of this module participants will be able to:

• Understand the history of the role and the charge of prosecution based advocates.

• Understand the similarities and differences between victims of violent vs. non-violent crimes, physical invasions vs. property invasions, and destruction of real property vs. destruction of intangible property.

• Understand how prosecutors approach charging decisions and the impact on crime victims.

• Understand the restraints and tensions a prosecution based advocate operates under while advocating and supporting the rights of victims of crime.
General Crimes & Victims in the Criminal Justice System

Pam Roberts and Marilyn DiBonaventuro

Let's focus on general crimes.....

- TODAY'S FOCUS
  - Robbery
  - Burglary
  - Aggravated Assault
  - Theft
  - Arson
  - Financial Crimes

OBJECTIVES

To explore the wide range of victim reaction to crime.

To gain a better sense of how prosecutors approach charging decisions and the impact on victims of crime.

To explore the similarities/differences in reactions of victims between violent and non-violent crimes, bodily invasion vs. property invasions, destruction of real/personal property vs. destruction of intangible property.
QUESTIONS AND ANSWERS

What % of crime in the US is property crime?

Where does property crime, regardless of the type, most often occur?

A. Farms  
B. Retail Stores  
C. Owner occupied property  
D. Rental property.

Which of following had the highest violent crime victimization rates?

A.) Rural resident  
B.) Suburban resident  
C.) Urban resident
Aggravated Assault

- Victims of AA per 100 people
  - 7 urban resident,
  - 4 suburban residents
  - 3 rural residents

How many times more often are urban residents robbed than rural residents?

Unlawful Taking

Thief: obtains/unauthorized control over property of another with intent to deprive

ROBBERY: commits theft and recklessly inflicts bodily injury/threatens force.
Simple to Aggravated Assault

**Assault:** Intentionally, knowingly or recklessly, bodily injury or offensive physical contact. Or, having attained at least 18 years of age, causes bodily injury to another person who is less than 6 years of age. (ages vary by state)

**Aggravated Assault:** INTENTIONALLY KNOWINGLY, RECKLESSLY. Serious bodily injury, dangerous weapon, extreme indifference to human life.

Trespass to Burglary

**Criminal Trespass:** Knowing, not licensed to do so. Enter dwelling, locked structure, or has been lawfully excluded, posted, fenced or enclosed.

**Aggravated Criminal Trespass:** Knowingly. Not licensed/privileged enters dwelling AND commits an offense against a person or sexual assault.

**Burglary:** enters/surreptitiously remains in a structure not licensed or privileged to do so, intent is to commit a crime.

Arson To Criminal Mischief

- **Criminal Mischief:** Intentionally, knowingly, recklessly 1) damages or destroys property of another, 2) damages to collect insurance
- **Aggravated Criminal Mischief:** $2000
- **Arson:** Causes/maintains a fire or explosion property of another. Intent to damage or destroy. Or, own/property of another w/intent to enable any person to collect insurance. recklessly endangers.
KIPNAPPING TO CRIMINAL RESTRAINT

Criminal Restraint Class D: Know no legal right. Take/retain/entice person who is 1) 14 or less, 2) incompetent, 3) age 14, 15 or 16 from the custody of parent/guardian/lawful custodian with intent to hold permanently or prolonged period. Or knowingly restrain another person. Actor must be 18 or over.

Criminal Restraint Class C: Person restrained age 8 or under.

Criminal Restraint by a Parent Class C: Take, retain/entice child from custody of his other parent/guardian/lawful custodian with intent to remove the child from the State or secrete him.

Kidnapping Class A: Knowingly restrains another 1) for ransom or reward, 2) shield or hostage, 3) inflict bodily injury upon the other person 4) terrorism, 5) facilitate commission of another crime 6) interfere with performance of gov't/political function.

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Financial Crimes

- Identity Theft
- Pension Fraud
- Insurance Fraud
- Bank Fraud
- Embezzlement
- Forgery/Check Writing/Credit Card Theft
- Medicaid/Medicare Fraud/Food Stamps
- Student Loans

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The Criminal Justice Process......

STATE vs ACCUSED
What governs criminal justice law and procedure?

- Constitution (US and State)
- Laws (Fed and State)
- Federal law applies in US Court (interstate nexus)
- Case law (Federal and State)
- Rules of Court

Offender Rights

- Confront and face accusers
- Grand Jury
- Bail
- Trial (by judge or jury)
- Remain Silent
- Speedy trial
- Not to testify
Exculpatory Information

- Information describing any matter known to the prosecutor which may not be known to the defendant and which tends to create a reasonable doubt of the defendant's guilt.

- Advocates must report exculpatory information to the prosecuting attorney who must convey this information to the defense attorney.

Reasonable Doubt

- "Reasonable doubt" does not require the State to prove guilt beyond any doubt or to a mathematical certainty.

- The test is... a reasonable doubt based upon reason and thought, not a whimsical or frivolous doubt. A doubt which a person of sound judgment, after weighing all of the evidence, would entertain as to the guilt of the accused.

- Another way of looking at it is... proof of guilt sufficient to convince the jury that the charge is almost certainly true.

- It is the most stringent standard on this planet.
How do our state legislature’s define victim?

New Hampshire

"Victim" means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent or the immediate family of a homicide victim.

Maine

1.) A person who is the victim of a crime; and
2.) The immediate family of a victim of a crime if:
   a.) the underlying crime is one of domestic violence or sexual assault or one in which the victim suffered serious physical or serious financial loss;
   b.) due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

Plea negotiation a/k/a Plea Offer, Plea Bargain, or Trial?
Plea negotiation or trial? Advantages and Disadvantages

**Plea Negotiation**
- Definite conviction
- Sentence most likely assured
- Victim does not have to testify
- Victim can address Court at sentencing
- State has some control over what’s offered
- Case can be resolved more quickly
- If victim chooses, he/she does not ever have to go to Court

**Trial**
- Risky for conviction
- Unanimous vote by jury for guilty verdict.
- Judge/jury hears all of the State’s evidence
- Trauma from cross examination
- Lengthy process (work missed)
- Unknown sentence
- No victim impact unless there is a conviction
- Victim has to face defendant in Court
- All charges go before jury.
General Sentencing Guidelines (Maine)

- To prevent crime
- Encourage restitution
- Minimize correctional experiences
- Give fair warning of nature of sentences
- Eliminate inequalities
- Encourage differentiation among offenders
- Promote correctional programs which elicit cooperation of convicted persons
- Do not diminish gravity of offenses

WHAT RIGHTS DO CRIME VICTIMS’ HAVE?
To be treated with fairness and respect for their dignity, privacy throughout the criminal justice process.

To be informed about the criminal justice process and how the case progresses.

To be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process.

To be notified of all court proceedings.

To attend trial and all other court proceedings the accused has the right to attend.

To confer with the prosecution and to be consulted about the disposition of the case including plea bargaining.

To have inconveniences associated with participation in the criminal justice process minimized.

To be notified if presence in court is not required.

To be informed about available resources, financial assistance and social services.

To restitution, as granted under any applicable state law, for their losses.

Be provided a secure, but not necessarily separate waiting area during court proceedings.

To be advised of case progress and final disposition.

Confidentiality of the victim's address, place of employment and other personal information.

Prompt return of property when no longer needed as evidence.
• Have input in the probation pre-sentence report impact statement
• To appear and make a written or oral victim impact statement at the sentencing of the defendant.
• To be notified of an appeal, an explanation of the appeal, the time, place and result of the appeal, and the right to attend the hearing.
• To be notified and to attend sentence review hearings and sentence reduction hearings.
• To be notified of any change of status such as prison relative to permanent interstate transfer, or escape, and the date of the parole hearing, when requested by the victim through the victim advocate.
• To address or submit a written statement for consideration by the parole board on the defendant’s release and to be notified of the decision of the board, when requested by the victim through the victim advocate.

Victim Right to Be Present

• New Hampshire is one of 39 states that gives crime victims the right to attend all criminal justice proceedings, even trials. This law generally exempts victims from sequestration during trials.

MAINE VICTIMS’ RIGHTS

When practicable, the attorney for the State shall make a good faith effort to inform each victim of a crime of the following:

This section also requires the State to offer victims a pamphlet outlining in every day language the provisions regarding victim rights.
A. The details of a plea agreement before it is submitted to the court.
B. The right to comment on the plea agreement.
C. The proposed dismissal or filing of an indictment, information or complaint before the action is taken.
D. The time and place of the trial.
E. The time and place of sentencing; and
F. The right to participate at sentencing

This section also requires the State to offer victims a pamphlet outlining in everyday language the provisions regarding victim rights.

Plea agreement procedure - Maine

When a plea agreement is submitted to the court, the attorney for the state shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by the victim. A victim who is present at the submission of the plea may address the court at that time.

Sentencing procedure - Maine

The victim must be provided the opportunity to participate at sentencing by:
- making an oral statement to the court either directly or through the attorney for the State or
- A written statement which must be made part of the record.
Notification of Defendant’s Release - ME

Murder or Class A, B, or C crime. For which the defendant is committed to the Department of Corrections or to a county jail, or is placed in institutional confinement, must receive notice of the defendant’s release, including probation, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program or release.

Notification of Bail Domestic Violence Cases - ME

- In domestic violence cases law enforcement agencies are to adopt written policies to deal ensuring that a victim receives notification of:
  - the defendant’s release from jail on bail and
  - a process for the safe retrieval of personal property belonging to the victim or the defendant

Guardian ad Litem Notice - Maine

- A guardian ad litem for any child going through the criminal court must be given notice of all criminal hearings and proceedings. 19 MRSA Section 1507
Employee Leave - Maine

- An employer must grant reasonable and necessary leave from work, with or without pay, for an employee who is a victim of domestic violence to:
  - prepare for and attend court hearings,
  - receive medical treatment (or attend to treatment for child, spouse, or parent) and
  - obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

Payment for physical examinations and drug and alcohol testing - Maine

- Physical exam / crime victims: In all cases reported to a law enforcement officer of sexual crimes against minors or assault when serious bodily injury has been inflicted, the district attorney shall pay the expenses of physical examination of the victim conducted for obtaining evidence for the prosecution.
- Victims’ Compensation Board shall pay the expenses of forensic examinations for alleged victims of gross sexual assault. The DA shall pay for the expense of any analysis of a drug or alcohol test performed as part of forensic examination of an alleged victim of gross sexual assault for evidence.

HIV Testing MAINE

- Victims of sexual crimes, or parents, guardian or authorized persons may petition the court at anytime prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.
- Victim witness advocates may receive test results and shall disclose to a victim the result.
Privileged Communications to Prosecutorial Victim Witness Advocates or Coordinators - Maine

Witness Fees

- Witnesses shall receive fees and mileage for their travel to and from Court for Court appearances.

Victim’s Concerns Criminal Justice Process

What are they?
Define VA Programs

- "Government organized programs within or complimentary to prosecution offices are meant 'to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process'"

Who do Prosecutorial Advocates Serve?

- Any crime victim (or family member) having contact with the criminal justice system.
Services promoting safety:

- Meet victim outside of courthouse
- Enlist support of bailiffs to accompany victims to and from cars.
- Bail conditions to protect crime victims.
- Notify security
- Providing a waiting room / no access by defendant

Maine/New Hampshire Victim Assistance Academy
2006 Participant Manual - General Crimes
QUESTIONS
PROSECUTORIAL
ADVOCATES FACE DAILY
FROM CRIME
VICTIMS...........

“Why wasn’t he arrested?”

“He’s violating his bail, when will someone do something?”
“Why does this process take so long?”

Do I need my own lawyer?

“Bail conditions order no contact. I want him to be able to come home.”
“Why can’t I bring charges? I want a jury trial...”

“Why were charges dropped or reduced to lesser charges?”
“He never assaulted me. The police made me say that he did.”

“I don’t want him to get a slap on the wrist”.

“I won’t testify.”
“If I did what he did, I’d be behind

“Why can’t you use my statement in Court?”

“How do I collect restitution?”
“Why do I have to testify but the accused doesn’t?”

“The defendant got a copy of the police report. Why can’t I get a copy of the police reports?”

“Should I speak at sentencing? Will it make a difference?”
“I don't want any plea bargaining.”

“Who is the private investigator? Should I talk to him/her?”

“He told the police officer he did it. How can he plead not guilty?”
“What is an “accord and satisfaction” agreement?”

Balance home and work
Introduction:

A prosecutor’s office can be a chaotic place. Prosecuting attorneys and their support staff are everywhere, each trying to address 20 court deadlines on 15 different defendants all at once. Law enforcement agents from many, many different agencies come through with investigative reports on sex abuse, assaults, arsons, burglaries, bookkeeping fraud, check kiting, stalking, tax fraud, theft of services, murder, parental kidnapping, shoplifting, juvenile fights at school, hate crimes, terrorizing, homicides and manslaughters, drugs and operating under the influence. They bring requests for arrest and search warrants and the detailed affidavits that accompany them. Probation officers come in with new information on old defendants; protective workers bring in child abuse and elder abuse referrals for prosecution. Defense attorneys come in looking for proffers and plea recommendations or to get charges reduced or dismissed for their clients. Witnesses and victims come in to meet with prosecutors prior to trial or testimony, to meet with the victim advocate concerning restitution, bail conditions, sentencing alternatives, or to try to get charges dropped because they care about somebody or because they are afraid of somebody. Medical records, tax records, arrest and conviction records and mental health records are delivered everyday. It is very, very easy for a victim*, even a victim of a very serious offense to get lost in the volume of work and the immediacy of so many other demands.

It is unreasonable to expect an individual who has just lived through what very well might have been a life altering experience to effectively insert herself** into this unknown, sometimes rude and rushed system with no understanding of her rights, the flow of information, the structure of the system or the status of the accused. For many years that is just what was expected of a victim of crime. More than that, it was generally accepted that a ‘good’ victim would stay out of the way but always be available, offer no resistance to the abuse or accusations that might be heaped upon her, to show up for court looking well groomed and demure and to graciously accept acquittal or a minimal sentence with no remarks that would leave a prosecutor feeling inadequate or misunderstood. All without ever being respectfully asked an opinion.

In response to the slow realization of society that the innocent can and do end up in courtrooms expected to weather great strain and pressure with no support or understanding of what is happening around them and to them, groups began to pressure for laws that would shelter victims of crime from some of the harsher practices of the criminal justice system. In response to this pressure, President Ronald Reagan’s appointment of a Task Force on Victims of Crime.

Lois Haight Herrington chaired the task force which identified 68 recommendations to improve the treatment of crime victims. They found in part…

“…to be effective and humane, a criminal justice system must respond to the needs of victims of crime at all stages of the criminal justice process. From the time law enforcement officers arrive at the scene, through the apprehension of a suspect, the trial or guilty plea, sentencing, appeals and punishment, victims are profoundly affected and their perspective deserves consideration. It is incumbent upon all criminal justice professionals to think of the victim and to evaluate how their decisions affect the victim and the victim’s family.”

1982 President’s Task of Victims of Crime
Later that year, Congress passed the first law addressing victim-witness issues: the Federal Victim and Witness Protection Act of 1982. This Act provided for witness protection, restitution, and fair treatment for federal victims and witnesses of violent crime. In VWPA, Congress made findings about the criminal justice system’s treatment of victims. Congress recognized that without the cooperation of victims and witnesses, the criminal justice system would cease to function. Yet, these individuals were either ignored by the system or used as ‘tools’ to identify and punish offenders. Congress found that all too often a victim suffers additional hardship as a result of contact with the system.

Congress mandated the attorney general to set forth guidelines consistent with the purpose of this act. Congress set forth these objectives:

- To provide emergency, medical and mental health of services to victims
- To notify victims about protection services
- To notify victims about major case events
- To facility victim consultation with the government attorney
- To provide a separate waiting area
- To facilitate the return of property
- To notify and intervene with employers on behalf of victims
- To provide training to law enforcement

The VWPA was also meant to act as a model for state legislation pertaining to victim rights. As a result, many states that had not already done so developed victim witness programs within their prosecutor’s offices. These programs can be drastically different from each other not only state to state but county to county or prosecutorial district to prosecutorial district. These programs are a reflection of directives from the state legislator, the leadership style of the lead prosecutor and the experience and personality of the advocates administering the program.

Prosecutorial advocates strive to ensure that all victims of crime are treated with dignity and respect. Advocates support interactions between the victim and the systems that ensure the voice of the victim is heard in a meaningful and responsible way. Due to the tensions and restraints related to an adversarial system, treating someone with dignity and respect may look very different in a prosecutorial context than one might expect when first entering the system. The criminal justice system is constitutionally defendant focused. To crime victims the criminal justice system may seem burdensome, slow, slanted and non-responsive to their needs. It often, through cross examination, the reduction of charges and long waiting periods re-victimizes the victim. Advocates, while respecting the uniqueness of each crime victim, must also respect the constitutional rights of the offender and the restraints of the criminal justice system as a whole.
A true victim witness program must acknowledge and attend to victims of all types of crime and be prepared to approach the issues and concerns, needs and differences of all the individuals who enter their doors. When asked what they are expected to do beyond the objectives set forth by the attorney general, victim-witness advocates across the state responded as follows:

- Help crime victims find appropriate services such as temporary housing, child care, intervention with child protective services.
- Collaborate with other programs such as crisis services, immigration services.
- Notify victims of crime of ALL public court events significant to their case and of their right to attend these hearings and, in certain circumstances to be heard at these hearings. This includes post conviction events.
- Provide notice of release, furlough, death, escape while incarcerated.
- Provide notice of sentence imposed.
- Educate victims and witnesses as to each step from the investigation to prosecution to punishment phase of the process. This often needs to be repeated several times due to the stress and anxiety the individual may be experiencing.
- Notify victims whenever a defendant makes bail or charges are dismissed
- Provide a safe, private place during trial for crime victims (separate waiting area)
- Facilitate the return of property
- Facilitate consultation with the governmental attorney
- Provide victim impact information at sentencing
- Facilitate the victim’s right to restitution in certain circumstances
- Provide support for those who must testify. Practice relaxation and anxiety reducing techniques, stay in the courtroom with them (especially since often their primary support people may be sequestered).
- Escort crime victims and witnesses to court (from their car or a safe place where they have been essentially hiding.
- Speak for crime victims at sentencing or bail hearing if they are unable to speak for themselves.
- Help crime victims prepare victim impact statements. These can be letters, forms, pictures, poems, homemade video tapes, tape recordings, etc.
- Collaborate with court staff: bailiffs to help keep the victim separate from the family and supporters of the defendant, clerks who schedule hundreds of cases and who can move a case up or down the list of priorities, security, janitors.
- Help victim’s file for Victim Compensation
- Accompany investigators to interviews (this can make the advocate a witness)
- Sit in on prosecutorial interviews (this can make the advocate a witness at trial)
- Testify
- Maintain records and statistics
- Write grants
- Explain the realities of probation, bail violations, sentences, restitution, rules of evidence, defense strategies, rights of the accused, prosecutor decisions.
- Notify of prosecutor’s decisions, pleas, reduced charges, lowered sentences, less restitution, evidence destruction.
- Educate prosecutors (about the role, rights and needs of victims of crime)
• Mandated reporting in regards to child and elder abuse
• Speak to community groups
• Experience the rage of people wronged
• Help a teenager go back to school, face bullies and tormenters and supporters of the perpetrator
• Help develop strategies for better boundaries, identify red flags and say no.
• Find experts, translators, babysitters, wheelchairs, medical services for out of town witnesses.
• Uphold the constitution!!
• Say goodbye to people you have come to admire and care about. We are one link in a chain as they move forward with their lives
• Always look beyond the verdict
• Advocate victim concerns to the prosecutor
• Speak on behalf of the victim (even when it conflicts with safety issues)
• Investigate restitution issues

All of this is framed within the RIGHTS OF THE ACCUSED. Those rights are based on the constitution which is the basis of our justice system. The way a prosecution based advocate relates to victims of crime, the information advocates offer, the good news and the bad news, very often, stems from these rights. Prosecutor’s offices are forever balancing the rights of the accused with the rights of the victim, the limitations of law enforcement and legislative constraints.

Treating a victim of crime with respect often means giving them the truth of how the system works and it’s limitations... no matter how frustrating or unfair it seems. Advocates also must understand the laws of the state, it’s elements and the hierarchy of seriousness, the rules of criminal procedure, sentencing guidelines, probation enforcement, restitution requirements, the basics of search and seizure, Miranda, due process, the responsibility of all witnesses to testify at trial, the right to confront one’s accuser(s), the right to reasonable bail, the effects of testifying and the psychological events of crime, especially invasive crime. Advocates must be able to explain these systems, the subtle, counterintuitive points and help victims integrate this information into their reality.

Some senior victim witness coordinators in the state were asked to sum up their jobs and the state of victim advocacy within the criminal justice system. Their responses:

“Crime victims have the right to know, at each stage of the criminal justice process, the constitutional rights of the offender so that there are fewer surprises, including post conviction. It is better to know what to expect then to run into constant frustrations.’

“We do no justice to victims when we do not fully educate them about what to realistically expect from the system.”

“The truth is that the criminal justice system is far from perfect. It has checks and balances to protect the accused and to ensure that no one is wrongfully convicted of a crime.”
“Crime victims may feel violated all over again by the criminal justice process. It is most often the prosecutorial advocate who helps navigate the victim through what can be a very contrary and confusing system.”

“It is our job to help navigate a victim through the criminal justice system in which the prosecutor’s goals, the victim’s goals and the defendant’s goals often conflict. Prosecutors proceed in a certain way based on constitutional law, legislation, ethical concerns, specific District Attorney philosophy and public safety concerns. It is the advocate’s job to make sure the victim understands that process and has input into specific stages.”

Victim witness advocates function at their most basic level as educators. Education opens up understanding, helps one look at realistic possibilities and map out plans for the future. The better a victim understands the events, obstacles and dynamics of the criminal justice system, the more pertinent and attuned her voice will be to effectively impact the course of events. Information and education about the system, delivered with respect and concern, help individuals attain the level of assertiveness and sense of personal power needed to maneuver their way through this difficult leg of their journey.
STALKING

PRESENTED BY:
HEATHER PUTNAM
The term stalking makes one think of.....

and the reality of stalking is.....
NH Stalking Laws


I. A person commits the offense of stalking if such person:

(a) Purposely, knowingly, or recklessly engages in a course of conduct targeted at a specific person which would cause a reasonable person to fear for his or her personal safety or the safety of a member of that person's immediate family, and the person is actually placed in such fear;

(b) Purposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual's immediate family; or

(c) After being served with, or otherwise provided notice of, a protective order pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of this section, or an order pursuant to RSA 597:2 that prohibits contact with a specific individual, purposely, knowingly, or recklessly engages a single act of conduct that both violates the provisions of the order and is listed in paragraph (b).

II. As used in this section:

(a) "Course of conduct" means 2 or more acts over a period of time, however short, which evidences continuity of purpose. A course of conduct shall not include constitutionally protected activity, or shall it include conduct that is necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct may include, but not be limited to, any of the following acts or a combination thereof:

1. Threatening the safety of the targeted person or an immediate family member.

2. Following, approaching, or confronting that person, or a member of that person's immediate family.

3. Appearing in close proximity to, or entering the person's residence, school, or other place where the person can be found, or the residence, school or employment or residence of a member of that person's immediate family.

4. Causing damage to the person's residence or property or that of a member of the person's immediate family.

5. Placing an object on the person's property, either directly or through a third person, or that of an immediate family member.

6. Causing injury to that person's pet, or to a pet belonging to a member of that person's immediate family.

(b) "Immediate family" means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person, any person residing in the household of the targeted person, or any person involved in an intimate relationship with the targeted person.

Maine Stalking Laws

- Maine also has a stalking law. Title 17-A MRSA §210-A
- This law specifically prohibits a person from intentionally or knowingly maintaining a repeated visual or physical proximity to a person or conveying repeated oral or written threats. Threats may be implied by the stalker’s conduct.
- The new state law also protects immediate family members from this conduct. Violations of this law are a misdemeanor. If the stalker has two or more previous convictions for stalking or violating a protection order in the last 10 years, the violation is a felony.
Federal Stalking

- The Violence Against Women Act of 2005 (VAWA 2005) became effective on January 5, 2006. Stalking and cyber-stalking may be a federal felony if an individual travels across state, foreign or tribal lines with the intent:

- to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person if in the course of or as a result of such travel that person is placed in reasonable fear of serious bodily injury or death to him or herself or causes substantial emotional distress to that person or to that person’s immediate family or intimate partner. It is also a crime to stalk on military or U.S. Territorial lands, including Indian country. 18 U.S.C. §2261A(1)

- to kill, injure, harass, or place under surveillance with intent to kill, injure, harass or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States—and to use the mail, or any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to any of the persons described...” 18 U.S.C. § 2261A(2)

...and if this is the reality who should or can be involved?

When working with a victim of stalking

- Contact victim before setting bail and ask for input
- Never underestimate a provider agency/mental health willingness to help
- Protect from sensationalizing
- Be honest about the limitations of the law
- Consider/Incorporate services for the defendant - perpetrators of stalking are excellent candidates for pre-trial services
When Working with a Victim of Stalking (cont.)

- Partner w/law enforcement – this relationship is absolutely critical in these cases.
- Communication and Documentation
- Communication and Documentation

Encourage Victim To

- Trust their own instincts
- Create and maintain a support system
- Document, Document, Document
- Safety Plan
- Support Services

Safety Planning

- Create a plan immediately and
  - Review and revamp plan before:
    - Criminal charges are brought
    - at arraignment
    - Pending trial
    - After trial or disposition
Safety Planning

- Home
- Car
- Work
- Public

Stalking Sacks

- Materials and tools for victim
- Unused items are returned (once victims feels safe)
- Contents:
  - Cell phone
  - Stalking log
  - Watch w/date
  - Disposable Camera
  - Tape recorder
  - Literature on stalking and safety planning
  - Personal alarm or whistle

Stalking Resources

The Stalking Resource Center
202-467-8700
SRC@ncvc.org
www.ncvc.org/src
Victim helpline-1-800-FYI-CALL
(state by state listing of stalking laws)

- http://www.cyberangles.org/
  safety tips w/cyber stalking

- http://www.cops.usdoj.gov
  COPS guide/steps how assist victims during escalation

- http://www.humec.cornell.edu/stalking
  Cornell University guide great for high school/college age...takes away fear/enc. talking to others.
Print Resources

- Emily Spence-Diehl, Stalking: A Handbook for Victims, free download at ncvc.org/src

- Betsy Ramsey, Stop the Stalker: A Guide for Targets, $10.00 + $2 shipping/handling, from PO Box 9, Jonesboro, GA 30237
VICTIM COMPENSATION

PRESENTED BY:
Deb Rice
OBJECTIVES:

Upon completion of this module the participant will be able to:

- Discuss the importance of financial assistance to crime victims and identify the costs covered by the victim compensation programs.
- Identify which crimes are covered for victim compensation and basic eligibility requirements.
- Explain the procedures for submitting an application and how the decision process determines if compensation will be paid.
- Explain the correlation between the victim compensation application-based program and the sexual assault forensic examination payment process.
- Discuss the collaboration needed among professionals to assist victims in obtaining compensation as well as professionals’ mandated responsibilities under the Victims of Crime Act (VOCA) to provide information and assistance in filing for compensation.

II. TIME ALLOTMENT: 1.5 hr.

III. AV/MATERIALS NEEDED

IV. HANDOUTS

V. EXERCISES

VI. SPECIAL CONSIDERATIONS
VICTIMS’ COMPENSATION

Deborah Shaw Rice

IMPACT OF CRIME

- Physical Injury
- Psychological Injury
- Death

Financial Devastation
What Financial Losses May Occur?
- Hospital/Ambulance/Eye Glasses
- Prescriptions
- Dental
- Counseling
- Lost Wages
- Loss of Support
- Funeral Expenses
- Relocation
- Temporary Survival Needs

Purpose of Victims’ Compensation
- Recovery from Financial Losses
- Financial Security
- Provide Assistance when most needed
- Emotional Support
- Hope

OVERVIEW
- Nature of Victims’ Compensation
- Crimes Covered / Eligibility Requirements
- Benefits
- Process
- Role of Professionals
- Correlation of Forensic/Application Programs
PROGRAM STRUCTURE

How do Victims get Help?

Who makes the decision?

Who Pays?

Program Structure

Maine
- Located in the AG’s Office
- Board-based program
- Board appointed by AG
- Three member board:
  1. Physician
  2. Attorney
  3. Victim Services Professional
- Monthly meeting, limited by statute.
  $55 per diem & travel.
- 3 Positions: Director & Staff
- Sexual Assault forensic exam claims processed and paid by program.

New Hampshire
- Located in the AG’s Office
- Board-based program
- Board nominated by AG & appointed by Governor
- Five member board:
  1. Physician
  2. Attorney
  3. Victim
  4. Mental Health Professional
  5. Third-party payment
- 2 Positions: Director & Staff
- Sexual assault forensic exam paid by program, processed by outside staff

Funding Sources – Who Pays?

- Criminals
- Funds come assessments on convicted criminals
- Federal matching funds come from federal criminals
Collateral Resources

- Payer of last resort

Health Insurance; Medicaid; Worker’s Compensation; Charity Care; Social Security (children); some Life Insurance

ELIGIBILITY

Who’s Eligible?

Both ME and NH determine eligibility for program benefits based on whether a person is the victim of a violent crime. ME has a specific list of covered crimes in its statute; NH does not.

COVERED CRIMES

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drunk Driving</td>
<td>DWI</td>
</tr>
<tr>
<td>Sexual Assault / molestation</td>
<td>Sexual Assault</td>
</tr>
<tr>
<td>Stalking, Assault, Homicide</td>
<td>Assault</td>
</tr>
<tr>
<td>Robbery</td>
<td>Homicide</td>
</tr>
<tr>
<td>Kidnapping and / or criminal restraint</td>
<td>Stalking</td>
</tr>
<tr>
<td>Leaving the scene of a personal injury</td>
<td>Robbery (not burglary)</td>
</tr>
<tr>
<td>motor vehicle accident (some)</td>
<td>Terrorism</td>
</tr>
<tr>
<td>Terrorism</td>
<td>Kidnapping</td>
</tr>
<tr>
<td>Arson</td>
<td>Arson</td>
</tr>
</tbody>
</table>
ADDITIONAL ELIGIBILITY REQUIREMENTS

**Maine**
- Report to Law Enforcement
- Report within 5 days (waivable)
- File application within 3 years (waivable)
- Cooperation w/Law Enforcement/Prosecutors
- No Criminal Conduct
- One claim per crime
- No minimum loss

**New Hampshire**
- Report to Law Enforcement or final order of protection
- Report within 5 days (waivable)
- File application within 1 year (waivable)
- Cooperation w/Law Enforcement/Prosecutors
- No Criminal Conduct
- Multiple claims per crime
- $100 minimum out-of-pocket

BENEFITS

**Maximum paid per crime in ME & NH?**

**Maine** - $15,000 per case

**New Hampshire** - $10,000 per Victim

BENEFITS: What’s Covered? (cont.)

**Maine**
- Hospital bills
- General Medical Bills
- Ambulance
- Eyeglasses
- Dental
- Other prosthetic devices
- Mental Health
- Lost Wages
- Lost Income (self-employed)
- No lost wages for Parents of Child Victims
- Loss of support for dependents of deceased victims
- Life Insurance up to $50,000 waived
- Funeral and burial $4500
- Headstone $500
- Crime scene cleanup up to $500
- Repair or replace locks or other security devices $500
- No property crimes covered
- Mileage – uncommon

**New Hampshire**
- Hospital bills
- General Medical Bills
- Ambulance
- Eyeglasses
- Dental
- Other prosthetic devices
- Mental Health
- Lost Wages
- Lost Income (self-employed)
- No lost wages for Parents of Child Victims
- Loss of support for dependents of deceased victims
- Life Insurance up to $50,000 waived
- Funeral and burial $4500
- Headstone $500
- Crime scene cleanup up to $500
- Repair or replace locks or other security devices $500
- No property crimes covered
- Mileage – uncommon
BENEFITS (cont.) What's Covered?

New Hampshire
- Hospital bills
- General Medical Bills
- Other prosthetic devices
- Mental Health
- Emergency phone sessions
- Lost Wages
- Parents time to drive child to appointments
- Loss of support for dependents of deceased victims
- Life Insurance up to 100,000
- Funeral and burial
- Crime scene cleanup, costs of replacing bedding & clothing taken as evidence
- Property repairs for security
- No property crimes covered
- Mileage to treatment appointments and court
- Relocation Costs up to $4000
- Ten days of temporary survival needs
- Crime scene cleanup, costs of replacing bedding & clothing taken as evidence
- Property repairs for security
- No property crimes covered
- Mileage to treatment appointments and court
- Relocation Costs up to $4000
- Ten days of temporary survival needs

ANCILLARY VICTIMS

Family and Household Members Coverage

APPLICATION PROCESS

ME & NH application processes are similar -
- Information on crime and losses suffered is provided on application form
- Verification by compensation staff
- Each board meets once a month to decide claims
- Each state allows for reconsideration
**Sexual Assault Forensic Examinations**

**Maine**
- Direct billing by hospitals
- $500 maximum payment
- No insurance billing
- No report to law enforcement necessary
- Coverage for all testing and treatment related to initial sexual assault forensic examination

**New Hampshire**
- Direct billing by hospitals
- $800 maximum payment
- Insurance billed first unless victim requests confidentiality
- No report to law enforcement necessary
- Costs of sexual assault forensic examination

**Role of the Advocate**

- Be Knowledgeable About Compensation
- Assist Victims with Applications
- Complete and return any verification or claim forms
- Refer to Victim’s Compensation
VICTIM COMPENSATION

Introduction

While the physical and psychological impact of crime may be considered the most obvious and serious toll taken by any crime, the financial impact can be devastating.

Each type of injury which a victim of violent crime might suffer can incorporate a concomitant financial loss.

These losses include medical and dental expenses for bodily injury, counseling and medication expenses for psychological trauma, lost wages for either type of personal injury, and funeral expenses and loss of support when a victim has died.

The purpose of each victims’ compensation program is to assist victims to recover from these financial losses, as quickly as possible, when the funds are most needed, with a hope that the security of this financial assistance will provide some emotional support as well.

Overview of Presentation

This presentation will outline the nature of victims’ compensation, eligibility requirements for compensation, benefits available, the process for obtaining compensation, the roles of allied professionals, especially advocates, in the process, and the correlation with the payment process for sexual assault forensic examinations.

The participant book includes separate materials for each state, New Hampshire and Maine. These materials contain much more specificity about crimes covered, benefits available, and restrictions.

Costs of violent crime

Nationally, the financial cost of violent crime to victims is in the billions of dollars.

In 1996, the direct tangible costs to crime victims annually were estimated to be $105 billion in medical expenses, lost earnings, and public program costs related to victim assistance, with pain, suffering and reduced quality of life increasing the cost to $450 billion annually. (National Institute of Justice [NIJ]. 1996. Victim Costs and Consequences: A New Look. Washington, DC: U.S. Department of Justice.)

Insurance, Medicare, Medicaid, civil judgments, and restitution cover part of these costs, especially the out-of-pocket costs.

State compensation programs, still payers of last resort, assist victims with costs which would not be covered by any other source. State compensation programs paid crime victims and their families $426 million in benefits in the federal fiscal year 2004, nearly double the payments of seven years earlier. (NCVCB Assoc website)

In State Fiscal Year 2005, Maine paid out over $567,000 on application and forensic claims. New Hampshire paid out over $456,000 in calendar year 2005.
Aside from funds available for victims of terrorism, there is no federal or national victim compensation program; however, every state has a program.

The state victim compensation programs differ based on each state’s statute, but they are very similar in their fundamental aspects. These similarities result from their original purposes and also because there are federal matching grant funds available for state programs which comply with VOCA compensation provisions.

**I. PROGRAM STRUCTURE**

In compensation programs, decision-making is performed by boards or program administrators. Staffs range in size from one or two to hundreds, in California. A program might be located in one of a variety of governmental departments or agencies, including the Worker’s Compensation Commission, Court of Claims, Department of Treasury or Public Safety, or Office of the Attorney General. Maine and New Hampshire compensation programs are similar in most aspects of structure as well as in eligibility requirements and benefits.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Located in the Office of Attorney General</td>
<td>Located in the Office of Attorney General</td>
</tr>
<tr>
<td>Board based program: Victims’ Compensation Board</td>
<td>Board based program: Victims’ Assistance Commission</td>
</tr>
<tr>
<td>Board appointed by Attorney General</td>
<td>Board nominated by Attorney General and appointed by Governor</td>
</tr>
<tr>
<td>Three member Board: physician, attorney, victim services professional</td>
<td>Five member Board: physician, attorney, victim, mental health professional, one knowledgeable in third-party payments</td>
</tr>
<tr>
<td>Monthly meeting, limited by statute. $55 per diem and travel.</td>
<td>Monthly meeting with some decision-making during month. No per diem. Travel paid.</td>
</tr>
<tr>
<td>3 positions: director and staff</td>
<td>2 positions: director and staff</td>
</tr>
<tr>
<td>Sexual assault forensic examination claims processed and paid by program</td>
<td>Sexual assault forensic examination claims paid by program, processed by staff outside program</td>
</tr>
</tbody>
</table>

**II. VICTIM COMPENSATION PROGRAM FUNDING SOURCES**

State compensation programs receive funding from a variety of sources. However, the large majority of programs get their funds either entirely or primarily from the offenders themselves.

In both ME and NH funding for payments to victims comes from both state and federal criminals (the federal grant funds received by a state program as a partial match for its payments to victims comes from assessments on federal defendants.) Understanding that the system places responsibility on criminals for these funds is therapeutic for many victims.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessments for each conviction are deposited in the Victims’ Compensation Fund: $10 per Class D or E (misdemeanor), $25 for murder or Class A,B, or C.</td>
<td>An add-on of 20% of each fine goes into the Penalty Assessment Fund, 5% to Victim Assistance and 2% of that 5% to Victims’ Compensation.</td>
</tr>
</tbody>
</table>

**III. COLLATERAL RESOURCES**

Compensation programs are able to maintain fiscal stability because they pay only after collateral resources have been exhausted. Claimants must submit claims to insurance, Medicare, Medicaid, or other third-party payer before those claims will be considered for payment by the program.
Maine/New Hampshire Victim Assistance Academy
March 2006 Instructor Manual – Victim Compensation

<table>
<thead>
<tr>
<th></th>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requires filing for worker’s compensation for work related injury, but will pay difference between worker’s compensation payment and net pay lost</td>
<td>Requires filing for worker’s compensation for work related injury, but will pay difference between worker’s compensation payment and net pay lost.</td>
<td></td>
</tr>
<tr>
<td>Requires submission for hospital charity care for bills =&gt; $5000, recommends submission for charity care for all hospital bills</td>
<td>Requires submission to charity care for all hospital bills except balances after insurance</td>
<td></td>
</tr>
<tr>
<td>Life insurance up to $50,000 waived as a collateral source.</td>
<td>Life insurance up to $100,000 waived as a collateral source.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sexual assault victim need not submit to medical insurance if confidentiality concern exists.</td>
<td></td>
</tr>
</tbody>
</table>

IV. ELIGIBILITY
Both Maine and New Hampshire determine eligibility for program benefits based on whether a person is the victim of a violent crime, either felony or misdemeanor. The state statutes provide for other requirements or restrictions as well. Maine has a specific list of covered crimes in its statute; New Hampshire does not.

<table>
<thead>
<tr>
<th></th>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim of violent crime in one of a statutory list of criminal code chapters, includes all potentially violent crimes plus OUI and some leaving the scene traffic crimes</td>
<td>Victim of a violent felony or, as of 7-1-1997, a violent misdemeanor, includes arson, DWI, and hit and run, no statutory list</td>
<td></td>
</tr>
<tr>
<td>Personal injury: bodily injury or psychological injury from the threat of bodily injury</td>
<td>Personal injury including mental trauma</td>
<td></td>
</tr>
<tr>
<td>Crime within State of Maine</td>
<td>Crime within State of New Hampshire</td>
<td></td>
</tr>
<tr>
<td>Only crimes committed on or after 1-1-1993</td>
<td>Only crimes committed on or after 11-2-1989 (misdemeanors on or after 7-1-1997)</td>
<td></td>
</tr>
<tr>
<td>Report to law enforcement</td>
<td>Report to law enforcement or acquisition of final order of protection. When there is only a temporary restraining order with no other report, the Commission will require a copy of the petition for a restraining order, and additional reasonable evidence that a crime has been committed.</td>
<td></td>
</tr>
<tr>
<td>Report within 5 days unless minor victim or good cause shown</td>
<td>Report within 5 days unless good cause shown</td>
<td></td>
</tr>
<tr>
<td>Cooperation with law enforcement and prosecutors, but there need not be a conviction or even an identified suspect</td>
<td>Cooperation with law enforcement and prosecutors, but there need not be a conviction or even an identified suspect</td>
<td></td>
</tr>
<tr>
<td>File application within 3 years unless minor victim or good cause shown</td>
<td>File application within 1 year unless good cause shown</td>
<td></td>
</tr>
<tr>
<td>Compensation may not be paid on behalf of a person who violated a criminal law that caused or contributed to the injury or death for which compensation is sought</td>
<td>The victim must not have engaged in conduct or committed a crime which caused or contributed to death or injury or engaged in conduct which could have been foreseen as leading to death or injury</td>
<td></td>
</tr>
<tr>
<td>Only one primary victim and one claim per crime</td>
<td>May have multiple claims per crime</td>
<td></td>
</tr>
<tr>
<td>No minimum loss</td>
<td>$100 minimum out-of-pocket loss required</td>
<td></td>
</tr>
</tbody>
</table>

V. BENEFITS
Individuals who are physically and psychologically injured as a result of violent crime suffer a myriad of financial costs and losses. Maine and New Hampshire provide benefits assisting victims with most types of losses. A major difference between the programs is that Maine has a maximum payment of $15,000 per crime, which covers the losses of the primary victim as well as ancillary victims.
New Hampshire has maximum payment of $10,000 per victim, and a victim is “any person who sustains physical or mental injuries.” Under New Hampshire’s law, a traumatized parent of a victimized child could file an independent claim.

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>$15,000 maximum per crime</td>
<td>$10,000 maximum per victim after 7-1-1997, $5000 maximum per victim prior to 7-1-1997</td>
</tr>
<tr>
<td><strong>Hospital bills</strong> 75% including repayment to claimant at 75%</td>
<td>Hospital bills 75% if no charity care or insurance, deductibles and copays 100%</td>
</tr>
<tr>
<td><strong>General medical bills</strong> 75%, prescriptions 100%</td>
<td>General medical bills 100%, including dental, ambulance, prescriptions, eyeglasses</td>
</tr>
<tr>
<td>Ambulance 100% to max. of $700</td>
<td></td>
</tr>
<tr>
<td>Eyeglasses 100% to a max of $300</td>
<td></td>
</tr>
<tr>
<td>Dental, prospective awards at 100%, reimbursements 75%</td>
<td></td>
</tr>
<tr>
<td>Other prosthetic devices and ramps or minor home renovations 100%</td>
<td>Other prosthetic devices and ramps or minor home renovations 100%</td>
</tr>
<tr>
<td><strong>Mental Health</strong>: 100% of reasonable charges, licensed therapist with few exceptions. No requirement to use provider covered by insurance</td>
<td>Mental Health: $75 per individual session, $35 per group session, licensed therapist. No requirement to use provider covered by insurance</td>
</tr>
<tr>
<td>Coverage for supervised student, for emergency phone sessions, case-by-case court testimony time</td>
<td>Coverage for emergency phone sessions and court time for testimony only</td>
</tr>
<tr>
<td><strong>Lost Wages</strong>: Net paid, usually 80 to 90% of gross. Net figure based on wage stubs and/or tax returns.</td>
<td><strong>Lost Wages</strong>: 75% of gross, includes lost time for court attendance</td>
</tr>
<tr>
<td>Self-employed: payment for some fixed costs as well as lost profits</td>
<td></td>
</tr>
<tr>
<td>No payment for parents of child victim</td>
<td>Payments for parents time to drive child to medical/mental health and court appointments</td>
</tr>
<tr>
<td>Loss of support for dependents of deceased victims, reduced by Social Security, paid retrospectively</td>
<td>Loss of support for dependents of deceased victims: separate claim up to $10,000 for each, paid as lump sum</td>
</tr>
<tr>
<td>Life insurance up to $50,000 waived as a collateral source on case-by-case basis</td>
<td>Life insurance up to $100,000 waived as a collateral source</td>
</tr>
<tr>
<td><strong>Funeral and burial</strong>: Maximum of $4500 plus $500 marker</td>
<td><strong>Funeral and burial</strong>: Maximum of $3000 plus $500 marker</td>
</tr>
<tr>
<td><strong>Crime scene cleanup</strong> up to $500, cleaning only, no property replacement</td>
<td><strong>Crime scene cleanup</strong>, costs of replacing bedding and clothing taken as evidence</td>
</tr>
<tr>
<td>Repair or replace locks or other <strong>security devices</strong></td>
<td>Property repairs for security</td>
</tr>
<tr>
<td>No property crimes covered and no other property repaired or replaced</td>
<td>No property crimes covered and no other property repaired or replaced</td>
</tr>
<tr>
<td><strong>Mileage</strong> uncommon</td>
<td>Mileage to treatment appointments and court</td>
</tr>
<tr>
<td><strong>Relocation costs</strong> up to $4000 for victims of domestic abuse and some sexual assault victims, available benefits include security deposit, two months rent, three months storage, basic utility connections, reasonable moving costs</td>
<td><strong>10 days of temporary survival needs</strong> and post sexual assault medications up to $1000 for adults and $250 for minor, payments made through crisis agencies with reimbursement from Compensation</td>
</tr>
</tbody>
</table>

**VI. ANCILLARY VICTIMS**

In New Hampshire, family members and others, who suffer mental trauma due to the crime against the primary victim, are eligible as victims to file independent claims.
In Maine, the Board can award benefits to eligible family and household members as part of the single claim. The benefits are loss of support for dependents of deceased victims and counseling benefits for three categories of family or household members: family or household members of homicide or child sexual assault victims and family or household members who witness the crime against the primary victim.

**VII. COVERED CRIMES**

<table>
<thead>
<tr>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Drunk driving</td>
<td>• <em>DUI</em></td>
</tr>
<tr>
<td>• Sexual assault/molestation</td>
<td>• Sexual Assault</td>
</tr>
<tr>
<td>• Offense against the person (stalking, assault, homicide)</td>
<td>• Assault</td>
</tr>
<tr>
<td>• Robbery</td>
<td>• Homicide</td>
</tr>
<tr>
<td>• Kidnapping and/or criminal restraint</td>
<td>• Stalking</td>
</tr>
<tr>
<td>• Leaving the scene of a personal injury motor vehicle accident</td>
<td>• Robbery (not burglary)</td>
</tr>
<tr>
<td></td>
<td>• Terrorism</td>
</tr>
<tr>
<td></td>
<td>• Kidnapping</td>
</tr>
<tr>
<td></td>
<td>• Arson</td>
</tr>
</tbody>
</table>

**VII. APPLICATION PROCESS**

The application processes for both Maine and New Hampshire are similar. A claimant, usually the victim or the parent or representative for a minor, must complete an application. A completed application form will include information about the victim, the claimant, the crime, the losses suffered, provider bills, and benefits requested. The Maine application form asks about collateral resources. New Hampshire’s form has a separate release for collateral resources. New Hampshire also has a separate form for emergency benefits. All forms and releases must be signed. The claimant submits the application to the compensation program, which acknowledges receipt and immediately starts to verify the crime and the victim’s losses.

The compensation program obtains a police verification form and police reports to verify the crime. (In New Hampshire, a Protection From Abuse final order can take the place of a police report.) The process for verifying losses depends on the types of crimes and losses suffered. Program staff will obtain bills and medical records for medical losses, treatment plans for mental health counseling requests, estimates for dental work, bills for funerals and crime scene cleanup. The programs need wage stubs or tax returns, employer statements, and disability statements to support lost wage claims.

In Maine, when the claimant has submitted, or program staff have gathered, all necessary information for a case decision, the director reviews the case, makes any additional calculations, and makes recommendations on eligibility and awards to the Compensation Board. By statute the Board can meet only once each month to issue decisions on cases. The Board must make all necessary findings based on a preponderance of the evidence. If the Board issues a denial, a claimant may file a request for hearing within 30 days. The claimant almost always appears for the hearing rather than simply submitting additional information. If the case is
denied after hearing, the claimant may appeal to Superior Court. Processing time for an average case is about three to four months.

In New Hampshire the Compensation Commission meets monthly; however, the Commission sometimes makes decisions during the month when contacted by the program director. The director may make non-controversial decisions during the month. The Commission makes decisions based on “reasonable evidence.” After a denial, a claimant has 14 days to request a reconsideration. The request should be accompanied by additional evidence. The New Hampshire program has set itself a processing goal of three months for cases.

VIII. SEXUAL ASSAULT FORENSIC EXAMINATIONS

In both Maine and New Hampshire sexual assault forensic examination charges are paid out of compensation funds. In Maine the compensation staff also processes the payments.

<table>
<thead>
<tr>
<th></th>
<th>Maine</th>
<th>New Hampshire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct billing by hospitals.</td>
<td>Direct billing by hospitals.</td>
<td></td>
</tr>
<tr>
<td>$500 maximum payment</td>
<td>$800 maximum payment</td>
<td></td>
</tr>
<tr>
<td>No insurance billing</td>
<td>Insurance billed first unless victim requests confidentiality</td>
<td></td>
</tr>
<tr>
<td>No report to law enforcement necessary</td>
<td>No report to law enforcement necessary</td>
<td></td>
</tr>
<tr>
<td>Coverage for all testing and treatment related to initial sexual assault forensic examination</td>
<td>Costs of sexual assault forensic examination</td>
<td></td>
</tr>
</tbody>
</table>

Victims can file a regular compensation application for costs not billable through the forensic examination payment process, for instance, counseling costs or x-ray charges, but regular program requirements apply.
MAINE VICTIMS’ COMPENSATION PROGRAM

An Overview
Deborah Shaw Rice, Director

The Maine Victims’ Compensation Program offers financial assistance to victims of violent crime. This overview provides information on how the program works and how victims of crime may obtain this support.

Victims of criminal violence in Maine often suffer physical and emotional trauma. The aftermath of a violent crime may leave victims and their families overwhelmed and financially burdened. In recognition of the financial hardship crime victims often suffer, the Maine Legislature in the spring of 1992 enacted a statute creating the Victims’ Compensation Fund and Victims’ Compensation Board. This statute provides a mechanism through which eligible crime victims may receive up to $15,000 in financial support for medical and medically-related expenses incurred as a direct result of a crime.

The Victims’ Compensation Program is located in the Criminal Division of the Office of the Attorney General. It is administered by a director and a staff of two, who investigate and verify claims for presentation to the Victims’ Compensation Board. The Board, which meets monthly to make decisions on claims, is comprised of three members drawn from Maine’s legal, medical and victim services communities. Maine has been fortunate to have had a concerned and committed Board since its first meeting in January 1994. In 2006, Board members are Attorney Nancy Schiff-Slater, chairperson, Doctor Andrew Dionne, and experienced victim services professional Marilyn DiBonaventuro.

FUNDING SOURCE

The monies utilized for victim awards and program administration comes from the Victims’ Compensation Fund. Funds for the Victims’ Compensation Fund come from assessments levied against criminal offenders: $25.00 for murder, Class A, B and C crimes, and $10.00 for Class D and E crimes. No tax dollars fund either the administration of the Program or the payments of awards to victims.

The Victims’ Compensation Fund also includes smaller amounts of money from other sources such as restitution and subrogated claims. The Fund is NOT intended as a substitute for restitution. If appropriate, the court may order restitution as part of a sentence. In circumstances where the Fund has made an award, such restitution may be payable directly to the Victims’ Compensation Fund. Additionally, if awards made from the Fund are duplicated by recovery in a civil action or insurance settlement, the law requires reimbursement of the Fund. Finally, the Program is eligible for and receives some Federal matching monies, which come from Federal criminal fines and penalties rather than tax dollars.

WHAT IS AN ELIGIBLE EXPENSE?

The Board may award up to $15,000 for actual medical and medically-related expenses or losses incurred as a direct result of crime-related injuries. These expenses or losses may include mental health counseling, lost wages, loss of support, burial and funeral expenses. In addition, counseling expenses are covered for
certain family and household members of certain victims. No property losses are covered other than replacement costs of eyeglasses, dentures and other prosthetic devices and some costs of crime scene cleanup and repair or replacement of locks or other security devices.

The Compensation Program is a "payer of last resort." An expense is eligible for payment from the Fund only if there is no collateral source of payment. Collateral sources include, but are not limited to, insurance, Medicaid, Medicare, and workers’ compensation. The first $50,000 of life insurance is not considered a collateral resource in homicide cases.

ELIGIBLE CRIME VICTIMS/COMPENSABLE CRIMES/REPORTING

To be eligible, a person must be a victim of a compensable crime committed on or after January 1, 1993. The crime must be one of the following types: (1) an offense against the person (Title 17-A, chapter 9), (2) a sexual assault (Title 17-A, chapter 11), (3) a kidnapping and/or criminal restraint (Title 17-A, chapter 13), (4) a robbery (Title 17-A, chapter 27), (5) a drunk driving incident (Title 29-A, §2411), or leaving the scene of a personal injury motor vehicle accident (Title 29-A, §2252). The victim must suffer bodily injury or be threatened with bodily injury except in instances of sexual assaults. NOTE: The crime need not result in a successful prosecution. The Board may consider an application regardless of the status of the criminal process. However, to make an award, the Board must find by a preponderance of the evidence that a compensable crime in fact did occur.

There are some statutory restrictions. First, compensation may only be paid to innocent victims; it may not be paid to or on behalf of any person who violated a criminal law that contributed to or caused the injury for which compensation is sought. Also, the victim must report the crime to a law enforcement agency and must cooperate with the reasonable requests of law enforcement officers and prosecuting authorities. The law provides for a report to police to be made within 5 days of the occurrence of the crime unless there is good cause for delay; however, this time limit is always waived for children and may be waived for adults as well.

An application must be filed by the victim with the Compensation Board within three years of the crime or 60 days of the discovery of the injury or compensable loss, whichever is later, unless there is good cause for failing to file. Again, the Board has applied this waiver very liberally.

APPLICATION PROCESS

The victim or a claimant acting on the victim’s behalf must complete a standard application form. Forms are available at the Victims’ Compensation Program office and through all District Attorney’s Victim Witness Advocate Programs. The application must be signed and sent to the Victims’ Compensation Board. Release forms are included with the application to allow staff to compile and verify information. When all information and documentation necessary to support a victim’s claims have been submitted, the case is reviewed by the Board at its next monthly meeting. Most claims can be verified by staff and are approved by the Board; however, if the Board issues a denial, a claimant can request a hearing before the Board. If the case is denied after hearing, the claimant may appeal to Superior Court.
SEXUAL ASSAULT FORENSIC EXAMINATIONS

In the year 2000, the Maine Legislature made the Victims’ Compensation Program responsible for paying the costs of forensic examinations, up to a maximum of $500, for victims of gross sexual assault. These examinations almost always are performed in hospitals and must be performed with a sexual assault kit. Hospitals bill the VCP directly for these examinations, and they may not balance bill the victim or any source other than the VCP. The victim need not report the sexual assault to police to have these services covered by the VCP. If the victim has services which are not part of the initial testing and treatment for a sexual assault, such as x-rays, follow-up medications, or counseling, the hospital may bill the victim or the victim’s insurance. A victim may file a regular application with the VCP to ask for reimbursement for such additional charges. If applying for this additional help, the victim will need to report the crime to law enforcement.

AUTHORITY

The authorizing statute for the Program can be found at 5 M.R.S.A. §§3360-3360-M. The Rules are agency number 26 and unit number 550, chapters 3, 6, and 8. There are links to the statute and rules on the Program website.

For more information, please contact:

Deborah Shaw Rice, Director
Victims’ Compensation Program
Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 624-7882

Also see Maine Attorney General web site at www.state.me.us/ag and select “Crime and Victims” and then “Victims’ Compensation.”

NH VICTIMS’ ASSISTANCE COMMISSION

PURPOSE

The purpose of the New Hampshire Victims’ Assistance Commission is to assist innocent victims of violent crime with their out-of-pocket, crime related expenses that come within the categories identified by statute and rule. The governing statute is RSA 21-M:8-h and the administrative rules are Chapter Jus 600.
ABOUT THE COMMISSION

The Commission is comprised of five volunteer members who are nominated by the Attorney General for appointment by the Governor. They meet monthly at the Office of the Attorney General and all meetings are public.

ELIGIBILITY

There must be reasonable evidence that a crime has been committed in New Hampshire and reported to law enforcement within five days of the date of the crime. The Commission can make good cause exceptions for the reporting time period and may accept a final restraining order in lieu of a police report so long as there is reasonable evidence that a crime was committed. When there is only an emergency or temporary restraining order with no other law enforcement reporting present, the Commission will require a copy of the petition for a restraining order, and additional other reasonable evidence that a crime has been committed. The offender does not have to have been charged (e.g., hit and run) nor found guilty. Unfortunately, the Commission does not compensate for crimes that are strictly property crimes.

The victim is any person who as a direct result of a crime has sustained personal injury (includes mental trauma) or death. The Commission will consider claims from secondary victims such as immediate family members. A claimant is either the victim, or, if the victim is a minor or incapacitated adult, the parent or legal guardian. If the child is a foster child, DCYF can sign on behalf of the child. A crisis center advocate involved in the case cannot be the claimant.

There is a victims’ compensation program in every state, the Virgin Islands and Puerto Rico - so if someone was a crime victim elsewhere, he/she should be referred to the correct compensation program. I would be happy to provide the most current information as the need presents itself.

APPLICATION

All information contained in the application must be filled in as completely and accurately as possible. To the extent that you are able to assist crime victims with completing our application or other required paperwork, it is greatly appreciated. Incomplete applications run the risk of being returned immediately to the sender with incomplete areas highlighted for completion. Opening claims with incomplete applications has created more lengthy claims processing delays.

COLLATERAL RESOURCES

The Commission is the payer of last resort. This means that if there is any other source of payment or another program to cover the expenses incurred as a direct result of the crime, it must be used first. Please direct victims to submit bills to their insurance company and to explore other resources such as
disability benefits, public assistance, Medicare, Medicaid, Social Security, home/auto insurance, veteran’s or military benefits or any hospital or other medical provider’s charity care programs. The insurance form we send to the claimant will ask if they have any other collateral resources and the application asks if there is any other collateral resource. One exception to this is for sexual assault victims that would not like their exam billed to their health insurance in an effort to protect their anonymity.

**MEDICAL EXPENSES**

Any time there is a hospital bill and the victim has no insurance coverage, the victim should be directed to promptly apply for financial assistance (also referred to as charity care or free care) from the hospital.

Should a victim be denied financial assistance from the hospital, the Commission will consider payment of that bill at 75% and for claims that have been approved in full by the Commission. I will advocate that the remaining balance be written-off by the hospital. If the victim has insurance which requires a co-pay to the hospital or monies owed are due to a deductible, the financial assistance application is not required but encouraged in cases where there is a large amount owed. Payments for sexual assault forensic medical exams are made at a rate not to exceed $800. This applies for anonymous exams where the victim may be insured.

**MENTAL HEALTH EXPENSES**

With regard to mental health bills and use of insurance, the Commission will assist crime victims who choose to obtain services from an out-of-network provider. Victims should still inquire whether their insurance company allows reimbursement to out-of-network providers. Victims should be directed to licensed therapists only as the Commission will not pay for mental health therapy provided by an unlicensed therapist. For claims filed on or after February 21, 2002, the Commission will provide payment for court testimony time of treating therapists for criminal prosecutions and RSA 169-B cases. The Commission also reimburses for emergency mental health telephone services. Therapist reimbursement is currently $75 per hour for individual therapy and $35 per hour for group therapy or Medicaid rates, whichever is higher.

**LOST WAGES**

Claims for lost wages that exceed 14 consecutive days following the date of the crime will require certification by either a treating physician or mental health professional confirming the time period of the disability and connecting the disability to the crime. Supplements to disability pay and workers compensation pay can be made. The Commission pays lost wage claims at a rate of 75% of verifiable gross income. Therefore, should you have a victim that is collecting 60% through insurance; the Commission can consider an additional 15%. This should not reduce their payments from the insurer. The Commission can also provide reimbursement of confirmable lost wages for reasonable travel time for medical/mental health appointments, prosecutor-required pretrial preparation, trials, sentencing hearings...
and probation/parole hearings. The Commission compensates for loss of paid leave. This should not be construed as a means of “double-dipping”, rather it should be deemed an effort to put the person back to where they were prior to the crime occurring.

Loss of support can be paid in cases of the victim’s total or partial disability. Claims involving a homicide claims are paid in a lump sum and after the source of income and other collateral resources can be verified.

**FUNERAL/BURIAL**

The Commission can reimburse funeral expenses to a maximum of $3,000 for funeral/burial expenses and $500 for a grave marker. The Commission’s policy is that the first $100,000 of life insurance will not be taken into consideration as a collateral resource.

**EMERGENCY FUNDS/RELOCATION**

The Commission has created new ways to assist victims of domestic and sexual violence. We are working with local crisis centers allowing them to disburse funds immediately for up to 10-days of temporary survival needs and post sexual assault medications. **Please note that reimbursement cannot be absolutely guaranteed with the existence of an emergency or temporary restraining order. There must be reasonable evidence that a felony or misdemeanor crime has been committed.** New limits are $1,000 per adult and $250 per child. If you are not employed by a crisis center, you are encouraged to make referrals to crisis centers for such needs. The Commission has also established guidelines for relocation of victims of domestic violence and, in some instances, victims of sexual assault, in which they may provide for security deposit, up to two months rent, three months of storage, basic utility connection costs and reasonable moving costs. The cap on relocation funds is $4,000.

Completed documentation necessary for reimbursement to crisis centers includes: an application, an insurance and other collateral source information form, post sexual assault medication form or 10-day form, copies of restraining order(s) and/or police report. The Commission can request police reports as necessary from the appropriate law enforcement agency; however, this may slightly delay the processing of the reimbursement. I have attached a copy of our 10-day form and post sexual assault medication form.

**CAP/EXPENSE PRIORITIZATION**

For each individual claim, the Commission currently has a statutory cap of $10,000 for crimes that happened on or after July 1, 1997. The Commission has prioritized expenses as follows: out-of-pocket expenses, anticipated out-of-pocket expenses (e.g. lost wages, medication), individual providers (e.g. surgeon) and institutional providers (e.g. hospitals). In some instances the Commission will prorate payments due to the volume of past and anticipated expenses exceeding $10,000.
CONTRIBUTORY CONDUCT REDUCTION

If the Commission finds that there is contributory conduct or mutual combat by the victim, they may pay zero or fifty percent of the expenses. The Commission decides these cases based on the police records and other documentation in the application. All claimants whose claims are denied have the right to request reconsideration. Requests must be made within 14 days and should be accompanied by additional documentation or a detailed explanation.

If you have any questions or need further training, please call 1-800-300-4500 (in NH only) or (603) 271-1284 or fax (603) 271-6804; our website is: http://doj.nh.gov/victim/comp/html

MAINE VICTIMS’ COMPENSATION PROGRAM

Federal Fiscal Year 2005 Statistics

During Federal Fiscal Year 2005, the Program paid out $435,987 on claims for victims who filed claims and another $97,753 for payments directly to hospitals for sexual assault forensic examinations, for a total of $533,740 in payments for violent crime victims and their families. The payments of $435,987 were for 218 cases, giving an average new or additional payment during the period of $2000 per case. The forensic payments were for 200 cases with an average payment of $488.77.

The Board issued 226 decisions during the year, 91.6% being favorable. Some cases had multiple decisions. Program staff continues to commit themselves to a reduction in case processing times. The time from receipt of application to first Board action for cases decided during the period was 106.8 days.

Crime victims filed 217 new cases in FFY 2005. Hospitals filed 210 new forensic claims during the period.

MAINE CRIME VICTIMS’ COMPENSATION

Application Instructions: Please read:
Incomplete applications cause delay in processing and presentation to the Victims’ Compensation Board for consideration!
IMPORTANT
TAKE A FEW MINUTES TO READ OVER THE ENTIRE APPLICATION. THEN BEGIN FILLING IN THE
INFORMATION REQUIRED IN EACH SECTION. A decision on your application may take as little as
1 month or as long as 6 months, depending on how thoroughly you complete the application and
how quickly we can verify your claim from the information you provide. Please call us at 1-800-903-
7882 if you have any problems filling out your application form.

I. Victim Information- In this section of the application, provide information about the child or
adult who is the primary crime victim.

EXAMPLE of completed “Victim Information” section of application:
Victim’s name - Mary X. Doe Female X Male __
Mailing address – RR#3, Box 2 Harbor Rd. Home phone (207) 123-4567
City/State/Zip - Augusta, ME 04330 Work phone N/A
Date of birth - 1/3/88 Age at time of incident - 12 SSN 004-00-0001
SSN is not required but helps us process your case more quickly. Medical providers usually require SSN’s to release information.

III. Claimant Information- If the victim is an adult, the victim will be the claimant. A parent or
guardian will be the claimant for a child. In the case of a homicide, a family member usually will be
the claimant.

EXAMPLE of completed “Claimant Information” section of application:
Claimant’s name - Sheila F. Doe Female X Male __
Mailing address - Same as above Home phone (207) 123-4567
City/State/Zip - Same as above Work phone (207) 223-8913
Date of birth - 1/22/41 Relationship to victim - Mother SSN 001-00-0002

III. Crime Information - We must obtain reports from all law enforcement agencies involved in the
crime you have reported. Accurate and complete information provided by you in this section of the
form will enable Victims’ Compensation to obtain documentation in a timely fashion. Please use full
names of individuals, police departments, officer’s names and victim advocate’s names as well. If at
all possible, please provide specific dates for date of crime and date reported. Law enforcement
agencies use these dates for purposes of locating their reports for this specific crime.
(If the crime was NOT reported within 5 days, or if the application was not filed within 3 years,
please explain why in an attached statement unless the victim is a minor.)

EXAMPLE of completed “Crime Information” section of application:
III. Crime Information:
Type of Crime:
☑ assault ☐ homicide ☐ drunk driving ☐ other
☐ child sexual abuse ☐ sexual assault ☐ terrorizing/threatening
Exact location of crime – 483 Harbor Road City/State Augusta, Maine
Date of crime 1/31/01 Date crime discovered 2/1/01 Date crime reported 2/1/01
Name of Police Department Augusta Police Dept. Investigating Officer Robert B. Robin
Name(s) of person(s) who committed crime Clyde Z. Doe d/o/b 2/3/1940
Relationship, if any to the victim. Include boyfriend/girlfriend. Father
Who referred you? ☑ Police/Sheriff ☐ District Attorney ☐ Media ☐ Hospital/Dr.
☐ Victim Advocate (advocate’s name) ☐ Other
Briefly describe the type of crime and any injuries which resulted: Victim was assaulted by her father. He broke her teeth. She went to the hospital and needed a dental crown.

IV. Expenses - Check box (es) of services you are requesting. We can process your application, and the Board can award payments for medical or mental health expenses ONLY if this section is filled out fully. If you or a family member may need mental health counseling in the future but do not require it at present, check the mental health box and write “later” next to the line. ALWAYS PROVIDE: All information requested to identify victims and family members who may need counseling; full names, agency names, office addresses and telephone numbers for all medical, mental health, and funeral service providers. Please note for each name, the type of provider (e.g. dentist, counselor, hospital, X-rays, etc.) *If more than one person is seeing a counselor, please specify who is seeing what counselor and if one counselor is seeing family members as a family group please so specify. Use an additional sheet of paper to clarify this information.

EXAMPLE of completed “Expenses” section of application after check boxes:

Complete if applying for counseling benefits for family/ household members of victim:
Relationship:
Name: Sheila F. X.
Address: 3 Harbor Rd. Maple, ME 04000
Date of Birth: 1/22/1941 Relationship To Victim: brother, son To Claimant: self

Medical service providers (hospitals, doctors, mental health counselors) complete fully:
Name-Agency/Office
Address Telephone Type of Service
Northbound Hospital 6 North St. Augusta, ME 04330 (207) 626-0000 Hospital
Dr. Jack Jackson J & C, PA 2 West St. Augusta 04330 (207) 623-0000 Doctor
Steven Feste 11 Weston St. Augusta, ME 04330 (207) 123-4567 Dentist

V. LOST INCOME - Lost income is available only for victims and for dependents of homicide victims, not for parents of child victims. You must provide name, address & telephone number of your employer. State the dates for missed work due to crime-related injuries. Submit two wage stubs showing gross and net wages for two weeks just prior to injury. If you are self-employed or do not have wage stubs, submit copies of your federal tax returns for the last two years.

We need to document your work disability; please provide the name, address, and telephone number of your doctor who can certify that you were unable to work.

If you are requesting support for dependents of homicide victims, please provide a copy of any social security award letter, any life insurance information, monthly pension and/or annuity benefits. Please be specific as to the amount(s) the decedent was receiving and what amounts surviving spouse and/or children are receiving. Please provide copies of the deceased’s federal tax returns for the last two years if the dependents are listed on them.

EXAMPLE of completed “Lost Income” section of application:
V. Lost Income: Complete if seeking lost wages or loss of financial support.
Victim’s employer: Acme Sewing Contact person John Acme Telephone 555-1234
Address 14 Elegant Drive City/State/Zip Bangor, ME 04400
Dates absent from work due to crime related injuries: From 1/1/2002 To 1/13/2002
Name & address of treating physician for disability statement John Doe, MD 12 Exit Street, Waterville, ME 04901 872-1212.

Complete ONLY if requesting financial support for dependent(s) of a homicide victim:
Name(s) of dependent(s) Date of birth: ____________ SSN: _____________________

**Relationship to victim**
- ______________
- ______________
- ______________

**VI. OTHER SOURCES OF FINANCIAL ASSISTANCE**

If you have any type of insurance, you **MUST** indicate what type. Check the boxes and give the details requested. Check “NONE” if you have no insurance. If you have medical insurance or receive MaineCare (Medicaid or CubCare) or Medicare, it is your responsibility to instruct all providers to bill that source first. Also, if you may qualify for Charity Care at the hospital, ask for and complete an application for Charity Care. For claimants in homicide cases, please provide the amount and beneficiary of any life insurance. Please send in copies of MaineCare (Medicaid or CubCare) eligibility letters and insurance explanation-of-benefit forms; they help us to compute the amounts of awards.

If you have an attorney as a result of the crime, or if you intend to file a lawsuit, please provide the name and address of your attorney.

**VII. OPTIONAL INFORMATION ON VICTIM**

This information is helpful for Federal reporting but is not mandatory.

**INFORMATION RELEASE, AGREEMENT, and WARNING SECTIONS**

Sign and date the release! Sign and date the agreement/warning! Yes, **sign in two places**. We are unable to process your claim until you have done so.

If you have **any questions** after reading these instructions, please call Victims’ Compensation at 1-800-903-7882 or the Victim Witness Advocate assisting the District Attorney with the criminal case. **A half-completed application will delay your claim.**

**Caution** - If you move or obtain a different telephone number, you must call us with your new address or telephone number immediately. **The Post Office will not forward State checks.**

**STOP**

Please review your application one last time to make sure all parts are filled in or signed and that you have attached required statements and bills.

We sincerely hope that financial assistance from the Victims’ Compensation Program will be able to provide you with some relief and support during this stressful time. Should you have questions or wonder about the status of your application, please feel free to contact Victims’ Compensation at anytime to inquire about your claim.

02/2005
APPLICATION FOR CRIME VICTIM COMPENSATION

(Please print legibly and fill out both sides completely or your application will be delayed)

I. VICTIM INFORMATION (use separate application for each victim)

Victim’s name ____________________________ _____________________________________________
Female☐ Male☐
Mailing Address ____________________________________________ Home phone __________
City/State/Zip _______________________________________________ Work phone __________
Date of birth ______________ Age at time of incident ______________ SSN _____-____-____

II. CLAIMANT INFORMATION (if victim is Claimant, write “same”; if victim is under 18, claimant must be parent or guardian)

Claimant’s name ____________________________ _____________________________________________
Female☐ Male☐
Mailing Address ____________________________________________ Home phone __________
City/State/Zip _______________________________________________ Work phone __________
Date of birth ______________ Relationship to victim __________________________ SSN _____-____-____

If filing on behalf of minor dependent(s) of homicide victim, relationship to minor dependent(s) __________________________

III. CRIME INFORMATION

Type of Crime:
☐ assault ☐ homicide ☐ drunk driving ☐ child sexual abuse
☐ sexual assault ☐ terrorizing/threatening ☐ other __________________________

Exact location of crime ____________________________________________ City/State

Date of crime __________ Date crime discovered __________ Date crime reported __________

Adult victims attach a statement explaining reason for delay if NOT reported within 5 days, or if Application is NOT filed within 3 yrs.

Name of Police Department ______________________________________ Investigating Officer __________________________

Name(s) of person(s) who committed crime (if known) __________________________ Date of Birth __________

Who referred you? ☐ Police/Sheriff ☐ District Attorney ☐ Media ☐ Hospital/Dr.
☐ Victim Advocate (advocate’s name) __________________________☐ Other

Briefly describe the type of crime and any injuries which resulted __________________________

IV. EXPENSES (check types of expenses for which you seek compensation)

☐ medical services* ☐ lost wages (for victim only) ☐ locks repair/replacement
☐ medical supplies/pharmacy* ☐ loss of financial support ☐ counseling for victim
☐ dental services* (dependents of homicide victims only) ☐ counseling for family members *
☐ funeral/burial* ☐ crime scene cleaning (1) who witnessed crime; or
Name & address of Funeral Home: (biological matter only) (2) in homicides; or
(3) in child sexual assault cases

Attach copies of bills and/or receipts (or send as they become available)

Complete Fully if applying for counseling benefits for family or household members of victim:

VC#
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Birth Date</th>
<th>Relationship: to Victim</th>
<th>Relationship: to Claimant</th>
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*Complete Fully* Medical service providers (please list type of service: hospitals, doctors, mental health counselors)

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<tr>
<th>Name</th>
<th>Agency/Office</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Service</th>
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**V. LOST INCOME**: (complete if seeking lost wages or loss of financial support)

Victim’s employer: ____________________Contact person ______________Telephone_________________

**Address:** ____________________________________________

City/State/Zip____________________________

Dates absent from work due to crime related injuries: From _______________________To ______________________

Name and address of treating physician for disability statement

*Attach 2 recent pay stubs. If self-employed attach last 2 years of federal tax returns with all attachments.*

Complete **ONLY** if requesting financial support for dependent(s) of a homicide victim:

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<th>Name(s) of dependent(s)</th>
<th>Date of Birth</th>
<th>SSN</th>
<th>Relationship to victim</th>
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</table>
VI. OTHER SOURCES OF FINANCIAL ASSISTANCE (check all potential sources of full or partial payment of expenses)

☐ NONE  ☐ health insurance  ☐ life insurance  ☐ automobile insurance  ☐ disability benefits
☐ Social Security Disability  ☐ workers compensation  ☐ Medicare  ☐ other (please specify)
☐ SSI  ☐ Medicaid/MaineCare  ☐ General Assistance

Names and addresses of applicable insurance companies:

Policy# _______________________________

Have you filed or do you intend to file a civil lawsuit?  ☐ yes  ☐ no  ☐ not sure

If yes:  Attorney's name: __________________________ Telephone __________________
Address ________________________________ City/State/Zip ________________________________

VII. OPTIONAL INFORMATION ON VICTIM (for statistical purposes only)

Disabled       Age:  ☐ 17-under  ☐ 18-64  ☐ 65-over
Race:  ☐ White  ☐ American-Indian/Alaskan Native  ☐ Hispanic
☐ Black  ☐ Asian/Pacific Islander  ☐ Other
prior to crime?

INFORMATION RELEASE

I give permission to any hospital, medical facility, doctor, mental health provider, insurance company, employer, person or agency to give needed information to the Victims’ Compensation Program in the Department of the Attorney General. I understand that the information will be used to determine my claim for victim compensation benefits. I do not authorize the use or release of this information to any person or entity for any other purpose whatsoever. A photocopy of this signed release is as valid as the original. This authorization shall expire upon final determination of all my claims for Victims’ Compensation Fund benefits unless earlier revoked in writing by me. Pursuant to statute, 5 M.R.S.A. § 3360-D(2), a signed Victims’ Compensation application fulfills the requirements under State law, including 22 M.R.S.A. § 1711-C(3), to authorize release of records.

☐ __________________________
Claimant signature (parent or guardian if victim is a minor)

Date __________________________

AGREEMENT

I understand that the Victims’ Compensation Fund is a fund of last resort. I shall inform the Victims’ Compensation Program if I hire an attorney to pursue any action related to this crime. If my attorney receives funds from any source for losses for which I have received compensation, I hereby direct my attorney to reimburse the Victim’s Compensation Fund from these funds. I agree to reimburse the Fund promptly for any such funds I may receive. I swear that the information that I have provided in or with this application is true to the best of my knowledge.

WARNING

Making false statements and leaving out information to mislead may subject you to criminal prosecution under 17-A M.R.S.A. § 453.

☐ __________________________
Claimant signature (parent or guardian if victim is a minor)

Date __________________________

Return completed application to:

Victims’ Compensation Program
Department of the Attorney General
6 State House Station, Augusta, ME 04330-0006
(207) 624-7882 or 1-800-903-7882
http://www.state.me.us/ag click on Crime and Victims

Attach additional sheets where necessary to answer questions fully

Rev. 9/03
MAINE VICTIMS’ COMPENSATION PROGRAM

ELIGIBILITY CHECKLIST

If the following statements are true the claimant may be eligible for financial assistance.

YES/NO

The crime was committed on or after January 1, 1993. ___

The crime committed is one of the following:

- An offense against the person, e.g. assault or murder, (Title 17-A Ch. 9)
- A sexual assault (Title 17-A Ch. 11)
- Kidnapping/criminal restraint (Title 17-A Ch. 13)
- Robbery (Title 17-A Ch. 27)
- Drunk Driving (Title 29-A §2411)
- Leaving the scene of some personal injury vehicle accidents (Title 29-A §2252)

The victim suffered bodily injury or the threat of bodily injury as a direct result of the crime (not required of victims of sexual assault). Yes ___ No ___

The crime was reported to a Law Enforcement Agency within five days of the occurrence or discovery of the crime or injury.* Yes ___ No ___

The victim was not engaged in criminal activity which contributed to or caused the injury. Yes ___ No ___

The victim cooperated with the law enforcement officials and prosecutors. Yes ___ No ___

The victim/claimant has no collateral source of payment for the compensation they are seeking. (e.g. insurance, Medicaid) Yes ___ No ___

An application will be filed with the Victim Compensation Board within three years of the injury or compensable loss or within 60 days of the discovery of the injury or compensable loss, whichever is later.* Yes ___ No ___

---------TYPES OF COVERAGE SOUGHT---------

The claimant is seeking coverage for a victim for actual losses of the following types: medical, mental health counseling, lost income or wages, funeral, eyeglasses, dentures, other prosthetic devices, some crime scene cleanup costs, and costs to repair or replace locks or security devices. Yes ___ No ___ or

The claimant is seeking coverage for persons other than the victim for:

1. Counseling expenses Yes ___ No ___
   a. for family and household members of homicide victims or of child victims of sexual assault or
   b. for family and household members of crime victims, who witness the commission of the crime or

2. Funeral and burial expenses up to $4500 (plus $500 for a marker) for any individual who pays or incurs these bills Yes ___ No ___

3. Loss of support for the dependents of homicide victims, Yes ___ No ___

* Time requirements may be waived. Claimants should submit a letter to the Board.

Dept. of Attorney General, Victims’ Compensation Program, #6 SHS, Augusta, ME 04333-0006; (207) 624-7882 12-14-2005
The maximum compensation for relocation is set at $4,000 and may not be exceeded. **These claims require confirmation of the relocation expenses by an advocate or crisis center personnel.**

Compensation for costs directly attributable to the victim's relocation necessitated by safety including but not limited to the victim's:

1. Moving expenses
2. Security deposit and 2 months' rent; Does NOT include:
   - Cable and long distance telephone service
3. Basic utility connection deposit (two months of utilities);
4. Moving expenses (Cost of a moving truck rental or a moving company); and
5. Up to 3 months of storage.

The only exception to this rule is the replacement of locks and windows which may be safety issues.

Will NOT pay for any lost or damaged property. There are NO funds available for individuals choosing to stay in the residence they shared with their abuser who has left.

Once this information is provided, the victim/claimant may be eligible for compensation for each of the following:

1. A report of the physician who treated the victim for injuries for which compensation is claimed.
2. Itemized statements of medical costs
3. Compensation for the actual cost of reasonable and necessary medical treatment by a licensed health care provider.
4. Prescription Medications
5. Necessary physical assistance equipment.
6. Replacements for hearing aids, dentures, prosthetic or other devices, prescription eyeglasses and other corrective lenses. (VOCA - 27162)
7. Mileage to and from licensed health care providers, paid at a rate used to compensate mileage of state employees at the time compensation is awarded.
8. Any other reasonable costs incurred by the victim directly related to the victim's condition resulting from the crime.

Verification of services will be sought and should the claim be approved, any such crime related, out-of-pocket expenses will be reimbursed in full.

When a victim has health insurance and there is an after-insurance balance, the victim will not be required to apply for and be denied free care in order to be compensated for the out-of-pocket expense. **The Commission will pay no more than 75% of the total amount due from the victim for in-patient hospital care.** *We will advocate that the remaining balance be written off by the hospital.*

The victim shall be encouraged to apply for free care through all providers, though this is not a prerequisite for an award. The Commission shall only require denial of free care in consideration of hospital bills.

Prior to consideration of payment to a hospital, the victim must apply for free care and the Commission must receive documentation of any denial, in whole or in part.

The victim should still be encouraged to apply for free care and explore any other collateral resources.
Guidelines Only: Commission decision making process must be preceded by a complete and accurate application accompanied by appropriate documentation. Please refer to State Statute 24-M-G-0, VOCIA compensable claims (27161 - 27162) or Jus 601.04 and Jus 601.04.01 for further details where needed.

START

Is this person a victim of a crime or an appropriate claimant?

Yes

Occurs in New Hampshire?

Yes

Is the victim a resident of NH who was injured either in state or while a victim compensation program, or as a result of a terrorist act outside of the United States?

NO

Yes

Did the crime result in personal injury (which includes mental health become) or death?

VOCIA (27161-27162)

Yes

No

Does the expense liability exceed $100?

Yes

NO

NH RSA 341-A:17

Was the claim filed within 1 year?

VOCIA 341-A:17

Was the claim filed within 1 year?

Yes

NO

VOCIA 24-M-G-0, 24-M-G-0

Was the victim a minor at the time the claim was filed and a victim of sexual assault?

VOCIA 341-A:17

Was the claim filed within 1 year?

Yes

NO

Was the claim filed within 1 year?

Yes

NO

VOCIA 24-M-G-0

VOCIA 341-A:17

Was there reasonable evidence of a crime in connection with the injuries sustained?

NO

Yes

Did the crime occur on or after 11/2/99?

VOCIA 341-A:17

VOCIA 341-A:17

YES

NO

Was it reported within 5 days at the crime or within 5 days of when it could have occurred?

VOCIA 341-A:17

VOCIA 341-A:17

Yes

NO

Was there reasonable evidence of a crime in connection with the injuries sustained?

NO

Yes

Did the victim engage in conduct which contributed to death or injuries?

VOCIA 341-A:17

VOCIA 341-A:17

YES

NO

Please refer to the Contributer Conduct Checklist.

Was the victim incarcerated in a correctional facility at the time of the crime (exceptions may be made when involving employees)?

Jus 601.04.01

VOCIA 341-A:17

Was the victim a passenger in the officer’s vehicle and knew or should have known that the offender was under the influence?

Jus 601.04.04

Was the claim filed within 1 year?

VOCIA 341-A:17

Was there good reason or some other possible exception?

VOCIA 341-A:17

Was the claim filed within 1 year?

YES

NO

Was the claim filed within 1 year?

YES

NO

Was the victim a passenger in the officer’s vehicle and knew or should have known that the offender was under the influence?

VOCIA 341-A:17

Was the victim involved with any of the alleged perpetrators?

VOCIA 341-A:17

Was the claim filed within 1 year?

YES

NO

Was the victim a passenger in the officer’s vehicle and knew or should have known that the offender was under the influence?

VOCIA 341-A:17

CLAIMANT MAY BE ELIGIBLE FOR AN AWARD

NO

STO
VICTIM CENTERED PRACTICES

PRESENTED BY:
DENISE GILES
Objectives:

Upon completion of this module participant will be able to:

- Explain the guiding principles of restorative/community justice.
- Identify the difference between traditional and restorative/community approaches to justice.
- Understand the victim's role in restorative/community justice approaches aimed at achieving justice.
HOW DOES ONE DEFINE… VICTIM- CENTERED?

“To have a center” is to have a FOCUS.

HOW DOES ONE DEFINE… VICTIM- CENTERED?

A ‘victim-centered’ justice process acknowledges and acts to address the focal point of crime – that is, the harm caused to crime victims, survivors and communities.
~ VICTIMS’ RIGHTS ~
~ VICTIMS’ NEEDS ~
- Fairness & respect
- Participation & Input
- Information
- Reasonable Protection
- Restitution; Compensation
- Confidentiality

Restorative & Community Justice

A Philosophy or Concept of Justice

Not “A Single Program”

Restorative & Community Justice

- Crime is an offense against human relationships;
- Victims and communities are central to achieving justice;
Restorative & Community Justice

- Acknowledge the harm caused by crime;
- Listen to victims & survivors;

- Address relationship between victims, offenders & communities;
- Provide opportunities for victim empowerment & offender change;

VICTIM ADVOCACY

- Crisis Centers
- Law Enforcement
- Prosecution
- Victim Compensation
- ‘Mental Health’ Providers

**Corrections:** Probation, Jails, Prisons, Parole
RESTORATIVE VICTIM ADVOCACY in CORRECTIONS

- Pre and Post sentence Input
- Notification: Offender Status
- Restitution
- Safety: Harassment & Intimidation
- Enforce ‘No Contact’

- Information: Corrections Process & Programs
- Advocacy prior to Supervised Release
- Parole Board Hearings
- Victim-Offender Dialogue
- IMPACT Program

VICTIM ADVOCACY in CORRECTIONS

Victim Input

Re: Impact & Programs

VICTIM ADVOCACY in CORRECTIONS

Restitution
What is Restitution?

- Money paid to the victim/survivor by the offender
- Addresses economic/financial losses resulting from crime
- Holds offender accountable for financial harm caused
- Examples include:
  - Medical expenses - Mental health services
  - Funeral expenses - Property losses/damages
  - Lost wages related to the crime

Who Can Receive Restitution?

- Victims of Crime
- Survivors of Homicide Victims
- As Ordered by Court

How is Restitution Determined?

- Assess Actual Losses Related to the Crime
- Written Documentation of Losses
- Determination Process Begins During Initial Investigation, & May Continue into Sentencing/Corrections
How is Restitution Collected & Enforced?

- By Order of Court
- In Community: Collected by DOC’s Probation-Parole Officers
- In Prison: Deducted from Inmate’s $ Account @ $25% of wages and any other income

How is Restitution Collected & Enforced?

- Restitution Has Priority Over Fines
- Paid to Victim by DOC Each Month
- Offender Failure to Pay is Violation of Order = Return to Court
- Forfeiting Bail $; Civil Remedies

“Other Side of the Restitution Coin”

- Offender’s Ability to Pay – Identify a Payment Schedule
- Some Offender Considerations:
  o Current employment status
  o Projections on future employability
  o Assets
  o Potential contingency funds, such as state and federal income tax returns, winnings from lotteries, or inheritances.
“Other Side of the Restitution Coin”

- Some victims cannot be located after restitution is paid by offender;
- Reasonable efforts must be made to locate the victim;

VICTIM ADVOCACY in CORRECTIONS

Notification About Offender Status

VICTIM ADVOCACY in CORRECTIONS

Safety from Offender Harassment, Threats
VICTIM ADVOCACY in CORRECTIONS

Information about correctional facilities, processes & programs

VICTIM ADVOCACY in CORRECTIONS

Advocacy prior to Inmate Community Release

VICTIM ADVOCACY in CORRECTIONS

Parole Board Hearings

Maine/New Hampshire Victim Assistance Academy
2006 Participant Manual - Victim-Centered Practices
VICTIM ADVOCACY in CORRECTIONS

Victim IMPACT

A Program for Offenders

Victim IMPACT

Objectives

Teach inmates the immediate & long-term impact of crime upon victims, families and communities.

Support meaningful involvement by crime victims choosing to participate in the corrections phase of the justice system in ME.

IMPAcT Objectives (cont.)

Improve offender competency in empathy for victims.

Complement other initiatives to prevent crime recidivism and further victimization.
VICTIMS’ STORIES in
**IMPACT**
- Empowering
- Help, not Harm, the Healing Process
- Real Life, Real People
- Crime is Personal
- Enforce Empathy
- Safety & Security First

IMPACTS OF ...  
- **VICTIM’S RIGHTS**
- **PROPERTY**
- **DOMESTIC VIOL.**
- **SEXUAL ASSAULT**
- **ROBBERY**
- **VIOLENT CRIME**
- **OUI**
- **DRUGS**
- **CHILD ABUSE**
- **SHAKEN BABY**
- **HATE CRIMES**
- **HOMICIDE**

VICTIM ADVOCACY in CORRECTIONS

Victim-Offender Dialogue
**PRINCIPLES OF DIALOGUE**

- Victim initiated
- Safety & security
- Facilitator supported
- Active dialogue, not mediated
- Participant choices
- Structured process, highly emotional circumstance
- Preparation, preparation, preparation

**GOAL OF VICTIM-OFFENDER DIALOGUE**

Support justice by empowering victims & survivors to meet with the offender and address the personal impacts of violent crime.

**“TO SUMMARIZE”**

- Victim-Centered = The Focus of Crime
- Restorative Justice = We’ve been doing it-we just didn’t use the term
  A Philosophy, Not A Single “Program”
“TO SUMMARIZE”

- Crime violates relationships
- Must involve victims to achieve justice
- Victim advocacy throughout the system – including Corrections