

# SECTION: Non-Shelter/Community-Based Services

## TOPIC TITLE: Legal Advocacy

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### Importance of Topic:

The legal system can be incredibly overwhelming. Advocates should have a strong knowledge of the resources available to protect and support a survivor in the legal setting. Relationship-building with those in the legal system can help with supporting survivors. Identifying community resources with legal expertise and connecting a survivor to them can help a survivor navigate the complexity of the legal system.

See also Courts.

### Statutes/Professional Standards:

- Code of Virginia Reference:
    - [§ 16.1-279.1. Protective order in cases of family abuse](#)
    - [§ 16.1-253.4. Emergency protective orders authorized in certain cases](#)
    - [§ 16.1-253.1. Preliminary protective orders in cases of family abuse: confidentiality](#)
    - [§ 19.2-152.13. Emergency substantial risk order](#)
    - [§ 54.1-3904. Penalty for practicing without authority](#)
  - [Professional Standards Reference:](#)
    - Standard #10 - SDVAs will ensure that survivors in their community have 24/7 access to accompaniment services when they access emergency medical or justice systems.
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- Standard #12 - SDVAs will provide a range of individualized advocacy services which foster survivor healing from the trauma of violence (includes justice system advocacy).
- Standard #13 - SDVAs will coordinate services within the agency and the community to promote high quality integrated services and support to survivors (includes Victim Witness, Legal aid, etc.).
- Training Requirements - Level II training topic - Civil and Criminal Justice Systems

### **Terms Used or Needed to Understand this Topic:**

*Legal Advocacy:* Legal advocacy is the giving of information about criminal/civil legal processes and providing support to survivors as they navigate the legal system. Some legal advocacy services could include accompaniment to forensic interviews or court proceedings, assistance with protection orders, help filling out various kinds of paperwork or collecting documentation, referrals to law professionals and local Legal Aid attorneys, and assistance with accessing Virginia Victim Fund resources. Legal advocates cannot represent survivors in criminal/civil proceedings or provide legal advice or legal services.

*Legal advice:* Legal advice is the giving of a professional or formal opinion regarding the substance or procedure of the law in relation to a particular factual situation. The provision of legal advice will often involve analyzing a set of facts and advising a person to take a specific course of action based on the applicable law (Wikipedia - [Legal advice](#)).

*Legal services:* Legal services consist principally of one or more of the following: preparing legal instruments, providing answers to legal problems (legal advice), and appearance in a representational capacity before adjudicatory tribunals (Battered Women's Justice Project - [UPL for DV Advocates](#)).

*Subpoena:* A subpoena is a written document which demands that an individual testify in a specific case, turn over information, or do both. Most subpoenas are issued by an attorney or prosecutor in various types of court cases including criminal, juvenile court, and grand juries. In most states, it is not considered a court order unless signed by a judge. Regardless of who sent the subpoena, programs should never ignore it, and they should NEVER simply

turn over the information requested without making objections and taking protective measures. The appropriate response will vary and depend on several factors (TechSafety, NNEDV - [How to Respond to a Subpoena — Technology Safety](#)).

*Civil Legal Aid:* Civil legal aid is free legal assistance to low- and middle-income people who have civil legal problems. These problems are non-criminal; rather, civil legal aid helps people access basic necessities such as health care, housing, government benefits, employment, and educational services (DOJ - [Civil Legal Aid 101](#)).

## **Did You Know?**

Legal information is different from legal advice. Advocates also need to be clear that they can share information, but they are not giving advice.

## **Racial/Social Justice Focus:**

People of color, LGBTQ people, and immigrants may not have had positive experiences with the legal system and may very well have experienced bias or overt racism in previous interactions with the legal system. Advocates need to be conscious of a survivor's reluctance to use the legal system and be prepared to provide additional help with navigation.

*Scenario 1:* A woman calls the office number at her local domestic violence service program to ask about legal advocacy assistance. She is seeking a protective order from her wife who has become abusive after they got married several months ago. When the advocate begins going over the options for a protective order, the woman becomes angry and says she thought the advocate could just get her the protective order. The advocate is surprised by the level of emotion and pauses before responding. The advocate asks the woman if she has had prior experience with the legal system, and if so, what was that experience. The woman tells her that when she applied for her marriage license, she felt like there were microaggressions and intrusive jokes about her sexuality.

- What might the advocate do in this situation to help the client?
- Does the advocate need to assess for safety?

*Scenario 2:* Rochelle is a Black woman with grown children. She enters the shelter after having a forensic exam at her local emergency department. Although she agreed to the forensic exam, she did not want to report to the police at that time. A few days into her stay, Rochelle's case manager asks her if she is interested in making a report to the police and potentially obtaining a protective order. The advocate tells her that they have a staff person whose specific job is legal advocacy and that she can help her with these options. Rochelle's past experiences with the police have included being charged with assault against her partner and almost losing her children who were under 18 at that time. Although this happened in another jurisdiction, Rochelle is very reluctant to trust or pursue anything with the legal system.

- Would a warm handoff between the case manager and legal advocate be useful in this situation even if that's not normally done?
- How can the legal advocate help in this situation?
- What if Rochelle is still resistant to reporting to the police?

### **Trauma-informed Focus:**

Develop ways to make a survivor feel more comfortable with the legal system. Strong connections with Victim Witness staff can help. As a legal advocate, you may be familiar with the legal system, but for the survivor it may be the first time they have had to interact with the system or the first time that they have sought help from the legal system. Legal terminology can sound very scary to someone experiencing trauma.

### **Promising Practices:**

*Overview of General Characteristics:*

- The program has strong connections with victim witness staff in all jurisdictions that they serve. See [VICTIM/WITNESS PROGRAMS IN VIRGINIA](#) for a list of victim witness programs in Virginia.
- The program has a procedure for responding to subpoenas.

- Agency staff are involved in multi-disciplinary meetings or other community meetings as this can be a way to develop connections.
- The agency engages in training with Victim Witness and/or Commonwealth Attorneys.
- Staff are clear that they are legal advocates and not giving legal advice. They understand how to explain this difference to clients.

*Examples:*

- **Avalon** is located in Williamsburg and serves the Williamsburg and Middle Peninsula communities. The two Legal Advocates provide court accompaniment, legal-related referrals, and information about protective orders and court procedures. Additionally, both positions attend collaborative task force meetings, follow up on LAP calls, assist with immigration cases, and train local police. Avalon staff have developed a good working relationship with their local Victim/Witness programs. Referrals are made back and forth, they collaborate to assist clients, and they support each other with LAP cases. To develop this relationship, they worked to be consistent, providing the services they say they will, communicating when there is an issue and respecting each other's part in the coordination of services to clients. The Legal Advocates let clients know up front that they can provide advocacy, explaining what that is, as well as telling clients they are not attorneys and cannot represent them in any capacity. Other staff reinforce this as well. They provide information about the court procedures as well as coping skills and emotional (and physical) safety planning. Avalon is also able to access law clinics through the William and Mary Law School.

*Program Focus:*

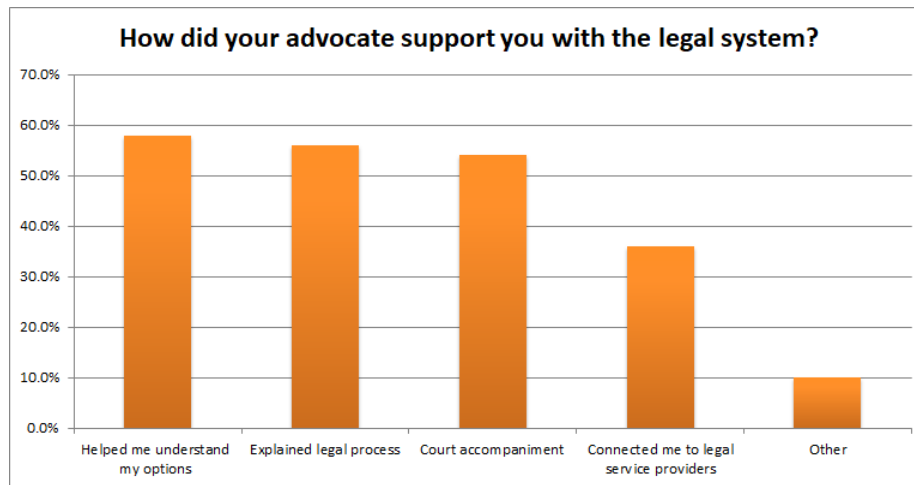
- Is the program aware of the resources available through the Project for the Empowerment of Survivors at the Virginia Sexual and Domestic Violence Action Alliance? (See Resources.)
- Is the program aware of the different court systems and how to access them for needed services for their clients? See also the entry on Courts.

- Does your program know how to advocate for a client who is facing immigration issues? Do you know about legal resources in your community that might be able to help this client?
- If a client is experiencing possible loss of housing related to their domestic violence situation, do you have resources to advocate for them?

*Client voice:*

#### Documenting Our Work Evidence

- "I got great assistance with legal issues (court, atty, transport to and from court, etc.)"
- "(:) Any time the staff is busy, but takes a few extra moments with you even w/ [specific person], as occupied as her job keeps her, gave me time one morning before court, and it gave me that confidence boost."
- "They help me w. court and how to get set up with certain legal Aid"
- "Having a staff member with me in court was so appreciated."
- "I was able to find legal help for filing for my divorce & w/getting my p.o."
- "Team [name] has done everything possible to get me to spousal support court dates, medical appointments and legal aid. Amazing!!!"
- "I have a lot information about legal situation"
- "I needed legal help that I could not afford."



Data from Survivor Voice Survey, 2021

### COVID-19 Focus:

Court hours may be limited and survivors may fear going to court and contracting COVID-19. Limitations in services will make it more difficult for survivors to know how to get modifications to existing protective orders or file new orders. Protection orders may also lapse while survivors are stuck at home. Survivors could have limited access to technology or have their technology use monitored by an abuser. Advocates will need to consider these barriers when providing services and work with community partners to determine how to overcome them.

*During COVID-19:*

- How will your agency support survivors who need court services, even if an advocate cannot accompany them in person?
- What partnerships can you set up with other organizations to provide virtual legal counseling to survivors?

### Additional Resources + Links:

*Videos:*

- [Trauma-Informed Legal Advocacy \(TILA\) Project](#): Webinars and documents of the Trauma-Informed Legal Advocacy Project of the National Center on Domestic Violence, Trauma and Mental Health.

### *Publications/Collections:*

- [WomensLaw.org | Plain-language legal information for victims of abuse](#): This site includes a wealth of resources. It also includes a state specific section which is useful for Virginia laws and could help if working with a client from another state.
- [Proceed! LGBTQ Domestic Violence Legal Toolkit for Advocates](#): This is a publication of the Northwest Network, located in Seattle, Washington.
- [DV Movement Language](#): A one-page guide that illustrates the difference in approach with the advocacy model and the criminal legal system.

### *Resources:*

- [Legal Services](#): The Project for the Empowerment of Survivors is a service offered through the Virginia Sexual and Domestic Violence Action Alliance (VSDVAA). It is comprised of trained legal advocates, attorneys, and law students who can provide free, confidential, and healing-centered legal advice and information to survivors and advocates.
- [VaLegalAid.org - A guide to free and low cost civil legal information and services in Virginia; Find Your Closest Legal Aid Program](#): Resources available through Legal Aid.
- <http://ican.courts.state.va.us>: I-CAN Virginia is a free online program to help someone fill out the forms needed for a Protective Order.
- [Virginia Victims Fund | Helping Innocent Victims of Crime](#): The Virginia Victims Fund (VVF) is a state program created to help victims of violence crime with out of pocket expenses. This can include medical bills, prescriptions, funeral expenses, and many other expenses.
- [VA-VINE: Victim information and notification everyday](#): Virginia Victim Information and Notification Everyday (VINE) is an automated service that allows people affected by crime to locate an offender in jail and receive notifications about any change in custody status. This free, anonymous service is available 24 hours a day, 7 days a week by phone, internet or mobile app.