Advocates Role in the Criminal Justice System

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Advocates Role in the Criminal Justice System

OBJECTIVES:

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

- Understand the role and challenges of prosecution based advocates
- Explain how advocates help navigate victims through the Criminal Justice system
Objectives

- To understand the role of the prosecution based (Victim/Witness) Advocate
- To understand the advocate’s role and responsibilities in helping victims navigate through the Criminal Justice System

Federal Victim Witness Protection Act 1982

- “To enhance and protect the necessary role of crime victims and witnesses in the criminal justice process”
- “To assist victims, and witnesses of crime w/o infringing on the constitutional rights of defendants...”
NEW HAMPSHIRE CRIME VICTIM BILL OF RIGHTS - 1991

Victims have the right:

• To be treated with dignity and respect
• To be assisted by criminal justice agencies
• To be informed about the criminal justice system. Whenever practicable, to be notified of plea agreements, and the right to comment on them, before they are brought before the Court
• Whenever practicable, to be notified of all judicial proceedings, including time and place of trial. To speak before the Court at sentencing regarding the impact of the crime and the sentence to be imposed by the Court
• To request restitution
• Whenever practicable, to be notified of all judicial proceedings, including time and place of trial, plea agreements, and the right to comment on them, before they are brought before the Court
• To be informed about the criminal justice system. Whenever practicable, to be notified of hearings, and the right to attend, the procedures, and the right to be represented by counsel, the defendant's right to remain silent, and the right to question witnesses.
• To be offered compensation from the Victim Compensation Board
• To be treated with dignity and respect

MAINE CRIME VICTIM RIGHTS - 1995

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• Whenever practicable, to be notified of all judicial proceedings, including time and place of trial. To speak before the Court at sentencing regarding the impact of the crime and the sentence to be imposed by the Court
• To request restitution
• To request compensation from the Victim Compensation Board
• To be notified of defendant's release from institutional confinement after serving a sentence in all felony cases upon request to DOC
• To be notified in Domestic violence cases when the defendant makes bail
• To be provided with a pamphlet containing certain statutes which pertain to victim's rights

The Criminal Justice Process

STATE V. ACCUSED

V/W Advocates are vital to prosecution and law enforcement agencies as they bridge the gap between the criminal justice process and the victim.
Mission

- 1984 - Maine – first V/W advocate position
- 1985 - NH – first V/W advocate position

To provide direct services, information, orientation and support to victims of crime to minimize the impact that the crime and the resulting involvement in the criminal justice system has on their lives, to ensure that their rights are protected and that they are treated with dignity and respect throughout.

Different Roles

- V/W advocates play a different role in relationship to victims than community based (crisis center ~CC) advocates
- The better we understand the different goals, responsibilities and approaches, the better we can work together
- Lack of understanding encourages a lack of confidence in and suspicion of the system:
  - “V/W Advocates aren’t really advocates – they just work for the prosecution.”
- False assumptions that may impede proper communication and therefore affect end results and more unnecessary trauma

Focus...

Victim/Witness Advocates...

focus on education, information and notification about the system, helping them understand how their truth will impact the process/trial, and support them through the process.

Crisis Center Advocates...

focus on listening to personal stories and providing support and empowerment through those stories and moving forward. Absolute truth is not the priority.
Confidentiality

• Both Maine and New Hampshire Crisis Center advocates have confidential communication with victims

• Maine Victim/Witness advocates have confidential communication

• New Hampshire Victim/Witness advocates do not have confidential communications

Victim/Witness Advocate must have:

• A detailed understanding of each stage of the criminal justice process from a victim’s initial report to law enforcement through sentencing and post-conviction action.

• A thorough knowledge of court rules, victim rights, and the rights of the accused, in order to explain to a victim or family the status of a criminal case at any stage of the investigation or prosecution.

Victim Witness Advocate Services

- Crisis Intervention and Support
- Assistance with Immediate Concerns
- Assistance with Victim Compensation & Restitution
- Media Coordination
- Orientation to the Criminal Justice System
- Case Status and Disposition
- Court Advocacy Services
- Employer, School, Landlord and Creditor Intervention
- Referral
- Property Return Assistance
- Assistance with Victim Impact Statements
- Post Conviction Services
Role of Prosecution Based Advocates:

- After arrest
- Pre-Trial
- Trial
- Post-Conviction

Pretrial...

- Serve as a liaison between the victim and investigators/prosecutors
- Orient victims into criminal justice system explaining all aspects of the process
- Notify victims of all related hearing and trial dates and attends them with survivors

Pretrial...

- Keep victims updated on case status
- Review pleadings and motions with victims and explains ramifications of each ruling
- Represent the interests and concerns of the families to the prosecution team
- Set up meetings between victim and prosecutors
Trial…

- Support victims through trial
- Preparing victims for specific testimony – autopsies, photographs
- Schedule witness preparation meetings
- Locate and schedule witnesses including experts, law enforcement personnel and civilians
- Arrange for transportation/lodging for out of state witnesses

Trial…

- Alleviate fear of testifying, address individual concerns and attempt to assist them in being strong, confident and effective witnesses
- Assist with witness fees
- Employer, school or creditor intervention
- Assist with preparing victim impact statements

Post Conviction…

- Explain appeal process, and keep co-victims updated on progress
- Explain sentence review process and keep co-victims notified
- Assist co-victims with property return
Post Conviction…

- Arrange for inmate change of status and parole notification
- Notify victims of any sentence suspension motions, hearings and results
- Notify and attend parole hearings with co-victims
- Explain appeal process, and keep survivors updated on progress

Post Conviction…

- Explain sentence review process and keep survivors notified
- Assist with property return
- Arrange for inmate change of status and parole notification
- Notify survivors of any sentence suspension motions, hearings and results
- Attend parole hearings with survivors

NEW HAMPSHIRE

Victim/Witness Advocates as Witnesses

It is imperative that victim/witness advocates be in the courtroom to support the victim through the criminal justice process. RSA 516:7-a mandates that "if a victim/witness advocate is called as a witness it is up to the defense "to show cause why such victim/witness advocate's testimony is necessary. In no case shall a victim/witness advocate be sequestered" unless the court finds and orders that based on the facts of the case, the failure to sequester would violate a defendant's rights.

Victims are considered a "party" and are not sequestered out of the courtroom during trial.
**Activity - Scenarios**

*Prosecution Based Advocacy*

1. What are your roles and responsibilities as a prosecution based advocate?

2. What are some obstacles/challenges that the prosecution based advocate faces?

3. Explore the expectations of the victim and the realities of the criminal justice system.

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**Goal is to ensure that victims receive all case information and case facts directly – not from media or other sources.**

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**Never say...**

“**I UNDERSTAND HOW YOU FEEL!!!!!!**”