

## **Module 2: What is Sexual Assault Advocacy/Counseling?**

### **Purpose**

This module is intended to help you understand your roles and responsibilities as an advocate and the roles of others with whom you will work.

### **Lessons**

1. Basic Tenets of Advocacy
2. Overview of Sexual Assault Response Teams (SART) and Sexual Assault Nurse Examiners (SANE)
3. Roles of the Advocate
4. Maintaining Confidentiality

### **Learning Objectives**

By the end of this module, you will be able to:

- Describe the composition of a SART.
- Identify the major roles of an advocate.
- Make appropriate decisions about confidentiality based on state reporting laws.

### **Participant Worksheet**

- Worksheet 2.1, Confidentiality Scenarios

## 1. Basic Tenets of Advocacy

The following are basic tenets of advocacy—practices that ALL victim service providers need to practice.

### **Provide victims with information about their options.**

One of the things that advocacy does is provide victims with information about their options so they can make educated choices (Ledray 1999; Ledray, O'Brien, and Chasson 2011). Advocacy encourages victims to ultimately advocate for themselves while giving them a voice when they are too weak to speak.

### **Provide trauma-specific services.**

Advocacy should be trauma-specific, addressing the immediate traumatic event, coping with the event, safety issues, risk of harm to self or others, and other presenting problems.

### **Work with the victim to develop an action plan.**

Crisis intervention should focus on organizing information about the individual and event to develop an action plan and connect the individual to appropriate supports. Supports may include longer term supports for preexisting life problems such as an abusive relationship, substance abuse, mental health problems, or financial troubles, as these affect recovery and are thus important. It is important to know when to make referrals and which community resources are appropriate for followup counseling (Roberts 2002).

### **Listen and believe the victim.**

Whatever the scenario, the overriding tenet of advocacy is to listen and believe. The healing power of this is extraordinary. Survivors do not need to prove they are suffering to win support; advocates give unconditional support while safeguarding the individual's right to be treated with respect, whatever the circumstance.

The unfortunate reality is that an advocate may be the only person who believes a victim without question, comment, or blame, which makes the words, "I believe you," and the corollary, "It wasn't your fault," that much more powerful. The rare case when a survivor is dishonest is relatively unimportant. Clearly, the survivor is suffering on some level and has most likely been victimized in some way. Having the wool pulled over our eyes on that rare occasion is a small price to pay for extending the healing power of unconditional belief that has helped so many survivors.

### **Neither investigate nor judge.**

Another advocacy maxim is neither to investigate nor judge. Asking questions so the account makes sense can jeopardize the advocate's relationship with the survivor. Leave the investigation to the investigators. This means no notetaking while the survivor talks about the assault. Keeping one's hands free nonverbally communicates to the survivor that the advocate is not interested in "taking" anything (including a report) but rather is present as a trusted ally.

Advocates are the only first responders who have no other responsibilities and no pressing agenda.

### **Practice teamwork.**

In addition to these basic tenets, participants must keep the word “teamwork” in mind. As advocates, they will work with other professionals, from law enforcement officers to medical professionals, to meet the needs of sexual assault victims.

Explain options to the victim (and also refer to state laws regarding mandated reporting). The victim has the right to make his/her choice on whether to report a sexual assault and whether to have a medical/forensic examination conducted. The adult victim has the following choices:

1. No report to law enforcement and no medical or forensic examination.
2. No report to law enforcement, consents to medical/forensic examination (the patient has the right to consent to all or part of this examination).
3. Report to law enforcement, and consents to medical/forensic examination.

## **2. Overview of Sexual Assault Response Teams (SART) and Sexual Assault Nurse Examiners (SANE)**

### **Sexual Assault Response Teams (SART)**

No single agency can meet all of the needs of the sexual assault survivor. Sexual assault services, medical professionals, law enforcement, and prosecutors have recognized the benefits of collaborating in their work with sexual assault survivors.

In addition to learning to work effectively with victims of sexual assault, advocates must learn to work cooperatively and effectively with those with whom they will collaborate.

### **Effective Model**

In many communities, the group of individuals from different agencies who work with sexual assault survivors is referred to as the SART.

Demonstrated to be an effective model for providing better services to sexual assault victims, the SART concept includes crisis intervention and long-term counseling, investigation, and evidence collection, and a more sensitive initial medical response to sexual assault victims (Ledray 1999; Ledray, O’Brien, and Chasson 2011).

An empirical review of the effectiveness of SARTs found that these teams improve multidisciplinary relationships among responders; improve legal outcomes such as victim participation in the case, types of evidence collected, and the likelihood of arrest and charges; and render victims’ help-seeking experiences less traumatic.

Compared to non-SANE/SART cases, SANE/SART cases are reported more quickly, have more

evidence (DNA evidence in particular) available, and have more victim participation (Nugent-Borakove et al. 2006).

However, SARTS do not appear to impact conviction rates or sentence length among those who are charged, and challenges remain in negotiating the SART's multidisciplinary collaborative relationships, addressing conflicting professional goals, and navigating confidentiality limitations across agencies (Greeson and Campbell 2013).

### **SART Membership**

SART membership varies depending on the community and the needs of a particular sexual assault survivor.

At a minimum, it should include:

- Sexual assault advocates.
- Medical personnel.
- Law enforcement.
- Prosecutors.
- Crime laboratory specialists.
- Other related personnel (domestic violence victim advocates, clergy, and other social service agency personnel).

In some communities, a core group of SART members may respond together in the emergency department, or they may simply work cooperatively to meet the needs of sexual assault survivors and their families/significant others.

### **Sexual Assault Nurse Examiners (SANE)**

The medical professional who participates in a SART is often a SANE. In some states, you may hear the term Sexual Assault Forensic Examiner (SAFE), or Forensic Nurse Examiner (FNE). The terms are essentially interchangeable. For purposes of this training, the term SANE will be used.

**Note:** A National Protocol for Sexual Assault Medical Forensic Examinations-Adult/Adolescents, 2014 (2<sup>nd</sup> Edition) published by the Department of Justice states the term “patient” is used when discussing the role of the medical provider.

### **Specially trained medical providers.**

SANEs are specially trained medical providers (depending on local policy, they may be registered nurses, nurse practitioners, or physician assistants) who provide 24-hour-a-day, first-response medical care and crisis intervention to specified emergency departments, medical clinics, community agencies, or independent SANE facilities (Campbell et al. 2005).

SANEs are trained to understand that the purpose of the exam process is to address the patient's health care needs, taking into account the patient's specific emotional needs as well as the importance of properly collecting forensic evidence that can be used in legal proceedings.

### **Effective model for better evidence collection and sensitive medical response.**

The SANE concept has been shown to be an effective model for providing better evidence collection and a more sensitive initial medical response to sexual assault victims (Ledray, O'Brien, and Chasson 2011).

A review of medical, legal, and community outcomes of SANE programs found them to be effective in promoting psychological recovery of survivors, providing comprehensive trauma-related medical care, documenting evidence accurately and completely, improving prosecution by providing better forensics and expert testimony, and creating community change by bringing multiple service providers together (Campbell et al. 2005).

### **Need for SANEs**

Medical professionals developed the first SANE programs in the mid-1970s after recognizing the need for better care for sexual assault victims in the emergency department.

Previously, when sexual assault victims came to the emergency department for care, they often had to wait as long as 4 to 12 hours in a busy public area, their wounds considered less serious than those of other trauma victims, as they competed unsuccessfully for staff time with the critically ill or injured (Holloway and Swan 1993; Sandrick 1996; Speck and Aiken 1995). Often, they were not allowed to eat, drink, or urinate while they waited, for fear of destroying evidence (Thomas and Zachritz 1993).

Doctors and nurses were often insufficiently trained to do medical-legal exams, and many lacked the ability to provide expert witness testimony as well (Lynch 1993).

Even trained staff often failed to complete a sufficient number of exams to maintain any level of proficiency (Lenehan 1991; Tobias 1990; Yorker 1996). When the victim's medical needs were met, emotional needs all too often got overlooked (Speck and Aiken 1995) or even worse, the survivor was blamed for the sexual assault by the emergency department staff (Kiffe 1996).

There are many published and anecdotal reports of physicians being reluctant to do the exam. Many factors contributed to this, including their lack of training and experience in forensic evidence collection (Bell 1995; Lynch 1993; Speck and Aiken 1995); the time-consuming nature of the evidentiary exam in a busy emergency department with many other medically urgent

patients (DiNitto 1986; Frank 1996); and the potential of being subpoenaed and taken away from the emergency department to be questioned by a sometimes hostile defense attorney while testifying in court (DiNitto 1986; Frank 1996; Speck and Aiken 1995; Thomas and Zachritz 1993).

As a result, documentation of evidence could be rushed, inadequate, or incomplete (Frank 1996). Many physicians simply refused to do the exam (DiNitto 1986).

Advocates must work cooperatively with other members of a SART or, if there is no formal SART in their community, with other first responders. Strategies and considerations for working effectively with SART members will be explored throughout this training.

Sexual assault services, advocacy, specialized training, and teamwork have greatly improved the quality of care for sexual assault victims. Advocates have provided and continue to provide a range of services to address the needs of victims and their families/significant others. The next section will examine in detail the various roles of the advocate.

### **3. Roles of the Advocate**

Advocates most commonly provide any or all of the following services:

- Crisis telephone line staffing, which involves giving victims of sexual assault immediate support and information about what to do after an assault.
- Medical-evidentiary exam response, during which an advocate's primary functions are to provide the victim with information about options, answer questions, provide support and crisis intervention, and advocate on the victim's behalf with the medical personnel providing care.
- Law enforcement statement accompaniment, which involves the advocate accompanying the sexual assault victim to an investigator's office to give an official statement of the assault.
- Courtroom accompaniment, which involves accompanying the victim to attorney appointments, as well as to the courtroom.
- Family/significant other supportive counseling, which involves providing information and support to family members or significant others.
- Encourage and help facilitate the SANE followup examination of indicated.

There are two types of advocates: community-based advocates and system-based advocates.

- **Community-Based Advocates:** The Center for Sex Offender Management states community-based advocates “work in an independent, usually nonprofit, organization dedicated to assisting victims of sexual assault.
  - ♦ Victims are generally referred to community-based advocates by rape crisis hotlines, hospitals, or law enforcement agencies. However, referrals also may come through prosecuting attorney's offices, educational institutions, faith-based organizations, social service agencies, or victims' friends, relatives, or colleagues.”  
(<https://ovc.ncjrs.gov/sartkit/develop/team-advocate-c.html>)
- **System-Based Advocates:** System-based advocates are generally employed by the criminal justice system (law enforcement, prosecuting attorney’s office).

Community-based advocates serve victims regardless of whether they report to the criminal justice system; system-based advocates generally serve victims whose cases are in the criminal justice system.

System-based advocates are not able to offer victims confidential services; community-based advocates generally can. For this reason, a system-based advocate should not be present during the SANE exam, whereas a community-based advocate can be present with patient consent.

Procedures for each of these roles will be examined more closely later in this training. Advocates may also provide walk-in crisis intervention; individual, ongoing supportive counseling; or support-group facilitation. However, these roles are less common for volunteers and will not be addressed in depth in this training.

You can find more information about the roles of an advocate in the toolkit in this manual called Information and Tools for Program Managers.

## **4. Maintaining Confidentiality**

### **The Importance of Maintaining Confidentiality**

It is important to maintain confidentiality because it is the victim’s right, it gives the victim more control and the ability to make informed decisions about whom to tell, and it promotes the safety of disclosure.

Advocates have a responsibility to maintain confidentiality, to the limits of the law, about each and every case with which they are involved.

Sexual assault may represent a loss of control over one’s body and over the ability to choose with whom to be sexual. It is extremely important that the victim be able to retain control after the assault to the greatest extent possible. Deciding who will know about the sexual assault is an important part of regaining control. Maintaining confidentiality is one way to help the victim regain control over who does and does not know that the sexual assault occurred.

### **The Limits of Confidentiality**

Only when victims know the limits of the confidentiality can they make a safe, educated choice about what to tell the advocate, SANE, or counselor.

Sexual assault advocates/counselors in many states have gone to great lengths to get state legislation passed to ensure that their conversations with sexual assault victims are completely confidential and that they cannot be subpoenaed to testify even if the case goes to court. Advocates must know the limits of confidentiality for sexual assault advocates in their state and communicate these to victims before the victims disclose information (Ledray, O'Brien, and Chasson 2011). Confidentiality is sometimes restricted based on organizational affiliation, position title, and other factors.

### **Confidentiality and the SANE's Unique Role**

Because SANEs have a unique role as a medical provider and a forensic examiner, they expect that everything the victim tells them could be admitted into evidence and used in court.

In other medical examinations, HIPAA requires the medical personnel to maintain all health-related information confidential.

However, because this is a medical-legal exam, the SANE will ask the victim to sign a release of information giving them permission to release all of the information gathered during this particular medical visit to law enforcement.

The record of the visit and any physical evidence collected is an important part of the evidence that may be used in the investigation and prosecution of the reported sexual assault.

This release ONLY applies to health information collected on this particular visit. It DOES NOT apply to any other health records. The SANE is responsible for obtaining the consent and informing the victim about this lack of confidentiality.

### **Advantage of the SANE's Medical Role**

One advantage of the SANE's medical role is that the SANE can testify to things the victim says during the medical forensic examination.

For example, if the victim tells the SANE information that establishes the sexual contact was forced, the SANE can testify to this in the courtroom as a medical exception to the hearsay rule, even if it was not an "excited utterance" (a statement made by a person in response to a startling or shocking event or condition).

The activity offers the opportunity to explore confidentiality scenarios.

Maintaining confidentiality means:

- Not talking to the media about the case without the victim's permission.
- Not using the victim's name when discussing the case with coworkers.
- Not discussing cases with your family.
- Not talking about cases on an elevator or in a public place.
- Not using any details of cases, even anonymously, for training purposes.

Especially in a small community, it is all too easy to breach client confidentiality unknowingly.



Module 2

What is Sexual Assault  
Advocacy/Counseling?




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**Learning Objectives**

- Describe the composition of a Sexual Assault Response Team (SART).
- Identify the major roles of an advocate.
- Make appropriate decisions about confidentiality based on state reporting laws.



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**Tenets of Advocacy**

- Provide victims with information about their options.
- Provide trauma-specific services.
- Work with the victim to develop an action plan.
- Listen and believe the victim.
- Neither investigate nor judge.
- Practice teamwork.



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## Victim Options

The victim has the right to:

- Make his/her choice on whether to report a sexual assault.
- Decide whether or not a medical/forensic examination is conducted.



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## SARTs and SANEs



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What do you know about Sexual Assault Response Teams (SART) and Sexual Assault Nurse Examiners (SANE)?



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## Sexual Assault Response Teams (SART)



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- Group of individuals from different agencies who work with sexual assault victims.
- Effective model.
- Crisis intervention and long-term counseling.
- Investigation and evidence collection.
- More sensitive medical response to rape victims.

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## SART Membership Varies



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- At minimum, sexual assault advocate, medical personnel, law enforcement, prosecutor, and crime laboratory specialist.
- May also include domestic violence victim advocates, clergy, and other social service agency personnel.



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## Sexual Assault Nurse Examiners (SANE)

- Medical professionals who participate in a SART.
- Specially trained medical providers.
- Trained to understand that the exam purpose is to address patient's health care and emotional needs.
- Better evidence collection and more sensitive initial medical response.



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## Need for SANEs

- Long waits.
- Could not eat, drink, or urinate while waiting.
- Doctors and nurses had insufficient training.
- Improper evidence collection.
- Proper exams are time consuming.
- Medical professionals fear subpoenas.



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## Teamwork

- Rape crisis center, advocacy, specialized training, and teamwork have greatly improved the quality of care for victims.
- Advocates provide a range of services for victims and families.



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## Roles of the Advocate

- Crisis telephone line staffing.
- Medical-evidentiary exam response.
- Law enforcement statement accompaniment.
- Courtroom accompaniment.
- Family/significant other supportive counseling.
- Encourage/help facilitate SANE followup exam of indicated.



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## Types of Advocates



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- Community-based advocates:
  - ♦ Work for independent organizations.
  - ♦ Can be present during a SANE exam.
- System-based advocates:
  - ♦ Are employed by the criminal justice system (i.e., law enforcement or prosecuting attorney's office).
  - ♦ Should not be present during a SANE exam.

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## Roles of the Advocate

- Walk-in crisis intervention.
- Individual, ongoing supportive counseling.
- Support-group facilitation.



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## Confidentiality



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- It is the victim's right.
- It gives the victim control.
- It makes disclosure safe.

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## Confidentiality

Issues differ for advocates and SANEs.

- Rape crisis centers in many states have lobbied for legislation so advocates can't be subpoenaed; advocates must know limits of confidentiality.
- SANEs expect that everything the victim says can be admitted into evidence.

Ensure the victim knows the limits of confidentiality.

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## Activity



### Law Review Worksheet 2.1, Appendix A, and Appendix B

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- Review the appendices:
  - ♦ Background on VAWA 2005, VAWA 2013, and Forensic Compliance.
  - ♦ HIPAA Privacy Guidelines and Sexual Assault Crisis Centers.
- Complete the worksheet.

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## Maintaining Confidentiality Means...

- Not talking to the media.
- Not using the victim's name when discussing with coworkers.
- Not discussing cases with your family.
- Not talking about cases on an elevator or in a public place.
- Not using any details of cases for training purposes.



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## Review of Learning Objectives

- Describe the composition of a Sexual Assault Response Team (SART).
- Identify the major roles of an advocate.
- Make appropriate decisions about confidentiality based on state reporting laws.

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End of Module 2

Questions? Comments?



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