



## **Chapter 3**

### **Law Enforcement**

***In this chapter, you will find information on...***

- *Developing Productive Working Relationships*
- *The Role of Law Enforcement*
- *Reporting to the Police*
- *Different Types of Interviews*
- *Follow-Up Investigation*

#### **Developing Productive Working Relationships with Law Enforcement**

In some cases, law enforcement is the first agency contacted by the sexual assault survivor especially in perpetrator unknown cases. A good relationship between the Rape crisis program and law enforcement will help to ensure sensitive treatment of the survivor. According to the National Institute of Justice, “The response rendered by the 911 operator, patrol officer, investigator, and advocate can build the foundation for the relationship with the victim that will influence the victim’s recovery from the sexual assault. These contacts also influence the victim’s willingness to cooperate during the investigation and adjudication of the sexual assault case.”<sup>1</sup>

## **The Goals of a Productive Working Relationship between the Rape Crisis Program and Law Enforcement**

### **1. To create a system that is more responsive to the needs of survivors**

An improved system that fosters greater awareness of survivor's needs, develops survivor sensitive criminal justice practices, and demonstrates to survivors that they will be taken seriously.

### **2. To increase practical cooperation between the rape crisis programs and law enforcement**

The rape crisis program staff and law enforcement personnel work collaboratively to develop a comprehensive sexual assault investigation protocol that will increase the number of prosecutable sexual assault cases. The rape crisis program will also be able to help the police department consider the value of a specialized sexual assault unit and participate in regular trainings on sex crimes. Because of shared information, police will be more equipped to provide useful resources and referrals to survivors of sexual assault.

### **3. To create opportunities for increased professional development for both law enforcement and rape crisis program personnel**

Rape crisis program staff and law enforcement personnel will have more opportunities to learn from each other. Each agency will be able to provide training for the other to help them better understand each other's goals and concerns.

### **4. To facilitate communication between the Rape Crisis Program, law enforcement and the community**

Advocates with a working understanding of the goals of law enforcement will be able to communicate throughout the community the ways in which law enforcement can help a survivor hold her perpetrator accountable for his acts. Strong relationships among all participants will send a message to the community that police take sexual assault survivors seriously and are committed to ending sexual violence.

### **5. Strategies for Forming Positive, Productive Relationships with Law**

## **Enforcement**

There are several approaches to consider as you think about developing relationships with law enforcement agencies. The following ideas can be excellent beginnings to stable collaborative affiliations:

- **Offer to provide trainings/in-services for law enforcement**

Law enforcement agencies will benefit from the prevention education you provide to the community at large. The programs you do on sexual assault, acquaintance rape, and sexual harassment should also be presented to law enforcement agencies: local, county, state, and federal. Call a colleague in a law enforcement agency to tell them that you would enjoy talking to them further about what the rape crisis program does in your community and exploring how you could be helpful to the police in handling sexual assault cases.

- **Hold formal and informal meetings**

Invite law enforcement personnel to the rape crisis program for meetings that discuss specific cases, or when there are staff changes so the officers can meet the new advocate, hotline coordinator, or new volunteers.

- **Invite law enforcement to provide trainings and in-services for staff and volunteers**

Ask detectives or investigators to help with the law enforcement areas of training for staff. They can provide staff with information on investigating and prosecuting sexual assault cases.

- **Invite the police to participate in a joint venture, such as making presentations together at community education programs**

Law enforcement agencies, like rape crisis programs, look for ways to get out into the community. Advertise your prevention education programs to law enforcement agencies. There are law enforcement officials who enjoy participating in violence prevention education and would love to be asked to collaborate with you. **- 41 Updated-**

- **Call law enforcement to ask them for advice**

When faced with a tough question or difficult situation, call a trusted colleague in your local police department. This demonstrates that you value their input and value their opinion. It will also build on the trust you have already created together. The question can be phrased as hypothetical so you are not put in the position of breaking a client's confidentiality or stating that you have information about a crime.

- **Write “thank you” letters to law enforcement**

Write letters to investigators who provide sensitive treatment to sexual assault survivors and/or who do education programs with rape crisis program staff. Send a copy of the letter to the police chief or other supervisor to let others know of the good work that their staff does.

## **The Role of Law Enforcement**

It is helpful to keep in mind major goals of law enforcement:

- To ensure the survivor's safety
- To collect and preserve evidence
- To determine the facts of the crime
- To apprehend the offender

New law enforcement officers receive more training on the nature of sexual assault and the needs of the survivor than many in the field. Some officers are already extremely sensitive to sexual assault survivors, while others can benefit from the assistance of advocates in improving their communication with survivors. Some police may not understand the way their attitudes, including non-verbal communication toward survivors, can impact on their ability to accomplish their goals. They may not be aware that they are often the first to come in contact with the sexual assault survivor after an assault, nor do the officers always truly understand the impact of victimization. In addition, insensitive police behavior can reflect an underlying attitude based on a “fear of contamination,”<sup>2</sup> which is characterized by persons distancing themselves from the-

**42 Updated-**

horror of a crime by criticizing or ridiculing survivors, discouraging prosecution, or minimizing the seriousness of the victimization. As is potentially a pattern for others who come in contact with a survivor of a violent crime, blaming the victim may help police avoid contemplating the vulnerability of themselves or their own families to similar crimes. There also can, for some officers, emerge in daily practice a real or seeming indifference to a victim's plight stemming from the pressure of law enforcement work. Other examples of barriers to officers' understanding are:

- Unfamiliarity with the serious psychological and emotional impact of sexual assault due to lack of training in the basic elements of psychology and victimology.
- Comparison of the case to others in the officer's own experience resulting in a minimization of the sexual assault. ("It could have been worse...")
- Awkwardness and resentment over the officer's own helplessness, especially if not trained to deal with sexual assault.
- Lack of training in how to communicate empathy while conducting an investigation.
- Overreaction to a victim's misdirected anger; lack of understanding that the victim may perceive the officer as a "safe" person for the expression of anger and that the anger is likely to stem from pain rather than hostility.
- Avoidance of the psychological pain which comes from "getting personally involved."
- The officer's perception that the victim does not sufficiently appreciate his efforts.
- Racial, class, social or other prejudices.
- Over-zealousness to get the job done and pressure to obtain information and get back on patrol, which can preclude taking the time to be kind, sympathetic, or supportive.
- Loss of compassion or sensitivity due to constant exposure to misfortune and human suffering.

- A historical adversarial “us-against-them” relationship between police and the public.
- The commonly practiced defense mechanism of making quips or remarks which reflect police humor, but which survivors may perceive as insensitivity.
- Hardness, cynicism, or a mistrust of people developed through dealing with criminals on a daily basis for long periods of time.

In addition to the factors listed above, common cultural attitudes toward the crime of sexual assault can serve as barriers to successful police-victim interaction, including:

- A tendency to blame the survivor for being victimized or for precipitating the crime by carelessness, stupidity, or ignorance of the survival rules in modern society.
- Second guessing of survivor’s behavior which most commonly surfaces in questions which challenge the victim’s judgment. (“Why in the world did you....?” “Didn’t you know that...?”)
- Mistrust and doubt regarding the survivor’s credibility, ranging from the non-verbal cynically raised eyebrow to outright accusations of lying.

Sexual assault survivors are in crisis. In this sensitive state, survivors may react strongly to very subtle actions on the part of those around them. Sometimes those trying to help may not be aware of the effect of their actions. Prosecuting attorneys and police officers often evaluate information from the following point of view: Can they prove a person committed sexual assault beyond a reasonable doubt? While law enforcement officials can be very understanding and sensitive, they also need to determine if a crime has been committed and who committed it. An advocate can be very helpful in enabling the survivor’s voice to be heard in this situation. As an advocate, you have no ethical requirement to assess whether or not the accused committed the crime beyond a reasonable doubt, nor do you have any reason to focus on the accused at all. From the advocate's point of view, the most important person is the survivor, whose personal needs take precedence over everything else.

Researcher Harry O'Reilly, cited by Martin Symonds<sup>3</sup>, has written extensively on the police perspective of victim/witness services. He states that some police officers see rape crisis program advocates as getting in the way of the investigation. O'Reilly's work provides insights regarding the relationships between rape crisis programs and law enforcement. O'Reilly suggests that sometimes cooperation may be weakened by:

- Lack of police knowledge about the rape crisis program role and responsibilities within the community.
- Lack of police understanding the value of having an advocate present at the initial interview to support the survivor.
- Police concern about rape crisis advocates being "man-haters".
- Police concern that advocates could be potential "snitches" who might report violations of rules of conduct or regulations to their supervisors.

In order to provide effective assistance to sexual assault survivors, advocates must overcome any negative perceptions held by police officers in their county. Advocates need to help police officers understand the positive role the advocate can play in supporting the survivor and in improving communication with a traumatized person. The advocate also needs to spend time with law enforcement explaining what the advocate's role is and how they can be helpful.

In New York State, all police agencies are required by law to notify survivors of the nearest rape crisis program in writing. *(See Appendix C for this law.)*

### **Reporting to the Police**

In deciding whether to report a sexual assault to law enforcement, the survivor has several options:

- To file a report with police immediately following the assault
- To defer filing a report while further considering the advantages and disadvantages. This may include having a forensic exam and evidence collection done at the hospital
- To tell a friend, relative, therapist, or rape crisis program counselor, requesting that the person not report the assault

- To choose not to report the assault

The sexual assault survivor has the right to decide whether to report or not report the crime to the police. Police reports must be made in the town or city where the crime took place. If crimes were committed in several locations, the survivor can go to a police department in any of the jurisdictions where the crimes took place; the police will then coordinate their efforts with the other departments involved.

There are many reasons why a survivor may find it difficult to decide whether to report a sexual assault to the police. As the advocate, you can share with the survivor the advantages and risks of reporting an assault to the police. With that information, the survivor will find it easier to make an informed decision on whether or not to report. This decision rests solely with the survivor. She needs to be reminded that she has some control in her own life. It is useful for the survivor to know that if she decides to report, the advocate will be available to accompany her throughout the criminal justice process.

Survivors tend to be more reluctant to report a sexual assault to the police if they know the offender, if no weapon was used, and if no other crime was committed at the same time. In addition, survivors who have been using alcohol or drugs during the time of the assault may be hesitant to report the offense. Individuals assaulted under these circumstances believe they will have some difficulty proving their cases in court and many decide they do not even want to try. This concern does have some factual basis. As soon as a case enters the criminal justice system through the submission of the police report, the case is scrutinized from the perspective of its ability to stand up in court. This includes evaluating the victim of the crime and her ability to testify or to be a credible witness. As a result, the survivor may feel that her lifestyle, actions, or reactions to the offender will all be questioned or examined.

As a survivor considers whether to report, be aware of additional anxieties and concerns she may have, including:

- that her name will be published by the media
- revenge on the part of the offender
- that others will sympathize with the offender

- testifying in court
- that the offender will be found not guilty
- the desire to forget what happened
- that the offender will return

A woman who believes the society in which she lives is not accepting of her -- whether it is because of her race, lifestyle, sexual orientation, or socioeconomic status -- is less likely to feel safe in reporting the crime to the police. Regardless of her individual circumstances, the decision whether to report must be made by the survivor and not by anyone around her including advocates, family members, or friends.

As the advocate, you can assist the survivor in making her decision by presenting the advantages and risks of reporting an assault to the police as soon as possible, so that she has ample time to consider her options.

### **Advantages of Early Reporting**

- Evidence can be gathered and preserved before it is destroyed or lost. Survivors can provide information while their memory is still fresh.
- Survivors may appear more credible to a jury if a report is made soon after the crime is committed.
- It may be easier for police to find and question any witnesses.
- Perpetrators can be found and apprehended quickly.

The survivor should be aware that every crime has a *statute of limitations*. A statute of limitations is a law requiring that a crime be charged within a specific period of time after it has occurred. In New York, the statute of limitations for an adult survivor of a felony sexual assault is five years. Survivors whose assault is classified as a misdemeanor have two years in which they can report the crime in order for it to be prosecuted. If the survivor is under 18 at the time of the assault, and there are two or more assaults over a period of time not less than three months (course of sexual conduct), the time period for reporting is tolled until she turns 18.

## **Other Advantages of Reporting**

- Taking action by telling what happened can be healing in itself.
- Other victims' reports of assault or abuse may be substantiated.
- Even if the perpetrator is not convicted, the arrest itself may be enough to convince the perpetrator to think about his behavior and reduce the incidence of future assault. He may realize his actions are against the law and that he will be held accountable for those actions.
- If the crime is reported and the perpetrator apprehended and convicted, there is a possibility that others may be protected from becoming victims.
- The survivor will be eligible for Crime Victim Compensation. To be eligible for Crime Victim Compensation a forensic rape exam (FRE) must be done and on the application form where it asks about Police Reports the survivor just needs to enter in those spaces "FRE." (*See Appendix N*)

## **Risks of reporting**

- It may be difficult for the survivor to repeat her story many times to police officers and in court.
- The lengthiness of the criminal justice process may delay a survivor's healing.
- The decision to prosecute an alleged perpetrator is solely that of the district attorney, so the survivor may feel as though she has lost control.
- Many cases are not prosecuted and there is no guarantee that if a case is prosecuted, a conviction will result.
- If the case goes to trial, cross examination can be traumatic.
- Even if there is a conviction, she may not feel a sense of satisfaction or of having "won."

In some jurisdictions, survivors can report the crime to the police, but choose not to sign a complaint to press charges at the time. This is called an incident report. A proxy report can be given by the advocate from information obtained from the survivor with his or her permission. Survivors should be aware that in the eyes of the court system, once information is given regarding a crime, they are considered a witness to their own victimization and technically, the police can pursue a case without a victim's consent or cooperation. Once reported, the assault becomes a crime against the state. Generally, however, law enforcement agencies and district attorney's offices are sensitive to the survivor's wishes and concerns.

Once the survivor makes the initial call to police, a vast and complex system swings into action. As in many large systems, the people who work in the criminal justice system have their own language and ways of expressing themselves. This can be confusing and even alienating for someone who is coming into contact with it for the first time as the victim of a crime. As a trained advocate, you can play a valuable role at this point simply as an interpreter. If you are assisting a survivor who has decided to make a report to the police, you can offer the following tips:

- Give as much detail as possible.
- Try to stay focused and give answers that pertain to the specific question asked.
- Answer honestly even if it presents something that could be perceived as negative or questionable about your own actions or decisions.
- If you do not understand a question, say so. Answering without totally understanding can lead to giving the police inaccurate information.
- You have the right to read the report -- which may be lengthy and appear in more than one draft -- and you may request changes to the report before signing it and it can be amended if you remember things later.

**- 49 Updated-**

## **Other Reporting Options**

### **The Incident Report**

By filing this report, there is a record of the crime with the police. It will document the incident and allow for prosecution at a later time. This will also enable a survivor to obtain crime victim compensation for counseling services she may need, medical expenses she may have incurred, property loss, or time lost from work.

### **Third Party Reports**

Third party reports or “proxy reports” are made to the police by rape crisis programs and other agencies without identifying the victim, and the report does not become a part of official law enforcement statistics. However, the report does include information identifying the suspect, and the location of the assault. Law enforcement agencies can use this data to their advantage in other investigations. Check with your local police agency to see if this is an accepted practice.

**- 50 Updated-**

## **The Initial Report**

When a survivor decides to make a report to the police, it is common for one or more uniformed officers to respond to the call. A female officer may be requested, although a female may not always be available. Not every police department has a female officer on staff and even if they do, the gender of the officer does not always indicate that person's training or sensitivity to survivors of sexual assault. In general, the officer's sensitivity is more important than his or her gender. The victim may have an advocate accompany her during the interviews and any other meeting with law enforcement.

Although the officer may avoid in-depth questioning unless she or he is assigned to conduct the entire investigation, the officer will ask the survivor certain questions to determine the nature of the crime, including what happened, the location and time of the incident(s), and questions regarding the identity of the offender. If the offender is a stranger, certain efforts should be made to locate and apprehend the person immediately. In the eyes of police, if the offender is an acquaintance of the survivor, the chances that he will flee are diminished.

If the police are called to the scene of the crime, the officer(s) may collect physical evidence of the crime at that time as well. The survivor's person is also a crime scene and officers will want to have clothing worn at the time of the report (if within a reasonable amount of time of the assault) as well as at the time of the assault if the clothing has been changed, collected – this is usually done at the hospital as part of a forensic exam. Clothing will be examined and its condition documented as to whether it was ripped or torn (a sign of struggle) , stained with fluids or have any trace evidence from the offender or scene. Articles of clothing, sheets, or other personal property taken by the police for evidence are tagged and marked for identification and are not returned until the close of the case. In some cases, these items are never returned. If the assault took place in the survivor's car, the police may take it to the station to be examined for fingerprints, semen, blood, or any other evidence of the crime.

**- 51 Updated -**

In some areas, it may be several days before it can be processed and returned.

Usually, the survivor will not be questioned in any great detail during the initial interview. The police officers will be more interested in seeing to the survivor's safety and well-being, preserving evidence, inspecting the crime scene and apprehending the suspect. Sometimes the desire to apprehend the suspect can cause a conflict of interest between police and health care personnel. When police believe the accused may be in the vicinity or in a place known to the survivor, they will want to get information as quickly as possible. A conflict may arise if health care personnel feel it is more important for a forensic examination to take place before the police obtain their report.

Your role as an advocate at this point is crucial. You must look after the needs of the survivor by asking her what she would like to do, while trying to keep everyone cooperating. Any questions should be asked in a private room without a lot of confusion or interruptions. You can give the survivor unbiased information and explain what the conflict is about. You can also remind the survivor of her power by asking her to make small decisions. For example, you should ask her if she would like you to wait with her or if she would like to be alone for a short time. It is important that you do not presume to know the survivor's needs. Respect her answers to questions you pose to her. Your only interest is in seeing that her wishes are carried out.

## **Police Investigation: The In-Depth Interview**

The investigator or detective will be the next person (from law enforcement) with whom the survivor will come into contact. The detective will take charge of the investigation within a few days of the initial report. The detective will conduct an in-depth interview with the survivor. This will most often take place at the police department. In New York State, the Fair Treatment Standards Act (*Appendix B*) gives every survivor the right to have an advocate present at every step of the investigation. This includes the in-depth interview. The interview will take a considerable amount of time, sometimes several hours, and is often very difficult for the survivor because it delves into the most intimate details of the assault. Most detectives are sensitive to what the survivor is experiencing, but there may be situations in which you can help the investigator understand the survivor's needs. **- 52 Updated-**

Investigators in New York currently receive training on issues facing sexual assault survivors. The training is intended to increase their sensitivity toward survivors as well as to instruct them on how to complete a thorough investigation.

The investigator will usually begin by explaining the purpose of the interview (usually to obtain a statement from the survivor) and talking with the survivor for a short time to put her at ease. The detective will then usually go on to ask the survivor to describe the assault in detail. The survivor should feel free to ask for an explanation if she does not understand why a question is asked. It is important to refrain from disturbing the interview process. It is preferable for you to explain why a question was asked either during a break or after the interview when the investigator is not present -- if it can wait.

The investigator will probably want to run through the information obtained in the initial report, such as the date and location of the assault or identity of the perpetrator, to check for accuracy and to gather any details that may have been left out. The investigator will ask if there were any known witnesses to the assault and, if so, what the survivor's relationship is to them. Questions will be asked about the survivor's relationship to the perpetrator -- for example, if they knew one another, under what circumstances (neighbor, family friend, date, work colleague, etc.) or if they lived together. The investigator may also ask if the survivor has reported an assault before and if any prior reports involved the offender in this case.

Survivors are routinely asked questions about prescription medications, non-prescription and street drugs, and any alcohol consumed prior to or during the assault. This is primarily to determine whether the survivor may have impaired ability to recall the events of the incident. It could also be used to determine if any other substances were introduced that they were unaware of that would require a lab analysis (small window of opportunity in which to check for presence of substances not voluntarily ingested [Drug Facilitated Sexual Assault (DFSA) evidence collection kit may be used at time of medical exam] and could be important in determining whether or not the survivor was mentally incapacitated at the time of the assault, and thus incapable of consent. Survivors may be asked questions regarding their relationships, and they may be asked if they had consensual intercourse within 72 hours of the assault. - 53 Updated -

*(See Appendix D: Interviews of Sexual Assault Victims.)*

Questions regarding the assault are very detailed. Survivors may be asked:

- if they said no, screamed or yelled or otherwise indicated lack of consent
- what, if anything, they did to resist
- what sexual acts took place
- whether anything other than the human body was used
- how long each sexual act lasted (e.g., how long the offender's penis was in her mouth)
- if the offender ejaculated
- what the offender said to the survivor, if anything, before, during, or after the assault
- what they were wearing and the manner in which each item of clothing was removed

These questions may seem to be accusatory and invasive. However, a skilled investigator can explain the necessity of asking these questions in such a way as to ease the survivor's concerns. If the investigator does not explain, it would be appropriate for you to tell the survivor that these are common questions, and that she is not being blamed for the assault.

At some point after the survivor has described all the sexual details, the detective must ask if she consented to the sexual acts. A sensitive investigator will explain the purpose of this question before asking it. However, if the detective does not provide an explanation of the question, it may be extremely offensive to the survivor. You should offer an explanation to the survivor if the investigator does not. The detective is required to ask this question because lack of consent is an element which must be proven in all sexual assault crimes in which the survivor is an adult.

Near the end of the interview, the detective will ask the survivor if she would be willing to sign a complaint (document commencing a criminal action) against the offender, which may be based solely on the statement of the survivor or based in part on the survivor's statement and physical evidence along with knowledge developed by the investigator. - 54 Updated-

This question is asked to allow the investigator to get a sense of the survivor's willingness to file a complaint, which can lead to prosecution and her being called as a witness.

As stated before, the survivor has the right to read the statement that the investigator takes. She also has the right to request that changes be made to her statement because the statement is a legal document and will be used if the case goes to trial. Every detail must be true and correct by the survivor's standards. The investigator may ask the survivor to read the final statement out loud or read it to her to make sure she is aware that the signing of the statement is a legal document and that failure to tell the truth can be prosecuted. It is the advocate's role to make it clear to the survivor prior to signing the statement that she could be charged with filing a false instrument or obstruction of justice if the whole truth has not been reported.

## **Confessions of the Offender**

Soon after the in-depth interview, the police may call the offender and ask him to come to the police department for questioning. While being questioned, an offender may admit to all or part of the crime of which he is suspected. The survivor might then be informed by the investigator that the offender has confessed. It is important that the survivor understand that a confession does not constitute a guilty plea, and that an offender who confesses may still plead not guilty. If the offender pleads not guilty, whether the confession may be used as evidence against him will be decided by the judge, based on the circumstances under which the confession was obtained.

## Arrest

If there is sufficient evidence, an arrest will be made. Once identified, the defendant will either plead guilty or not guilty. Bail will be set, and he may be sent to the county jail.

You should remind the police now that the survivor should be informed of the offender's arrest and release. If the survivor desires, she may want you to call the jail directly to make sure they know to contact her if and when the offender is released.

The survivor may also want to consider obtaining an order of protection if the offender is released from jail. This can be mentioned to the investigator at the time of the interview or requested of the district attorney. As the advocate, you may assist her in obtaining an order from the district attorney's office.

If the offender is not arrested, you should contact the detective in charge of the investigation to find out what else the investigation needs to make an arrest. If the survivor has stated feelings of fear or danger, let the investigator or detective know and ask what they suggest she do. If, in your professional opinion, the police are not being responsive to her concerns or offering alternative safety plans, consult with your supervisor. You may consider calling or writing the detective's supervisor to involve them in the investigation—or ask for clarification.

If you do involve the detective's supervisor, you should outline the problems from the survivor's point of view and ask about the status of the case. Remember that advocacy does not always have to be adversarial or confrontational. Often, after hearing the survivor's concerns the investigator may be able to clarify what is missing from completing the investigation or what pieces of the puzzle that has yet to fall into place. The hold up may not be in the law enforcement investigation but the district attorney requested additional work or evidence be submitted. You should always stress your positive intentions which will benefit the immediate survivor as well as keep the door open for future survivors rather than denouncing or discrediting the detective or agency. You can become more comfortable with questioning, negotiating and even confrontation

as you build your advocacy skills and knowledge of systems. As the advocate, you are seeking accountability and justice from critical actors in significant social and legal systems. This need not come from a place of hostility, disrespect, or distrust. You can re-frame the situation so that it becomes an ethical identification of problems or injustices.

## **The Defense Attorney**

It is important to inform the survivor that the defense will conduct its own investigation. Alert the survivor to the possibility of being contacted by the defense attorney or by an investigator hired by the defense. You should explain to her that the investigators may not clearly identify themselves as representing the defense, but may say something to the effect that they are “investigating the case against (the defendant’s name),” implying a connection with law enforcement or the district attorney’s office. They may also say they “work for the state” which is true if the person is hired by the state public defender’s office. Rarely will they falsely claim such status. Instead they may be vague, knowing that the survivor will assume they are connected with the prosecution. The survivor should ask them which agency they work for, or if they are part of the defense team. It is also possible they will clearly identify themselves as representing the defense, and then act as if there is something suspicious about the survivor not wanting to talk with them.

It is up to the survivor to decide whether to discuss the case with the defense. You can emphasize to her that she is not required to talk with anyone representing the defendant and that anything she tells them can and probably will be used to discredit her in court. If anyone other than the detective with whom she is familiar or the district attorney or assistant district attorney on her case contacts her to arrange an interview, she should call the district attorney to determine which side the person represents. If she chooses to speak to the defense, she should do so with the district attorney present. She should also inform her family, roommates, or anyone else from whom the defense may attempt to obtain information that they may be contacted, that they are not obligated to talk to the defense representatives and that to do so can be damaging to the case.

## Follow-up Investigation

The investigator in charge of the case may want to complete certain steps either immediately following the interview or within the next few days. Some of them are:

**Locating the crime scene:** The survivor may be asked to ride along with police to locate the crime scene. The survivor may request that an advocate accompany her.

**Photo array:** In most cases, in-person line-ups are unusual. The survivor may be asked to look at a collection of photographs of known sex offenders or suspects that match the description of the perpetrator. The investigator will most likely ask the survivor to come to the police station to view the photos. However, there are instances when the detective may take the photos to the survivor's home for her review. Again, the advocate may be present.

**Composite portrait:** The survivor may be asked to work out a sketch of the perpetrator with the police artist or an Identi-Kit operator. The detective may or may not be present. The drawing or composite can take several hours to finish and may be very stressful to a survivor. The artist or operator will probably be a police officer, and hopefully will be skilled and sensitive in working with victims of sexual assault.

**Polygraph:** New York State law states that no district attorney, police officer or employee or any law enforcement agency shall request or require any victim of a sexual assault to submit to any polygraph test or psychological stress evaluator examination. If a police officer or investigator requests a survivor to undergo an exam such as this, you should remind the law enforcement officer of this law (*See Appendix E for Polygraph Law*).

**Interviewing other witnesses:** The police will be interviewing other people, such

as anyone present at a party or gathering at which an assault occurred, or at any location where events took place preceding an assault. Officers may also question anyone who may know or may have seen the offender, roommates of the survivor and other friends or acquaintances of hers. Once a suspect has been apprehended, he too will be questioned.

**Controlled phone call:** If the offender is known to the survivor, the investigator might ask the survivor if she would consent to having a phone conversation with the offender recorded. During the conversation, the survivor would attempt to discuss the assault in order to get the offender to confess.

By helping the survivor understand what to expect in all the stages of her contact with law enforcement, the advocate will increase the survivor's sense of power in the process.

---

<sup>1</sup> Epstein, J., & Langenbahn, S. (1994). *The criminal justice and community response to rape*. United States Department of Justice.

<sup>2</sup> Symonds, M. (1975). *Victims of violence: Psychological effects and after effects*. *American Journal of Psychoanalysis*, 35

<sup>3</sup> *ibid*