



Issue Spotting and Needs Assessment

An Oregon-specific guide to
conducting sexual assault
intakes.

Leading a new response to sexual violence!

Victim Rights Law Center

520 SW Yamhill, Ste. 200

Portland, OR 97204

503.274.5477

www.victimrights.org

Issue Spotting and Needs Assessment

An Oregon-specific guide to conducting intakes with sexual assault survivors.

© 2014 by Victim Rights Law Center.

All rights reserved. No part of this document may be transmitted, reproduced, distributed, or adapted without permission. Licensing requests and other copyright questions should be directed to Jessica Mindlin at TA@victimrights.org.



Victim Rights Law Center

115 Broad St., 3rd Floor
Boston, Massachusetts 02110

520 SW Yamhill, Suite 200
Portland, Oregon 97204

www.victimrights.org

Preparation of this manual was supported by grant number 2012-WL-AX-0059, awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, and conclusions expressed in this document are those of the authors and do not represent the official position or policies of the U.S. Department of Justice.

note While sexual assault can be perpetrated by intimate partners and by non-intimate partners, the majority of sexual assaults are perpetrated by non-intimate partners such as friends, co-workers, classmates, acquaintances, landlords, and strangers. The Victim Rights Law Center (VRLC) prioritizes serving non-intimate partner sexual violence survivors and seeks to reach that population. While some of the following will be relevant to survivors of sexual assault within an intimate partner relationship, the information is intended for those serving survivors of non-intimate partner sexual violence.

Spotting Issues, Assessing Need

Advocates and attorneys play a key—and critical—role in helping survivors reclaim their lives after a sexual assault. One very important function is to help survivors understand the many ways an assault may impact an individual survivor’s life. For example, a survivor may need help terminating a lease or finding new housing if her landlord or apartment manager sexually assaulted her. While the advocate or attorney can and should address the survivor’s housing concerns, they should also ask questions to identify challenges or concerns in other areas of the survivor’s life, such as work, school, finances, or immigration status.

The following is intended to be a general guide for advocates and attorneys to use to determine what sexual assault-related concerns and resulting needs a victim may have. It is not a formal script to be followed; it is meant to ensure that advocates and attorneys ask for relevant information to identify the full range of survivors’ needs, make appropriate referrals, and serve the survivor in a holistic manner.

Confidentiality and Mandatory Reporting

Before starting an initial intake session, it is important to discuss two key issues: confidentiality and mandatory reporting.

Confidentiality. Advocates must know—and explain to each survivor—what confidentiality rules and policies apply to their communications. This includes whether written notes are kept and, if so, for how long; what, when, and to whom information may be revealed; and whether communications between the survivor and the advocate are protected by any kind of privilege. Similarly, attorneys must explain confidentiality and attorney-client privilege—and the protections afforded by each—in a manner understandable to the client.

Mandatory Reporting. It is also necessary to inform the survivor if the advocate or the attorney is a mandatory reporter of abuse of a child or vulnerable adult. Every advocate and attorney must know if she or he is a mandatory reporter and in what situations. This information should be shared before the survivor makes any significant disclosures.

How to Start the Conversation

Sexual assault can be very difficult to talk about, even for the most seasoned advocates and attorneys. There are a number of ways to approach sexual assault, establish trust, and ask the survivor to be as open as possible. The more information the advocate or attorney has, the better that advocate can serve the survivor. That said, there may be times or circumstances in which the details of the survivor's experience are not necessary for assistance and it can be helpful to let the survivor know this at the outset. This is something the advocate or attorney will need to assess on a case-by-case and visit-by-visit basis.

The following is a general script the Victim Rights Law Center has found to be successful when working with our survivor clients:

It is common for someone who has been sexually assaulted to want to keep some things private. Feel free to share with me as much or as little information as you would like. Please understand, though, that the more information I have the better I can serve you and give appropriate referrals to people in the community who can help.

It might be particularly hard for you to share certain information about the assault. For example, some victims are hesitant to talk about the graphic details, things said by the assailant, or the sexual acts in which they were forced to engage. In our experience, sometimes victims feel guilty about certain things they did before the assault, such as using drugs and/or alcohol or consenting to some initial sexual activity. For me to help you the best I can, it is better for me to know these things. If you are comfortable telling me, I will keep that information private unless you decide you want to reveal it.¹ You don't have to tell me everything today; we can talk many times over the next few weeks and you should feel free to tell me things at a time and pace with which you feel comfortable.

I want you to know that what happened was not your fault. You did not ask for it and you should not be embarrassed by or feel responsible for what happened to you. You did not deserve it.

¹ Subject to confidentiality and mandatory reporting obligations described above.

Whether or not an advocate or attorney needs to hear the details of the assault from the survivor, the advocate or attorney should be prepared to ask the questions below. Information about victim's safety, privacy, school, immigration, employment, housing, and financial compensation will help guide the conversation and ensure the advocate or attorney can best assist the survivor in a holistic manner.

For Advocates: When to Refer to an Attorney

If a survivor is confronting any of the issues listed below, advocates should offer to refer the victim to an attorney. Attorneys' communications with their clients are privileged, giving clients an added layer of protection to ensure that private information will not be disclosed without the survivor's express consent. Attorneys are also able to advise clients about who may be liable for what happened, including not just the assailant but also possibly an employer, school, landlord or business owner and whether a survivor is eligible for a restraining order, such as a Sexual Abuse Protective Order. A lawyer may also be able to help a survivor with financial support such as access to denied public assistance, bankruptcy protection, restructuring loans, and more. These are just a few of the reasons it is important to maintain a list of attorneys who are well versed in understanding and representing survivors of sexual assault.



Issue Spotting Questions for Holistic Needs Assessment

When, where, and by whom was the assault committed?

How long ago did the assault occur? *If the assault happened longer than a week or two ago, try to determine why the victim is choosing to come forward at this time. Has something happened recently?*

Where did the assault take place? Actual physical location? School, home, work, other? *Identifying the location(s) of the assault(s) will direct you to which law enforcement or other entity would be responsible for the investigation if the survivor chooses to report, and also help identify the victim's immediate needs and resources they may be able to access. For example, did the assault occur at school? Is there a health center or other location that may provide services?*

Who assaulted the victim? *If the assailant is part of the victim's work, school or home environment, the survivor may need help finding a safe place to work, study or live. See below for additional safety related questions.*

- ◆ Does the victim have any prior relationship with the assailant?
- ◆ If the assailant is a close enough acquaintance to know where the victim lives and works, issues of privacy and safety will be important to discuss.
- ◆ Is the assailant a co-worker, classmate or neighbor?



Safety. *An advocate or attorney can best assist a survivor when aware of the safety risks the victim is facing from the assailant or his/her friends and family. These kinds of questions are vital to determining what risks exist to the victim's safety.*

tip Safety planning for non-intimate partner sexual assault survivors may be very different than safety planning for domestic violence survivors. The survivor may not know the assailant's last name or how to contact that person. The survivor will likely not be able to predict how the assailant will react to legal or police action. There is also the matter of actual versus perceived safety. The assailant may not know where the survivor lives but the survivor may feel unsafe in his or her own home.

- ◆ Does the victim know the assailant(s)? If yes, for how long has the victim known the assailant?
- ◆ Is the victim afraid the assailant will try to harm him or her again or poses an ongoing threat to the victim's safety?
- ◆ Does the victim think the assailant will retaliate if the victim reports the assault to law enforcement or other authorities?

- ◆ Did the assailant use violence or the threat of violence to commit the assault? Was there a weapon involved? Did the assailant make any explicit verbal threats to harm the victim or the victim's family? For example, did the assailant threaten to hurt the victim if she or he reported the assault to the police?
- ◆ Is the victim considering getting a restraining order? Would the victim like a referral to an attorney to discuss the protective order options or find out more about possible safety remedies under the law?

tip There are four types of protective orders in Oregon:

- ◆ The Family Abuse Prevention Act (FAPA) Protection Order (ORS §107.700 et seq.)
- ◆ Stalking Order (ORS §30.866 et seq. and ORS §163.730 et seq.)
- ◆ Elderly Persons and Persons with Disabilities Abuse Protection Act (EPPDAPA) Order (ORS §124.005 et seq.)
- ◆ Sexual Abuse Protective Order (SAPO) (ORS §163.760 et seq.)

Note: The SAPO is specifically designed to protect survivors of sexual assault by a non-intimate partner.



Privacy. *Knowing what privacy issues exist early on is essential to proactively preventing unwanted disclosures and ensuring the victim's confidence in seeking justice. For example, is there certain information the victim is concerned will be released? This might include that a previous assault, drug use, underage drinking, and/or lack of legal citizenship documentation.*

- ◆ Does the victim have any concerns that certain information will be made public?
- ◆ What information is the victim most afraid of revealing?
- ◆ Who has the victim told about the assault?

tip Identifying the people and institutions who already know private information about the survivor is important to your ability to help the victim contain the spread of information. Also, because victims' information often changes over time, as memories emerge or trust develops, identifying these individuals or entities can help you document to whom the victim made statements and whether/how information revealed may have changed over time.



Immigration. *These questions will help you better understand whether the assailant is likely to use immigration status in retaliating if the victim chooses to report to law enforcement. Retaliation of this sort is extremely common.*

tip If a sexual assault survivor is not a citizen and does not have legal residency in the United States, the advocate should immediately refer the survivor to an immigration attorney. The attorney can discuss immigration remedies available to the survivor and the relative risks and benefits of each.

- ◆ What is the victim's residency status in the United States?

tip A victim who does not have legal status may still seek criminal justice and other remedies. Petitions filed for humanitarian relief, such as the U-visa, VAWA, and T-visa, exist to encourage victims to report to law enforcement. These petitions help reduce a victim's risk for removal. This is especially key as so many assailants use threats of reports to immigration as a coercive tool. Gathering this information early in your relationship will help you support the victim, identify legal remedies, and proactively protect the victim's presence in the country.

- ◆ What is the assailant's immigration status?
- ◆ What relationship, if any, does the victim have to the assailant?
- ◆ Is the assailant aware of the victim's immigration status (or lack of status)?



Employment. *Attorneys and occasionally advocates can help a victim access many kinds of employment-related relief. For example, medical leave, unemployment benefits, worker's compensation, and disability accommodations may all be available to a victim due to the psychological and physical trauma of the sexual assault. Similarly, there may be certain protections available under federal or state sexual harassment laws for work-related sexual assaults.*

- ◆ Did the assault happen at work?
- ◆ Is the assailant a coworker or someone affiliated with the business where the victim is or was working?
- ◆ What kind of employment does the victim have?
- ◆ Is the victim working now? If not, why not? Did the victim leave work because of the sexual assault?

tip Unemployment benefits may be available to an employee who quit due to a sexual assault perpetrated against the employee or the employee's immediate family member. They may also be available if the employee left to protect him or herself or an immediate family member (ORS §657.176(12)).

- ◆ If the victim is still working, does the victim need or want to take leave from employment?

tip Eligible employees may take reasonable leave to seek, for the survivor or survivor's minor child, legal remedies for safety, medical treatment, counseling, or victim services, or to relocate or otherwise ensure safety of one's home (ORS §659A.270 – ORS §659A.285).

- ◆ Would it be helpful for the victim to have accommodations made at work such as changing shifts, relocating a desk or office, or modifying work related duties?

tip Oregon law requires employers to grant reasonable safety accommodations to employees that are victims of sexual assault (ORS §659A.290(3)).

- ◆ Do people at work know about the assault? If so, who knows, and how did they find out? What was their response?

tip If a survivor is experiencing discrimination as a result of his or her status as a sexual assault victim, the survivor should contact an attorney or the Bureau of Labor and Industries (BOLI).

Financial Compensation. *Survivors may have assault-related expenses and may experience a loss of income as a result of the sexual assault. Restitution may be available from civil and criminal courts. The survivor may also want to explore eligibility for public benefits to establish or reestablish a steady income stream.*

- ◆ Did the victim incur expenses as a direct result of the sexual assault?
- ◆ Has the victim reported the assault to law enforcement?

tip Oregon Crime Victim Compensation Fund covers future medical and mental health costs up to a capped amount and other expenses related to the victimization. The victim must have reported to and cooperated with law enforcement to be eligible for reimbursement. This fund is a payer of last resort; this means that other payment methods, such as insurance benefits, must be exhausted first.

- ◆ Does the victim anticipate future expenses from the assault, such as future counseling, medical, or relocation costs?
- ◆ Is the victim interested in learning about eligibility for public benefits such as Social Security Disability (SSD), Supplemental Security Income (SSI), Unemployment, Temporary Assistance to Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP)?



Housing. *The decision to stay or leave current housing should be entirely the victim's choice. If the victim feels that there is an ongoing threat or, for emotional safety reasons, it is best to move, advocates or attorneys can assist the victim by advocating with a public housing authority or a private landlord for a change in housing.*

- ◆ Is the victim housed? If not, does the victim want assistance finding housing resources?
- ◆ Did the assault happen at or near the victim's home?
- ◆ Was the victim assaulted by someone who lives nearby?
- ◆ Where is the victim living now?
- ◆ Does the assailant know where the victim lives?
- ◆ Does the victim feel safe at home? If not, help the victim identify how and why they feel unsafe.
- ◆ Is the assailant a neighbor, tenant, or landlord?
- ◆ Does the victim rent or own? If renting, who is named on the lease?
- ◆ Does the victim need to change the locks to feel safer?

tip Oregon law obligates a landlord to change locks at the request of a tenant who is a victim of domestic violence, sexual assault, or stalking (ORS §90.459).

- ◆ Does the victim want to move?
- ◆ If the victim is renting, does the victim have a lease or is the tenancy month-to-month?
- ◆ Has the victim talked to the landlord or Housing Authority about moving? If yes, what was the outcome?
- ◆ Does the victim need assistance in terminating a lease?

tip Advocates and attorneys can be an integral part of terminating a lease. The documentation required may be met by a letter from a domestic violence/sexual assault service provider agency, an attorney, and/or a police report (ORS §90.453).



Education. *Survivors often experience a significant decline in school performance, increased absenteeism, and/or problems in school behavior following an assault. Advocates and attorneys can help victims identify and secure solutions that support victims' efforts to stay and succeed in school. Title IX and sexual harassment laws provide some protection for victims who are experiencing school-related harm. Attorneys can bring claims under those laws and can also assist with administrative remedies sought through the Department of Education.*

- ◆ Did the assault happen at school?
- ◆ What kind of school is it? Private or public?
- ◆ Does the victim have an "IEP" or special education classification?
- ◆ Does the victim want to ask for accommodations at school (i.e., ask that changes be made)?
- ◆ Has the victim been able to maintain her/his performance at school since the assault?
- ◆ Does the victim need to change her/his class schedule as a result of the assault?
- ◆ Is the assailant on campus, in the victim's dorm, or in her/his classes?



Conclusion

Advocates and attorneys play a very important role in helping victims identifying their needs as well as connecting them with providers who can help to meet those needs. The best way to serve survivors of sexual assault is to help identify all their potential needs and corresponding remedies. Asking the right questions, such as those provided above, is a critical first step in accomplishing this and in helping to ensure survivor safety.

note This information is for general education only. The contents, specifically the Oregon statutes, are current as of March 2014. Any survivor with specific questions should consult with an attorney for additional information and advice on how the law applies to that survivor's matter.





www.victimrights.org

(505) 274-5477

Leading a new response to sexual violence!
