Building Better Communities:
The Role of Victims’ Rights & Advocacy

This material was produced by the International Association of Chiefs of Police (IACP) and National Crime Victim Law Institute (NCVLI) under 2018-V3-GX-K049, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this material are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.
Housekeeping

Law Enforcement-Based Victim Services Program (LEV)
Housekeeping

Audio:
- Click the audio icon and then choose “Select Speaker” to use your computer’s speakers for sound.

Raise Hand:
- Raise virtual hand if you have a comment or when asked by facilitators. Select the dropdown for other options.
Housekeeping

Poll Questions:
• Select your answer(s) on screen

Chat Box
• Visible to attendees and hosts/presenters
• Use to chat to whole audience and to respond to presenter questions

Handouts:
• Handouts can be downloaded via the Files box.

Closed Captioning
• Click the “CC” icon at the top of your screen to enable captions
Presenters

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Who is NCVLI?

The ONLY national nonprofit dedicated to protecting and enforcing victims’ legal rights.

Based at Lewis & Clark Law School in Portland, Oregon, NCVLI promotes balance and fairness in the justice system through crime victim centered legal advocacy, education, and resource-sharing.

www.ncvli.org
Frame for the Day
Using the chat box please type in your/your department’s goal regarding providing victims’ rights?
Operating Assumption:

Victim experience
How will we get there?

❖ **DISCUSS** survivor/victim* experience of system.

❖ **IDENTIFY** the impacts of that experience on investigation and prosecution.

❖ **ARTICLATE** key victims’ rights & why they are important

❖ **EXPLAIN** how law enforcement-based victim* advocacy can improve outcomes.
How do you define “trauma”?

PSYCHOLOGICAL TRAUMA

PTSD

anxiety, risk, fear, horror, nightmares, anxiety, risk, fear, horror, nightmares,

traumatic event, numbing, emotional health problems, traumatic event, numbing, emotional health problems,
What is trauma?

- Extreme threat, terror, and/or horror
- Loss or perceived loss of control

= Trauma
The core experiences of psychological trauma are *dismempowerment and disconnection*. Recovery (our ability to engage), therefore, is based upon the empowerment of the survivor and the creation of new connections.”

- Dr. Judith Herman, “Trauma and Recovery”
What are types of trauma or things that can cause trauma?
But we’re the helpers – are we really part of trauma?!?!
In the words of Judith Herman, M.D., “if one set out intentionally to design a system for provoking symptoms of posttraumatic stress disorder, it might look very much like a court of law.”
And then there’s triggering

amygdala, hippocampus, prefrontal cortex, adrenal glands . . .
Oh my . . .
What victim behavior has caused confusion for law enforcement, a prosecutor, a jury?

A. Lack of voluntary participation in a case
B. Nonresponsiveness when someone is trying to help.
C. Not removing themselves from abuse and/or a dangerous situation
D. On-going use of drugs and/or alcohol
E. Emotional and/or lack of emotional presentation at “odd” times.
F. All of the above
THE IMPACT OF TRAUMA: Behavior

Emotional Reactions
- Feelings – emotions, dysregulation
- Alteration in consciousness
- Hyper-vigilence

Psychological and Cognitive Reactions
- Concentration, slowed thinking, difficulty with decisions, blame

Behavioral or physical
- Pain, sleep, illness, substance abuse,

Beliefs
- Changes your sense of self, others, world
- Relational disturbance

Fight, Flight.........& Freeze
Tend and Befriend (Taylor, et al)
“reflexes & habits” (Dr. Jim Hopper)
What victim statement issues have caused confusion for law enforcement, a prosecutor, a jury ...?

A. Inability to recall what happened in a chronological manner
B. “Inconsistent” statements about what happened
C. Different details throughout numerous statements
D. Can’t remember what seem like obvious details
E. All of the above
THE IMPACT OF TRAUMA: Memory

- Anything NOT experienced as critical to the victim’s survival is not given much attention—they are “peripheral details.”

- Traumatic memories are encoded in the brain differently.
  - Lack of chronology & disjointed narrative are common

- Traditional interviewing techniques can be ineffective and frustrating.
“BUT I’M NOT A THERAPIST…”

But you are engaging with a trauma-impacted person, so...heed the advice:

“The core experiences of psychological trauma are *d*isempowerment and *d*isconnection. Recovery (& our ability to engage), therefore, is based upon the empowerment of the survivor and the creation of new connections.”

Dr. Judith Herman, “Trauma and Recovery”
Case Attrition Example

Of 100 rapes committed

An estimated 5-20 are reported to police

0.4 – 5.4 are prosecuted

0.2 – 5.2 resulted in conviction


Stranger rapes usually account for only approximately 14% of all rapes.
Getting to the Goal

A Different Route
Which of the following is least correlated to victim satisfaction with criminal justice?

A. Knowing when each hearing/procedural moment will happen.
B. Feeling heard/listened to.
C. Agreeing with case outcome.
D. Being informed along the way of what to expect.
Different Approaches

- 25 year-old woman
- Raped by a friend’s brother at a 4th of July party
- File police report
- Detective interview

“He wouldn’t let up, pounding me with question after question. Trying to trick, trying to get me to mess up. I wanted to say, ‘hold on, give me a minute to think.’ No, he kept coming at me.”

A Different Approach

“It was classic good cop / bad cop. He stormed off and another detective sat down next to me. He offered me a cup of coffee. Coffee? Ok fine. How do I take it? WHAT? Why does he care how I take my coffee? Well he did. He made me coffee. He gave me time to just sit, collect my thoughts.”
A Different Approach

“We talked it through. And I didn’t feel rattled and freaked out. I’m sure I was incoherent and he just let it roll. He was patient.
I felt like I was piecing it together, like a puzzle, we were putting together a puzzle together.
And drinking coffee.”
A Different Approach

- I: So, why did you do that? (give her coffee)

- R: It helps. Not the coffee so much, just the moment to let it all come together in their heads.

- I: What do you mean?

- R: I don’t know why it’s like that, I’ve just noticed that over the years. If you give them a few minutes to breathe....it starts to make more sense. I don’t know why, it just does.
A Different Approach

**I:** Were you worried that if you gave her some time, she’d just make something up?

**R:** Nah, not really. I mean, some victims lie, but most don’t. Besides, if they’re lying, we’ll catch them at it eventually. I think it’s just hard for victims to talk about and we just need to have a little patience.”
What are some “old school” ways of treating victims that we as advocates can work to change?
What gives victims a legal voice & choice?

RIGHTS
Take 1 minute & write down as many rights as you can think of that victims are entitled to by law in your jurisdiction.

- Be reasonably protected from the accused
- Reasonable, accurate, and timely notice of public court proceedings
- Not be excluded from any public proceeding
- Be reasonably heard at any public proceeding
- Proceedings free from unreasonable delay
- Be treated with fairness and with respect for their dignity and privacy

Every Jurisdiction Has Something Similar!
Most victims can recite their rights just as easily as a defendant recites theirs.

True or False?
words on paper
So how can we talk with victims about their rights?
Let’s look at one victims’ right:

Why privacy?
Using the chat box:

Type in as many reasons you can think of that privacy might matter to victims.
It’s the keystone
All of the cultural and personal notions of what may be considered “private” information

A legal and/or professional ethical duty not to disclose victim-client information learned in confidence without informed consent

A legal right not to disclose—or to prevent the disclosure of—certain information in connection with court and other proceedings
Prosecutors have a legal obligation to disclose select information to defendants.

“[S]uppression by the prosecution of evidence favorable to an accused . . . violates due process where . . . evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”

Within the State’s Possession or Control

Practice Pointer (Generally)

- System-Based Advocates
- Community-Based Advocates
- Law Enforcement Officers
- Others Acting on the Government’s Behalf
- Victims’ Rights Attorneys
So how can we as advocates protect a victim’s right to privacy?
Let’s dig in a bit.
What if a victim calls you and says:

“I think there might be things on my cell phone that could help with the case. What should I do?”
If you can’t explain it **simply**, you don’t understand it well enough.

- Albert Einstein
How can I train fellow law enforcement about victims’ rights – beyond privacy?
Sometime things don’t go right

Warning: Mistake Ahead
How can I talk with my own agency when I think a right has been violated?
Reminders

**Quarterly Meeting**
Topic: *Victims’ Rights Application*

Week of August 23rd – 27th

- TA Track 1: Date/time TBD
- TA Track 2: Monday, August 23rd at 1pm EST
- TA Track 3: Friday, August 27th at 1pm EST
- TA Track 4: Thursday, August 26th at 1pm EST
- TA Track 5: Wednesday, August 25th at 1pm EST
- TA Track 6: Tuesday, August 24th at 1pm EST

**LEV Virtual Training**
Topic: *Advocacy Parameters*

Week of October 4th
Thank you
Questions?

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