



Civil Legal Needs of Survivors of Sexual Assault

A Research-to Practice Fellowship Project

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Center for Victim Research

The [Center for Victim Research](#) (CVR) is a one-stop resource center for victim service providers and researchers to connect and share knowledge. Its goals are to increase 1) access to victim research and data and 2) the utility of research and data collection to crime victim services nationwide. CVR's vision is to foster a community of victim service providers and researchers who routinely collaborate to improve practice through effective use of research and data.

Accordingly, CVR engages in a number of training and technical assistance activities to support victim research-and-practice collaborations. Specifically, CVR:

- Hosts a library of open-access and subscription-based victim research;
- Provides light-touch research-focused technical assistance to victim service providers;
- Translates research findings for the field in fact sheets, reports, and webinars; and
- Highlights useful research-and-practice tools and training resources for the field.

CVR also supports two types of [researcher-practitioner collaborations](#): interagency VOCA-SAC partnerships and local-level Research-and-Practice (R/P) Fellowships. In 2018, CVR's R/P Fellowship program supported nine teams of researchers and practitioners engaging in a variety of victim-focused research projects. Fellows were engaged in emerging, ongoing, or advanced research-and-practice partnerships. This report describes activities by one of CVR's 2018 R/P Fellowship teams.

R2P Fellows: Organizational Descriptions

The Victim Rights Law Center (VRLC) was founded in 2000 as a project of a rape crisis center and became a 501(c)3 non-profit organization in 2003. VRLC attorneys provide free, trauma-informed civil legal services to rape and sexual assault survivors in Massachusetts and Oregon in the areas of privacy, safety, immigration, housing, education, employment and financial stability. VRLC's national training programs provide guidance to various professionals to improve the response to sexual violence.

Stacy Malone began working with the organization in 2004 as a volunteer attorney and Board Member. She has been the Executive Director since 2010.

American University's School of Public Affairs (SPA) was founded in 1934 to train public servants to implement Franklin Delano Roosevelt's New Deal. It offers undergraduate and graduate degrees from three departments: Justice, Law & Criminology; Government; and Public Administration & Policy.

Jane Palmer is a former victim advocate and social worker who received her Ph.D. in Justice, Law & Society and Public Policy from SPA in 2013. She was a full-time faculty member in the Department of Public Administration and Policy from 2013 – 2016 and is currently a faculty member in the Department of Justice, Law & Criminology. She is the founder of the Community-Based Research Scholars program at American University. She became the inaugural Faculty Director of the program when it was created in 2014.

Description of the Problem

Herman (1992) outlined the three stages to healing after trauma: (1) safety and stabilization; (2) remembrance and mourning; and (3) reconnection and integration. Like Maslow's (1943) Hierarchy of Needs, if basic needs involving psychological and physical safety are not met, one cannot move on to the next stages of self-actualization or healing (Siedman & Vickers, 2005).

In the aftermath of sexual assault, a survivor might report to the police, or might not, depending on their personal calculus of the costs and benefits relative to their safety or ideas about justice. Despite decades of rape law reforms and attempts to make the criminal legal system more "victim friendly," this system does not – and cannot – provide victims with the safety and stabilization they need to heal from the trauma of sexual assault (Siedman & Vickers, 2005).

There are several steps to engaging with the criminal legal system, and for rape victims, it is a leaky pipeline (Corrigan, 2013). First, survivors have to decide to disclose, then they have to be believed by the officer, then the officer has to send the case for prosecution, and the prosecutor then determines whether charges will be filed. If charges are filed, there may be a plea deal or a trial that may result in a lesser charge; then there is the possibility of a conviction. A recent study of 1400 sexual assault cases in Minnesota found that only 8% resulted in a conviction (Stahl and colleagues, 2018). Even if an offender is convicted, there may or may not be a period of incarceration, probation or a sex offender registry requirement. Studies examining the impacts of these punishments have found little to no evidence that they reduce reoffending (Ackerman, Sacks & Greenberg, 2012; Prescott & Rockoff, 2011).

Addressing the Problem

Given the limitations of the criminal legal system for survivors of sexual assault, it is essential to consider other social service and legal options that can assist survivors with their more immediate needs after trauma. However, there is limited research on the availability, utility, benefits and challenges of civil legal services for survivors of sexual assault (Corrigan, 2013; Siedman & Vickers, 2005). To address this gap in the literature, Dr. Palmer and Ms. Malone initiated a collaborative research partnership in 2014.

The Victim Rights Law Center provides pro bono civil legal assistance that meets the more immediate needs for victims of sexual assault. For example, VRLC attorneys assist victims with civil orders of protection, privacy issues (e.g., mental health records requests), employment (e.g., retaliation after reporting), housing (e.g., helping the victim negotiate breaking a lease), immigration (e.g., U-visas or T-visas) and educational accommodations (e.g., as available through Title IX or Individuals with Disabilities Education Act (IDEA)). For victims, a safe place to sleep, freedom from harassment at work, or the ability to continue one's education in the aftermath of trauma are essential on the path of healing, especially related to Herman's (1992) first step of safety and stabilization (Siedman & Vickers, 2005).

Several research questions guided this project and partnership, including: (1) Are sexual assault victims who seek these types of civil remedies able to receive them? (2) What challenges do they face when pursuing civil remedies? (3) To what extent do victims have overlapping civil legal needs? (4) What lessons, if any, can we learn from cases handled by the VRLC to help inform how other victim service providers could help meet the civil legal needs of survivors?

Data Sources

The data sources for this project come from the VRLC client database and redacted case files. These data were collected by the R2P Fellowship partners prior to launch of this fellowship project, which focused on conducting additional analyses and sharing of findings. Dr. Sarah Nicksa, of Widener University, served as co-Principal Investigator from 2015 – 2016. During this time period two grants (one from American and one from Widener) supported the preliminary redaction and data collection phases of this project.

To create the quantitative dataset, client database information was exported into a Word document for each client file (n=420). Before sharing the documents with the American University research team, a VRLC staff person or supervised intern redacted all personally-identifiable information from each client file. This information (from closed-ended fields) was manually double-entered into a dataset (Barchard & Pace, 2011) by graduate Research Assistants for the purposes of obtaining descriptive statistics on the types of cases and characteristics of the victims, perpetrators, and assaults.

To gather the qualitative information, two doctoral Research Assistants redacted a random sample (n=293) of the detailed case files including attorney case file notes and other documents (e.g., a letter or report from a university regarding a Title IX investigation). These files varied in length from 1-2 pages to up to 100 pages.

The quantitative data were analyzed in Microsoft Excel. The redacted qualitative files were analyzed in NVivo. Case attributes from the quantitative data were imported and matched with their respective qualitative files in NVivo.

During the fellowship period, the VRLC, Dr. Palmer, Stacy Malone, and research assistants accomplished the following aims of the project: (1) completed qualitative analysis of case records; (2) further analyzed the quantitative data from client database; and (3) developed products for publication and dissemination that include data from both phases of the project.

Results

Among the files in the sample for the quantitative portion of this study, we found that during the study time period (April 1, 2013 to March 31, 2015), VRLC attorneys worked on 1,011 matters for 420 clients. The top primary remedies sought included protective orders (30%), criminal issues (20%), privacy (13%), educational issues (including Title IX cases) (12%), housing issues (8%) and immigration issues (7%). Across all matters, 73%

involved brief consultation, and 27% involved full representation. The mean length of matters was 70 days, with substantial variation by matter type. Among the matters opened between April 1, 2013 and March 31, 2015, the majority (92%) of matters were resolved (closed).

For the qualitative portion, the sample was restricted to closed cases so we could examine case outcomes. A random sample of closed cases was generated to reduce identifiability of VRLC clients. That is, if we included 100% of closed cases during the time frame, a client may become identifiable if they or someone they know are aware they had a case during the timeframe. By selecting a random sample and taking other steps to protect the confidentiality of clients throughout the process, we were able to ensure that individual clients were not identifiable.

(1) Are victims who seek these types of remedies able to receive them?

During the study time period, no victims were turned away for services and only 5 victims who sought services were partially served. The reasons that these survivors were partially served included capacity, their case did not meet eligibility requirements for services or VRLC did not offer the services requested.

In addition, survivors' legal needs can fluctuate based on their circumstances changing while they are a client of VRLC. For example, they may initially come in for a protection order, but during VRLC's comprehensive intake also identified that they have additional legal needs related to the assault and could use assistance with breaking a lease or an educational accommodation. Or after they receive a protection order, they have other needs related to retaliation at their place of employment.

In some cases, victims did not receive a requested remedy because they chose not to go forward, the client opted for a different remedy, or because a judge denied it.

(2) What challenges do victims face when pursuing these remedies?

The qualitative analysis identified several challenges that victims face when pursuing civil remedies related to sexual assault. VRLC clients experienced impacts on school, work, housing, their finances or their immigration status. They faced stalking, assault, harassment, retaliation, threats or lost custody of their children in the aftermath of sexual assault. Their privacy was compromised through attempts to access mental health or medical records, by being tracked electronically by perpetrators, or via private communications or contact information that was shared publicly. Many victims experienced circumstances where the perpetrator was protected due to their status (e.g., a judge who indicated he would not issue a restraining order due to the defendant being a "powerful man") and there were several situations where a victim's experience was minimized or a disclosure was not taken seriously by someone in a position to help, for example, a school administrator or police officer.

Victims also experienced mental health impacts of trauma or had pre-existing mental health or substance use issues that predated the assault that made them vulnerable to

assault. These issues, and others, present challenges for victim credibility or their ability to remain actively involved in any case with the VRLC or a concurrent criminal case.

In addition, our qualitative analysis revealed that clients received a variety of responses as they tried to navigate seeking help or support from formal and informal support systems, outside of the VRLC. Some of the responses they received were positive – there were circumstances where victims felt empowered or supported as they tried to access help. However, many victims experienced being blamed, shamed, intimidated, not believed, or ostracized when they disclosed sexual assault.

(3) To what extent do victims have multiple civil legal needs?

VRLC staff are trained to conduct holistic legal intakes. When a victim of sexual assault contacts the VRLC for legal assistance they often reach out for help with one specific legal need. For example, a victim may contact the VRLC for representation at a restraining order hearing to address an immediate safety concern. During the intake process, the VRLC also screens for other potential legal needs. Sexual assault victims receiving services from the VRLC have an average of 2 – 3 legal issues that are addressed by the VRLC. For legal or other issues that VRLC cannot help with, victims are referred to a local partner.

(4) What lessons, if any, can we learn from these cases to help inform how other victim service providers could help meet the civil legal needs of survivors?

There are several major lessons that we take from these data. Here we present five, although there are many more. First, survivors are strong and resilient as they face many challenges in the aftermath of sexual assault, as outlined above. Many were facing safety concerns, privacy issues, and vulnerable or uncertain housing, financial, employment or educational situations. Despite these challenges, the VRLC is steadfast in their commitment to survivors and assisting them with their legal needs or referring them for other services as necessary.

Second, there are several actors who survivors interact with who could benefit from training or education specific to sexual assault or related legal issues. For example, in Massachusetts, the *Commonwealth v. Dwyer* protocol establishes whether records that are requested by defense counsel during a criminal trial (like victims' medical or mental health records) are relevant to the criminal case or should be kept confidential. Some service providers unintentionally violate victim privacy and release records without understanding that there is a formal process that could prevent release or keep the records protected.

Third, survivors could benefit from explanations of their different legal options (e.g., civil legal remedies, criminal justice system, civil lawsuits, and crime victims' compensation) *before* they enter a system, especially the criminal justice system, so that they can

make informed decisions. VRLC attorneys provide this information in detail to their clients, but for some clients this information is provided after they had already initiated a process.

Fourth, when a sexual assault victim who is a minor seeks services, the service provider is often faced with determining who is their client – the minor or the parent – which means these cases can be more time intensive and complicated. Another issue related to minor clients in this sample is that the K-12 educational system does not consistently respond in a trauma-informed way to complaints of sexual assault or fully understand student rights under Title IX and IDEA. For college-aged victims, some universities do not consistently follow federal guidance under Title IX or properly implement their own policies, but at least in higher education settings, there were policies, procedures and recourse, unlike in the K-12 schools.

Fifth, mental health issues may exacerbate the challenges victims face in accessing legal remedies. In some cases, clients had pre-existing mental health challenges that were used against them and their “believability;” some clients experienced severe post-assault mental health issues, which affected their ability to make appointments or return to daily life; and other clients were accused of “faking” mental health issues for personal gain. It is essential that service providers understand the impact sexual assault has on individuals to ensure their services are trauma-informed and accessible.

Implications for Policy and Practice

Based on the lessons listed above, we offer the following brief list of our recommendations for policy, practice and victim services nationwide:

1. Victims need access to free and accurate information and advice about their legal and non-legal options for assistance in the aftermath of rape and sexual assault.
2. Attorneys working with survivors of sexual assault could increase their ability to provide a wider range of legal services, including civil legal services, or develop a strong referral network to assist victims with their civil legal needs.
3. Social service providers, attorneys, and administrators in educational settings, who do not regularly work with victims of sexual assault, could benefit from cross-training and technical assistance from experienced victim service providers.
4. Service providers in the health care, education, mental health and other fields should be kept apprised of victims’ rights when responding to records requests.
5. States and other jurisdictions should consider passing additional laws to protect victim privacy such as safeguards that clearly outline provisions for confidentiality for victim’s records or any exceptions to such provisions.

6. K-12 schools should increase their awareness and enforcement of Title IX and other federal and state laws that provide protections for students who are victims.
7. Judges, prosecutors, law enforcement, health care providers, and other public servants (such as those assisting with public benefits) who victims interact with as they are trying to seek legal remedies in both the civil and criminal systems should receive training on the neurobiological responses and impacts of post-traumatic stress disorder and sexual assault.

Sustaining the Partnership

This is the first study of its kind to examine the civil legal needs of survivors of sexual assault. Without a meaningful collaborative relationship between Dr. Palmer and VRLC, this project could not have achieved its aims. This is a long-term partnership that will continue after the grant period is complete. We plan to utilize the information gathered in this project to co-author user-friendly practitioner-oriented and academic publications. As Sullivan, McPartland & Fisher (2013) wrote:

“Research has the greatest potential to impact change in practice and policy when (a) it is conducted in collaboration with practitioners rather than conducted by academic researchers alone, and (b) its findings are clearly communicated to the people who influence policy and practice in a useful, easy-to-read format.”

The results presented above are a brief summary of the more extensive information we will communicate to practitioners, policymakers, other researchers, survivors and their loved ones. The next phase of the partnership has already begun as Dr. Palmer is in the process of interviewing attorneys nationwide about their experiences providing civil legal services to survivors of sexual assault. These qualitative interviews will complement what we are learning from the case files and will also assist VRLC, as they provide training and technical assistance throughout the country on victims' civil legal needs.

We will continue to collaborate with one another to utilize research to improve the long-term healing, safety and stability of survivors of rape and sexual assault.

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