



**DEFENSE**  
NATIONAL DEFENSE CENTER  
FOR CRIMINALIZED SURVIVORS

# WORKING WITH SURVIVORS IN JAIL

A MANUAL FOR COMMUNITY-BASED ADVOCATES

JULY 2025

# BWJJP



# DEFENSE

NATIONAL DEFENSE CENTER  
FOR CRIMINALIZED SURVIVORS

540 FAIRVIEW AVENUE N  
SUITE 208  
ST. PAUL, MN 55104  
BWJP.ORG

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# PREFACE

*“If you have come to help me, you are wasting your time. But if you have come because your liberation is bound up in mine, then let us work together.”*

– Lilla Watson, Australian Aboriginal Woman<sup>1</sup>

This manual was written many years ago by Cheryl Kreisher, who at the time was an Equal Justice Works fellow (formerly the National Association of Public Interest Law) at the National Clearinghouse for the Defense of Battered Women (now the National Defense Center for Criminalized Survivors). Cheryl used her two-year fellowship following her training as a lawyer and social worker to work with incarcerated survivors, many of whom were in Philadelphia County jails. Her fellowship was funded, in part, by the generosity of the law firm of Greenberg and Traurig. As of this update (2025), Cheryl is the Chief of the Mental Health Unit at the Defender Association of Philadelphia. The staff of the Defense Center thank Cheryl for all her excellent work on this manual and in the courtroom since that time.

Over the years, a number of advocates and attorneys have worked to update the manual. Many thanks are due to staff and consultants of the former National Clearinghouse who helped make this publication possible - particularly Andrea Bible, Ruth Cionca, Melissa Eve Dichter, Jo Kurzmann, Lisa Laura, Chanel Odom, Sue Osthoff, and Wendy Univer.

This work has also been informed and enriched by the experiences of countless individuals. The National Defense Center for Criminalized Survivors (NDCCS, or The Defense Center) is grateful to the

advocates who have been passionately doing this work for years and who have graciously lent their ideas, reflections, and recommendations over the years.

But the greatest thanks of all goes out to the currently and formerly incarcerated survivors who have generously shared their experiences so that others may learn from them and so that survivors of domestic violence in jail may begin to heal.

It is the Defense Center’s hope that this manual will challenge assumptions, foster critical thinking, and provide a fundamental understanding of the needs of survivors in jail. The goal is to support an ever-expanding community of people providing effective advocacy to women in jail.

NDCCS welcomes any input and comments. Please feel free to share what was helpful and suggest changes for future editions.

NDCCS can be reached at [defensecenter@bwjp.org](mailto:defensecenter@bwjp.org).

Thank you for your interest in this manual and for the work that you do.

**– The staff of the National Defense  
Center for Criminalized Survivors**

# TABLE OF CONTENTS

## 05

### **INTRODUCTION**

WHY WORK WITH SURVIVORS IN JAIL?  
INTENDED AUDIENCE  
A NOTE ON LANGUAGE  
WORKING WITH THE DEFENSE CENTER

## 08

### **SURVIVORS IN JAIL**

WHO ARE THE SURVIVORS IN JAILS?  
THE NEEDS OF SURVIVORS IN JAIL  
JAIL VERSUS PRISON

## 12

### **BEFORE BEGINNING: THINGS TO CONSIDER**

DECIDE HOW TO USE LIMITED RESOURCES  
THE IMPORTANCE OF EXPLORING  
ATTITUDES IN ADVOCACY WORK

## 15

### **DEFENSE-BASED ADVOCACY**

WORKING WITH DEFENSE ATTORNEYS  
KEY ADVOCACY GUIDELINES

## 19

### **CONFIDENTIALITY**

WHAT THE LAW SAYS ABOUT  
CONFIDENTIALITY FOR ADVOCATES  
WORKING WITH INDIVIDUALS  
WORKING WITH GROUPS

## 22

### **JAIL-BASED ADVOCACY**

STRATEGIES FOR FINDING INCARCERATED  
SURVIVORS  
WORKING WITH JAIL STAFF  
MENTAL PREPARATION

## 26

### **OVERCOMING BARRIERS**

BARRIERS TO ACCESSING THE JAIL  
BARRIERS TO ACCESSING RESOURCES  
BARRIERS TO GAINING AGENCY SUPPORT  
STRATEGIES FOR EMOTIONAL SELF-PROTECTION

## 30

### **ADVOCACY FUNDAMENTALS WITH SURVIVORS IN JAIL**

SETTING EXPECTATIONS  
BEING CONSISTENT AND DEPENDABLE  
MAINTAINING A STRENGTHS-BASED PERSPECTIVE  
AVOIDING GIVING ADVICE  
MAINTAINING BOUNDARIES  
RESPECTING THE BOUNDARIES OF SURVIVORS  
IN JAIL  
TREATING SURVIVORS IN JAIL LIKE THE  
RESPONSIBLE ADULTS THEY ARE  
MAINTAINING PRIVACY

## 34

### **SPECIAL CONSIDERATIONS**

SAME-SEX ABUSE AS PART OF A  
RELATIONSHIP IN JAIL  
WHEN STAFF ARE ABUSIVE  
UNDERSTANDING THE CRIMINAL LEGAL  
SYSTEM AND PROCESS  
TALKING WITH DEFENDENTS ABOUT THE  
CRIMINAL LEGAL SYSTEM AND PROCESS  
SAFETY NEEDS  
CLOSING

## 45

### **ENDNOTES**



# INTRODUCTION

# INTRODUCTION

## WHY WORK WITH SURVIVORS IN JAIL?

Survivors are everywhere – including in local jails. Unfortunately, in many communities, incarcerated survivors are overlooked, even by anti-domestic violence organizations. Advocates can be a vital resource for women in jail, whose needs are usually enormous and rarely addressed effectively. Incarcerated women, like many survivors of domestic violence or intimate partner violence (IPV) in jail, rarely get the assistance they need and deserve.

While it can be complicated and difficult to work with survivors who are facing open criminal charges or are serving sentences (and still may have open legal issues), the stakes are high. As is often true with difficult and critical work, advocating on behalf of jailed women can be extremely rewarding. Many advocates who have worked with incarcerated survivors – and have witnessed some of the injustices and daily indignities they experience – have said that this work has changed their lives. For many, it has helped them think differently about people charged with crimes, the criminal legal system, and people in prison; it has made them challenge some of their long-held attitudes and beliefs (which are addressed in this manual). Many have said that they have felt compelled to do more to assist jailed survivors.

Advocates work with survivors in jail for many of the same reasons they do this work in their communities:

- To oppose violence in the lives of women
- To promote women’s safety
- To increase justice
- To promote healing from violence

Women in jail are extremely vulnerable, whether they are awaiting trial or have been sentenced. They live in an environment that is focused on keeping the outside community “secure” from them, not on providing them with an environment that is safe and secure.

In fact, many survivors report that jail replicates their experiences of battering:

- They are isolated.
- Their every movement is examined.
- Their individual identities are crushed.
- They are under the control of others whose primary concern is exerting power and control.
- They are blamed for their own victimization.
- They are humiliated.
- They are not safe.

Criminalized survivors need help to heal from their experiences of abuse and from the pain and trauma of incarceration. They deserve justice and they need safety. Community-based advocates can be an important part of their journey to find justice and safety. Hopefully, this manual will encourage and guide advocates in thinking about ways to be strategic about their approach to working with survivors in jails.

## INTENDED AUDIENCE

This manual is crafted for advocates working in community-based, non-profit organizations. This manual is *not* designed for systems-based or law enforcement victims’ advocates (such as those employed by a prosecutor’s office or police department), since they have conflicts of interest that generally prevent them from advocating with defendants in criminal cases.

## A NOTE ON LANGUAGE

The National Defense Center for Criminalized Survivors (NDCCS) assists individuals charged with or convicted of crimes where there is direct legal relevance between their experiences of being abused and their legal defense. While the Defense Center works with all survivors and knows that anyone can experience abuse, most people who contact NDCCS are women who have been abused by a male intimate partner. This manual aims to be useful to everyone, while also recognizing the distinct violence that women experience. This manual will alternate between referring to survivors as “women,” “victims,” “survivors,” “criminalized survivors,” “survivor defendants,” and “defendants.”

In a similar vein, while “intimate partner violence” and “domestic violence” are distinct terms, this manual will use them both to refer to forms of partner abuse. It is also important to highlight the term “battering,” which has been used for many years in the anti-domestic violence movement to denote a pattern of behavior that abusers use to exert power and control over their partners. While “battering” was initially meant to encapsulate all forms of intimate partner abuse, many now understand it as referring only to physical violence. The Defense Center recognizes the history and lasting impact of this terminology, which will appear at times in this manual.

Advocates must be aware of, and responsive to, the needs of all defendants whose experiences of being abused are relevant to their charges. This manual can be used as a general guide to working with all survivors, though it is particularly suited for working with women. If there are further questions, feel free to contact NDCCS for more information and referrals.

Many of the terms used to describe people who are incarcerated and/or charged with crimes are objectionable. People in jail are sometimes called “detainees,” “defendants,” “inmates,” “prisoners,” or “offenders.” That last term is especially problematic: people awaiting trial should be presumed innocent; they have not been convicted of any offense. Many survivors are jailed for protecting themselves and their children and may identify that the system that previously failed to protect them is the same system that is harming them by prosecuting them. If advocates need to use a term or label to describe the women with whom they work, they may want to talk with the survivors, other prisoner or jail-rights activists, and/or formerly jailed people about what term they would like advocates to use.

This guide will primarily use the phrase “woman/survivor in jail.” This focuses on a description of the person, rather than on a label. At times, the term “incarcerated woman/survivor” will be used to emphasize the reality of their situation; they are people who have been deprived of their liberty and forced to live in a locked, regimented, controlling environment.

## WORKING WITH THE DEFENSE CENTER

As technical assistance providers, NDCCS values every opportunity to work alongside colleagues who are committed to serving criminalized survivors. They are available to work with advocates individually, as well as with their agencies. Staff can be reached at [defensecenter@bwjp.org](mailto:defensecenter@bwjp.org) or 215-763-1144. Survivors who are currently incarcerated can call the Defense Center collect at 267-876-7027; a staff member may not always be available, but will do their best to answer the line Monday through Friday from 9am-5pm Eastern Time.



# **SURVIVORS IN JAIL**

# SURVIVORS IN JAIL

***“I am a battered woman. I am your mother, your daughter, your sister, aunt and friend. I am beaten but not broken, condemned but not damned, and I will not sway on my hopes, goals, plans, and dreams for the future.”***

– Debi Zuver, a survivor incarcerated in California<sup>3</sup>

## WHO ARE THE SURVIVORS IN JAIL?

Everyone holds stereotypes of what survivors look like and what women in jail look like. As advocates working with criminalized survivors, it is critically important to confront those stereotypes. The most reliable picture advocates can form of women in jail comes from meeting them and reading their writing.

There is an alarming trend towards increasing numbers of women being arrested and serving time. The number of women in jails in the United States nearly tripled from 1990 to 2007. That number continued to increase by about eight percent from 2013 to 2019. The onset of the Covid-19 pandemic led to a sharp decrease in jail populations across the US, only to immediately start climbing back up again. According to a Federal statistics report from 2002, 55% of women incarcerated in jail have experienced physical or sexual abuse as adults or as children; of those who were abused, 68% were harmed by an intimate partner. More in-depth research has revealed, however, that the percent of incarcerated women who have experienced abuse is much higher – up to 90 percent or more. These statistics speak to why it is imperative for advocates to ascertain for themselves who survivors in jail are, because the truth is that a survivor in jail was once a survivor out of jail.



## THE NEEDS OF SURVIVORS IN JAIL

Survivors in jail have vast, varied, and often overwhelming needs, touching many areas of their lives. It is important for advocates to be aware of the whole range of needs these women have — before, during, and after incarceration.

The comments that follow come from women (not necessarily all of whom identified as having been abused) who completed a survey at Chicago’s Cook County Jail or who participated in focus groups held at two Philadelphia County jails.

Women in jail have said they need assistance with the following issues:

### HOUSING

*“I am homeless. I was beaten by my husband. I was staying under a stairwell.”<sup>8</sup>*

*“Well, I have a child by the man who beat on me and I think he might beat me when he come[s] home - he’s in jail now. Also, I don’t have nowhere to go.”<sup>9</sup>*

### EMPLOYMENT AND ECONOMIC ISSUES

*“I found a job, but was then fired after one day, due to my background.”<sup>10</sup>*

*“[I couldn’t get a job because] I had no income, no housing, no address, no start.”<sup>11</sup>*

### CONCERNS REGARDING CHILDREN

*“My children are in foster care – I need help with that issue emotionally.”<sup>12</sup>*

*“[I’m interested in] parenting classes because I can’t waste time on guilt. So much time has already [been wasted].”<sup>13</sup>*

### EDUCATION

*“[I’m interested in] workshops run by administrators from local higher ed colleges and universities, about financing and career goals.”<sup>14</sup>*

*“I want to get a one-year certification for drug counseling.”<sup>15</sup>*

### PHYSICAL AND MENTAL HEALTHCARE

*“[I’m interested in] support for Hepatitis C, like some groups.”<sup>16</sup>*

*“I need to constantly release my emotions. I’m suicidal and I’m bipolar.”<sup>17</sup>*

### DRUG AND ALCOHOL TREATMENT

*“[There need to be] more programs where you can get help when you take drugs. No waiting lists [so] you can get help when you are ready.”<sup>18</sup>*

*“I want to continue bettering myself and get sober.”<sup>19</sup>*

### SUPPORTIVE COUNSELING

*“[I need] exactly that – support – unconditional space, [where I can be] allowed to talk, vent, cry, laugh, etc. A safe space.”<sup>20</sup>*

*“If I had had help in abusive relationships, I probably would not even be here.”<sup>21</sup>*

The above list is meant to be illustrative, not exhaustive. As is true with all work with survivors, it is important to find out what they identify as their current priority needs and to be cognizant of how needs and priorities change over time.

Additionally, the many different needs of women in jail are often interconnected and trace back to their experiences of domestic violence. Abuse can lead to homelessness, loss of custody of children, and — in many instances — substance use as a coping mechanism. Incarceration complicates all of these problems and can lead to long-term difficulties after release from jail. For example, it is acutely more difficult to find housing, regain custody, or obtain a job with an arrest or conviction on one’s record.

Advocates cannot single-handedly address all of a survivor’s needs, but effective advocacy involves appreciating those needs, viewing a survivor holistically, and, ideally, being able to provide them with meaningful assistance.

# JAIL VERSUS PRISON

People outside the criminal legal system may use the terms “jail” and “prison” interchangeably, but there are important differences between jails and prisons.

A jail is generally a short-term detention facility. When a person charged with a crime is held without bail, or when that person is unable to pay the bail that was set, they will be sent to jail until their trial or until they are able to make bail.

Most jails also incarcerate people who have city or county sentences (as opposed to state or federal sentences). City or county sentences tend to be shorter, generally a year or less, although they may be up to two years in some jails. People with longer sentences will generally be sent to a state or a federal prison, where the state or federal government imprisons them, rather than the city or county.

Typically, the percentage of women in jail who are awaiting trial will be larger than the percentage of those who have already been sentenced. As a result, the population of a jail is in constant flux. Some women may be out of jail within a day if they are able to post bail; some will wait a few weeks to be released, for example, if their charges are dismissed at an early stage

of the legal process; and others can wait as long as two years or more before their cases go to trial.

Jails are usually local, while prisons are often hundreds of miles from home. Incarcerated people may get infrequent visits from friends and family, or none at all. The geographical distance of prisons often makes visitation nearly impossible.

Women in prison can have enormous difficulty adjusting to the realities of long-term confinement. In jail awaiting trial, however, women experience the additional stress and anxiety of not knowing their fate — and, like their peers in prison, have very little control over that fate.

While prison may offer opportunities to move around outside of one’s cell, jails often place greater restrictions on mobility within the facility than prisons do.

This guide is limited to the considerations of working with survivors in jail. It may refer to the needs of women in prison occasionally, and there is a great deal of overlap, but this short piece cannot adequately address all of the issues involved in providing effective advocacy for survivors in prison.



# **BEFORE BEGINNING: THINGS TO CONSIDER**

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## DECIDE HOW TO USE LIMITED RESOURCES

Ideally, every survivor in jail would have access to an advocate they could work with one-on-one. However, since most agencies operate with limited money and time, this remains a dream and not a reality in most communities. Therefore, it is important for advocates to decide on criteria that will determine with whom they will work.

For example, some agencies and advocates have decided that they can make the greatest impact by working with survivors who have been charged with crimes directly related to their histories of abuse. Others have decided that they will provide general information sessions about domestic violence with groups of women in order to reach the greatest number of survivors, regardless of the charges they are facing. Some agencies choose to work with women one-on-one; others in groups. Whatever is decided, advocates should make thoughtful and conscious decisions before beginning work with incarcerated individuals.

## THE IMPORTANCE OF EXPLORING ATTITUDES IN ADVOCACY WORK

***“It only takes a split second for a battered woman viewed as a ‘victim’ to become an ‘offender’... We need to look beyond the ‘criminal’ aspect and see the woman.”***

– Carol Dodgson, Coordinator of the Justice Outreach Program<sup>22</sup>

### BE AWARE OF ATTITUDES

In our society, it is difficult to ignore messages about people who are charged with crimes:

- “They are dangerous.”
- “They are responsible for our social problems.”
- “They deserve harsh punishment.”

As Ilya Halecky explains, “The legal principle “innocent until proven guilty” is ingrained in society. It’s echoed in news coverage, TV shows, movies, social media and everyday conversations. But in reality, when criminal trials are publicized, people have already formed their opinions about guilt and innocence. Many are quick to

automatically assume defendants are guilty and root for the criminal justice system to give them to get what they ‘deserve.’” Even people charged with crimes sometimes believe these messages. Staff of NDCCS have worked with many survivors who believe that they are no longer “real victims” since they were arrested. The underlying idea is clear: only bad people get arrested; only bad people go to jail. On the other hand, this response can also be seen as recognition of their own victimization and their actions as survival strategies (if not out-right self-defense or coercion).

A critical first step in preparing to work with survivors in jail is for advocates to explore their own beliefs about incarcerated people, as these ideas can – consciously or unconsciously – influence how advocates interact with survivors on the inside. Finally, it is essential that advocates avoid the trap of thinking in terms of the “good” survivor versus the “bad” survivor, or the “good” defendant versus the “bad” defendant. These are artificial distinctions that interfere with one’s ability to provide quality advocacy to women in need of services.

Luckily, increased knowledge and shifting attitudes about criminalized survivors, and survivors of abuse in general, are mirrored in local advocacy programs’ increased willingness to work with survivors who face charges.

### KNOW THE CONTEXT THAT SHAPES ADVOCATES’ OWN LIVES

***Naming the issues in our own lives is important in order to “avoid a relationship of paternalism with women in prison.”***

– Taken from a description of a workshop presented by Julia Sudbury<sup>24</sup>

People’s own lives and experiences tend to influence how they look at the lives and experiences of others. For example, well-intentioned family and friends who have not been abused might tell survivors, “I would never allow a man to place his hands on me. After the first time, he’d be gone.”

People who have never experienced abuse often think that they know how they would act, with no appreciation of the realities of domestic violence. They speak from their own context, without understanding the context of the survivor. This creates distance between the speaker and the survivor. It blames the victim, and generally does more harm than good. The same holds true for advocates who have never been incarcerated visiting victims of domestic violence inside jails and prisons.

Conversely, experiences that advocates and survivors have in common can increase their ability to relate to one another.

- If an advocate's trust has ever been violated...
- If an advocate has ever felt silenced...
- If an advocate has ever felt unsafe...
- If an advocate has ever experienced fear or trauma in any form...

...then they may be able to catch a glimpse of what it can be like for a survivor in jail.

Advocates do not have to have been abused or incarcerated themselves in order to advocate effectively for survivors in jail. It is critical that advocates name their experiences – both the struggles and privileges – in order to approach this work honestly and effectively.

### EXPLORE ADVOCATES' REASONS FOR WORKING WITH SURVIVORS IN JAIL

***“Above all, the volunteer should not be involved in this work to feel good, to do good or to impart charity, but to assist in bringing justice into the life of the incarcerated woman.”***

– Excerpted from a volunteer training manual prepared by the Justice for Women Working Group<sup>25</sup>

As described earlier, advocates come to this work for any number of reasons:

- To work towards justice in the lives of women.
- To respond to the needs of incarcerated survivors as they would to the needs of any survivor.
- To respond to a spiritual calling.
- To fight oppression.

Survivors who have experienced incarceration themselves may advocate in order to:

- Share their own experiences
- Serve as role models
- Reach out and offer the assistance that had once been offered to them

All of these motives, and others, can provide the fuel to sustain the work of advocacy. It is helpful for advocates to explore their motivation – not to judge it, but to gain insight into how those motives may help or hinder them.

Advocates need to be wary of any need or inclination to take on the role of a fixer or a savior. If advocates operate from those positions, the work becomes more about them, and less about the people with whom they are working. It can be counter-productive and actually dangerous – for them, and for the women in jail. Advocates are not, in fact, trying to fix or save jailed survivors, but rather, working to try to help them meet their needs.

Advocates can earn and keep the trust of the incarcerated survivors they want to help with a few simple practices:

- Show up when they say they will.
- Listen more than they talk.
- Only make promises they know they can keep, taking into account their personal and organizational limitations as well as limitations imposed by the jail and the legal system.
- Maintain strict confidentiality.

By scientifically exploring motivations and by proceeding thoughtfully, advocates can have an enormously favorable impact on the lives of survivor defendants.



# DEFENSE-BASED ADVOCACY

# DEFENSE-BASED ADVOCACY

A tenet of defense-based advocacy is the belief that defendants' rights must be protected to the extent possible, and that a person's defense counsel is best positioned to provide these needed protections. It is advantageous for advocates and their organizations to develop relationships with their local defense bar so that when they are working with a survivor charged with a crime, they can easily get through to defense counsel. Effective defense-based advocacy requires relationship-building with the defense community.

## WORKING WITH DEFENSE ATTORNEYS

For advocates who have fraught relationships – or no relationships – with defense counsel in their communities, it is important to let go of old prejudices and work to build relationships that will ultimately benefit survivor defendants.

To strengthen relationships with defense attorneys, some advocacy programs begin by meeting with an allied public defender or other sympathetic defense attorney. After this initial meeting, advocates or their agency's leadership might arrange a general meeting with the chief public defender. The goal is to inform the public defender's office that:

- Their program recognizes many survivors are charged with crimes.
- They want to be an ally in representing abused clients.
- They are committed to developing a strong working relationship with the public defender's office.

These kinds of preliminary meetings might feel too basic to be of much use, but public defenders may not be aware of community-based advocacy programs or may be accustomed

to viewing local programs as aligned with the prosecutor's office and thus their "opposition." These first steps will help to build both mutual respect and role clarity. The goal of these initial steps is to pave the way for working together to support criminalized survivors.

As a result, defense attorneys may be more willing to see local programs as resources in the future; this is a distinct benefit for advocates and for the survivor defendants with whom they work. Advocates can also begin to educate defense attorneys about myths and misconceptions about abuse. Unfortunately, defense lawyers, prosecutors, judges, and juries often lack a basic understanding about the dynamics of abuse, so information about the realities of abuse and its effects can only help defense attorneys to present a stronger defense for survivors charged with crimes.

Advocates can take this one step further by helping people charged with crimes (and their families) let go of uninformed prejudices about who is a "good lawyer." It is a common misperception that a public defender is a poorly qualified lawyer who should only be used as a last resort by someone who cannot afford to pay for a private attorney. Due to this ubiquitous notion about public defenders' inadequate capabilities, a criminalized survivor might assert that she does not have a lawyer even if she knows she has been assigned a public defender. The Defense Center's experience contradicts this quite strongly. In fact, most often, public defenders have a lot of knowledge and experience about the criminal legal process. They often understand ways that cases involving abuse can be tried successfully. By contrast, many private lawyers have little or no experience in criminal law or in cases where abuse is present. Their practices may consist of wills and estates, divorce law, business contracts, or auto accidents. Private lawyers, even expensive ones, are not necessarily equipped to help a survivor facing a criminal charge.

## KEY ADVOCACY GUIDELINES

Three basic guidelines for advocates:

1. **Always talk with the defense attorney before contacting a survivor who is facing criminal charges and/or in jail.**
2. **Do not talk with the survivor about the incident for which they are charged.**
3. **Do not contact the prosecutor without the knowledge and explicit permission of defense counsel.**

### TALK WITH THE DEFENSE ATTORNEY BEFORE MEETING WITH THE DEFENDANT

It is important for advocates to talk to a survivor's defense attorney before going to see the survivor (whether they are jailed or out on bail) to discuss confidentiality, to clarify their role, and to assure the attorney that they will avoid talking about any facts of the case. The defense attorney may also be able to help facilitate getting the advocate clearance to enter the jail, perhaps even as a member of the defense team (this can be helpful in preserving the defendant's confidentiality).

Defendants who cannot afford an attorney will be appointed one by the court, and they are often – but not always – assigned by the time of the arraignment (the arraignment is the survivor's first appearance before a judge, where charges are read, and the defendant pleads guilty or not guilty).

If an advocate does not know who a survivor's attorney is, they can try calling the public defender's office, if one exists in that area, to see if they represent the survivor. For public defender's offices in larger jurisdictions, defendants might not be assigned to a particular attorney right away, but the office should at least know if they are representing her, and the advocate can ask to speak to someone about their interest in seeing her at the jail.

If there is no public defender's office, the advocate can call the court clerk to ask if the defendant has been appointed an attorney, and if so, ask for that person's contact information. If the advocate cannot get the attorney's contact information, they can ask the court clerk when the next court appearance is scheduled and where. If possible, the advocate can attend the hearing, since it would be a good opportunity to introduce themselves to the defense attorney in person.

### HOW TO ADVOCATE WITHOUT KNOWING WHAT LED TO A SURVIVOR'S ARREST

Sometimes advocates struggle to understand how to advocate for a criminalized survivor without discussing the incident for which she was arrested. But survivors rarely share everything about their lives with their advocates, and are not expected to do so. If someone is a victim of domestic violence or sexual assault, the specifics of one incident in their lives will not change that. Advocates do not need to know every detail of a survivor's life in order to determine that they are abused and could benefit from services.

At a minimum, when advocating for victims charged with crimes, it is critical to make sure not to do anything that jeopardizes their criminal cases. Advocates should remember that "whatever you say can and will be used against you" is a true statement for those with open criminal cases. To be protective of survivors facing charges, advocates should not talk about the incident that led to the survivor being arrested. This can help protect the defendant and the local advocacy program, and it will likely:

- increase the probability that defense counsel will allow an advocate to see the defendant, and
- decrease the possibility that the prosecutor will try to subpoena advocacy records.

If the survivor wants to talk about the incident, the advocate can explain how doing so is not in their best legal interests. Survivors may feel ignored or shut down by this approach; it can be useful for advocates to acknowledge this and stress that they may still discuss the survivor's feelings that come up surrounding the incident (e.g., tremendous loss, fear, disbelief, etc.), while avoiding discussing the facts.

### CONTACTING THE PROSECUTOR

Sometimes, advocates may wish to use an existing relationship with a prosecutor to assist a survivor defendant. This may seem like a logical strategy because such relationships have served survivors in the past or seem like they would be helpful in the current situation. When working with survivors facing charges, however, there are many reasons to be cautious.

As mentioned above, the basic rule to follow is:

***Do not talk to the prosecutor without the full knowledge and agreement of the defense attorney.***

There may be reasons advocates are not aware of that make it risky to go directly to the prosecutor with information about the case.

For example:

- The advocate may inadvertently give the prosecutor information that strengthens the case against the defendant
- The defense attorney may have decided not to reveal the history of abuse at that stage because it could be used against the defendant as a motive for what occurred.

The defense attorney might welcome an advocate's offer to talk to the prosecutor, perhaps in collaboration with defense counsel, but the bottom line is that the decision to share information with the prosecutor is the defense attorney's to make.



### TOUCHSTONE QUESTIONS FOR ADVOCACY

There are fundamental questions each advocate should ask themselves when making any decision involving work with a defendant:

- ***“How could this strategy I am considering be used against this woman or other women?”***
- ***“Is there any way this strategy could backfire?”***
- ***“In attempting to help, could I actually be doing greater harm?”***



# CONFIDENTIALITY

# CONFIDENTIALITY

Most advocates are well-versed about the importance of confidentiality; it is critical in gaining and maintaining the trust of the survivors who seek assistance, and in promoting their self-determination and safety. When working with survivors who are facing criminal charges, confidentiality takes on an even greater significance, as it is vital in protecting a defendant's legal rights.

***There is risk involved any time a defendant talks (or writes) about the facts of her case with anyone other than her lawyer. Remember, anything a defendant says can and will be used against them in a court of law.***

## WHAT THE LAW SAYS ABOUT CONFIDENTIALITY FOR ADVOCATES

In some states, there are statutes that treat communications between survivors and their advocates as confidential, and therefore not subject to disclosure in court. However:

- There are various definitions of who may be considered a “survivor’s advocate” and what types of communications may be protected (written, oral, one-on-one, group).
- In some states, there are no statutory protections at all.
- Even in those states with strong confidentiality laws, advocate’s records have been subpoenaed, forcing the advocate and program to engage in litigation to get the subpoena quashed.

Obviously, advocates do not want to do anything to jeopardize a survivor’s case. They do not want to be in a position to be subpoenaed and forced to testify or to turn over their records. This also means that it is critical for advocates to be very thoughtful about what, if any, notes they take when working with survivor defendants.

## WORKING WITH INDIVIDUALS

As previously mentioned, advocates should speak with the defense attorney of each survivor defendant before speaking with the defendant. This initial conversation is the perfect opportunity for the advocate to clarify their role, and discuss issues relating to confidentiality (i.e., Are the conversations protected by law? If not, are there things that can be done, such as “hiring” the advocate as a part of the defense team, to create some protections?).

In practice, advocates may end up making complex decisions about their ability to consult with the defense attorney before connecting with the defendant. Much will depend on whether the defendant is involved in a fast-moving or slow-moving case, and what the risks to that survivor are.

In quick-moving misdemeanor cases, there may be a logic for dealing immediately and directly with the incarcerated survivor. For example, in some communities, defendants are allowed to accept plea bargains before they ever speak with a defense attorney. In this situation, an advocate might help a survivor find a defense attorney who is knowledgeable about the consequences of accepting a plea bargain in a situation with ongoing abuse. The advocate may also help the defendant with safety planning, arranging care for her children, and addressing other immediate concerns while waiting to consult with a defense attorney. In these fast-moving cases, advocate may well decide that the risks of not discussing the specifics of confidentiality are lesser than the risks of delaying contact with a survivor.

Slower-moving cases like felonies or otherwise complex cases present greater risk to the defendant’s legal rights. Prosecutors may be more likely to try to exploit any weakness in a survivor’s claim of confidentiality, for example. There’s also a greater likelihood of the case going to trial and a higher risk of an advocate being subpoenaed by the prosecution and forced to testify in court.

A helpful guideline is to ***always talk with defense attorneys representing survivors facing felony charges before talking to the defendant.***

## WORKING WITH GROUPS

In some states, even if confidentiality between advocates and survivors of domestic violence is protected by statute, there is no protection when a third party is present in most cases. As a result, support groups are not considered by the law to be confidential communication, even though there might be organizational policies designed to protect group members' confidentiality. Since groups are not confidential settings, it is very risky to have a defendant who is awaiting trial participate in a support group. Because of this, it is good practice to reserve these support groups for survivors who are in jail while serving out their sentences.

To serve the needs of survivors awaiting trial, it is preferable to offer individual advocacy or group "information" sessions (not support groups). For example, advocates can offer a series of group sessions on parenting issues for women in jail. These can cover everything from how to talk to their kids on the telephone, to how to work with an abusive partner who has custody to make sure they get to see their children for regular visits.

## ADDITIONAL FACTS TO CONSIDER

Survivors may be completely forthright about the facts of the incident, but if the story they tell in court differs even slightly from the story they told previously (I was wearing a red shirt" vs. "My shirt was pink") the prosecution will exploit that difference to create doubts about the survivor's credibility. It is risky for survivors to discuss the facts of their case with anyone besides their attorney regardless of the truth of their accounts. Prosecutors will exploit any perceived inconsistency in the defendant's narratives in an attempt to destroy their credibility.

- **It is absolutely critical for advocates to preface all the work they do by telling incarcerated women not to discuss any facts related to their case.** Advocates may need to remind survivors of this several times. Some women may desperately want to talk and may start to describe the particulars of their case in a one-on-one session, an informational session, a conversation in the halls, on the phone, or by letter or email. None of these methods are confidential. Jail officials may also record phone conversations. Recorded phone conversations are used against defendants all the time. Advocates speaking on the phone with survivors who are incarcerated must remind them that jail calls are recorded and insist that they do not share any specifics about the incident that led to their arrest.
- **Try to find a private place to meet with defendants.** Even though overcrowding in jails is commonplace, and space is often at a premium, advocates should do what they can to find a private place to meet with women. Keeping in mind that others may overhear an advocate's conversation with a survivor in jail, it is possible that someone may try to use information they overhear to improve their own legal situation, even if it is at the expense of someone else.



# JAIL-BASED ADVOCACY

# JAIL-BASED ADVOCACY

Later sections in this guide discuss approaches for different types of advocacy work (such as individual, group, or systems advocacy). When advocates know what kind of work they want to do (which are discussed later in this guide), the next step is determining who needs support and getting permission to work in the jail. This may involve several steps, including calling the jail, filing paperwork, meeting with the warden or social service staff, and, following the rules and regulations of the jail.

## STRATEGIES FOR FINDING INCARCERATED SURVIVORS

Advocates do not always know when survivors get arrested. They might hear about a case through news reports or find out that a survivor they have already been working with has been arrested. They may get a call from someone close to the defendant (such as a friend, family member, attorney, or other advocacy program) who asks that they meet with the survivor in jail. Regardless of whether advocates know of any specific survivors in local jails, they are there.

### CONNECT WITH OTHER AGENCIES THAT GO INTO THE JAIL

It can be helpful for advocates to start by finding someone in the community who is already going into the jail on a regular basis. Other community-based agencies, such as H.I.V. prevention programs or substance abuse treatment programs might be able to help pave the way for advocates by sharing their experiences of working with people at the jail and advising on who at the jail can help with permissions and clearances. It is important to ask other agency staff about their relationships with the jail administrators. For some jail administrators, it may help to be associated with another community-based program, but for others, an association might not help.

### CALL THE JAIL

If advocates don't know of other programs that are going into the jail and don't know how else to start, they can try reaching out to corrections personnel associated with the jail. For example, they can ask to speak with a:

- Director of Inmate Services
- Director of Volunteer Services
- Director of Programs
- Social work supervisor
- Jail Chaplain

***These positions may or may not exist depending on the size of the jail.***

Advocates should explain the services they wish to provide and ask what they need to do to receive authorization. It may make sense to begin by being very general about the services they wish to provide (e.g. “providing support to women who have experienced domestic violence”), rather than being unnecessarily specific (e.g. “providing information and support to survivors charged with crimes and their defense attorneys to help ensure that every survivor defendant has a fair trial”).

Each jail operates differently. Some have a top-down approach and may tell advocates that they need to speak directly to the warden. Other jails may require advocates to work their way up through several layers of administration.

One of the people listed above may be able to help advocates understand how to go about getting permission. Jails are bureaucracies, so advocates need to be persistent. It can take several rounds of phone calls before they get to speak to someone who can help.

### FOLLOW-UP

Advocates will generally need to follow up their phone conversations with:

- A written request,
- An in-person meeting,
- Or both.

Meeting with jail staff can be extremely helpful. They can provide essential information about existing services and about the gaps they see in the services they currently provide. Advocates may find that the more the staff at the jail “buy-in” to the services offered, the easier it will be to provide quality advocacy.

It may be helpful to meet with two sets of people:

- Jail administrators (such as the sheriff or warden), and
- Staff with whom advocates will be having more regular contact (such as the social work supervisor or director of Support Services).

Advocates may be relying on social workers at the jail to refer women for services, so the better they understand what is being offered, the more likely they are to make appropriate referrals.

A meeting can help advocates better understand what the staff at the jail can and cannot do by giving a clearer sense of their needs and responsibilities.

### **FOLLOW THE PROPER PROCEDURES**

**Advocates' personal backgrounds:** Advocates may need to supply fingerprints and personal information so that the jail can conduct a criminal background check on them. If they were previously incarcerated, they should be up front with that information. Some jails welcome volunteers who were formerly in prison or jail, because they recognize that they are often especially well-informed and impassioned advocates, though the jail may require that a certain period of time has passed since their last arrest or incarceration. Other jails may have stricter policies that permanently prohibit formerly incarcerated people from volunteering.

**Orientation/training:** Advocates may get into the jail by joining the volunteer program. In that instance, they will probably need to attend an orientation or volunteer training. Some institutions require training only when advocates first begin to provide services; others require them to attend a yearly training session.

### **LEARN AND FOLLOW THE RULES AND REGULATIONS**

Advocates will be bound by the jail's rules and regulations, so they should be sure to obtain a copy of them in writing and ask for clarification whenever questions arise. Here are some lists of questions advocates may wish to ask in advance.

#### ***Permissible materials to bring in the jail***

- Are printed handouts acceptable?
- Does their content need to be approved in advance?
- Who gives this approval and how long does it take?
- What about books?

#### ***What materials does the jail expressly forbid?***

Illegal drugs and weapons of any type are forbidden, but other items that jails prohibit may be far less obvious. For example, it is possible that advocates may not be allowed to bring in:

- Chewing gum (it could be used to jam a lock)
- Paper clips, binder clips, rubber bands, or staples
- Pens that do not have a clear barrel (i.e., that are not see-through)
- Prescription drugs or over-the-counter medication of any sort, even if it is for an advocate's own use
- Mailing supplies (stamps, envelopes, etc.)

#### ***What materials can advocates take out of the jail?***

- Are advocates allowed to leave with correspondence from survivors to be mailed or delivered to someone else?
- Are advocates allowed to take any papers out (legal or other)?
- Are advocates allowed to take notes of their conversations with women in jail?

#### ***Programming hours***

- During which hours is programming permitted?
- Are there any recommendations on when not to come (e.g., during the correction officers' (COs') shift change, during meals, or during "count,")?
- Are the rules different on holidays and weekends?

#### ***Are there any restrictions concerning advocates' contact with women in jail?***

- Is there a private space in which to meet with survivors?
- Can advocates meet with women who are quarantined (which is often true for new arrivals) or in segregation?
- Are advocates permitted to enter cells?
- Can survivors call their advocates from jail (assuming they have access to a phone), or can they only communicate when in person?
- What are the rules around hugging/ touching?

### ***What are the institution's policies regarding responding to women who are feeling suicidal?***

Hopefully, an advocate will never be in a position where they are talking with a survivor in jail who is feeling suicidal. However, it is important to be prepared so that if it does happen, they know what their obligations are to report this to jail staff; it is equally important to have training in assessing and responding to someone who is feeling suicidal. Advocates should ask to review institutional policies on responding to suicidality and know their own agency policies before meeting with survivors.

Also, if possible, try to get information about what the jail's policies mean in practice. For example, when the jail learns that a survivor is feeling suicidal, do they then have access to a psychiatrist or other mental health professional? Will they receive follow-up care and support from a mental health professional? Will the survivor be stripped of all clothing and put into 5-point restraints on suicide watch? Will they be transported to the county hospital? Will they receive a disciplinary write-up? Knowing this information before being in a position to decide whether a situation rises to the level of mandatory disclosure to jail staff may help guide the advocate's conversation with the survivor.

No matter how thorough advocates are at the beginning, questions are likely to come up throughout the course of their work. The answers may be unexpected or even contradictory to their ideas of advocacy. Asking questions and clearing things ahead of time may be helpful. It can also help to have the name and number of a contact person at the jail who will answer questions or find answers from others at the jail. At the same time, advocates should keep in mind that institutions such as jails may enforce rules in seemingly arbitrary ways. Advocates may find that different staff have different information – or make different decisions – about what is permissible for “outsiders” to do.

***Advocates need to follow the regulations of the jail to the extent possible. Failure to do so can result in a cancellation of authorization to enter, and it can make access more difficult for advocates in the future.***

## WORKING WITH JAIL STAFF

To advocate effectively, it can be critical to develop good working relationships with staff at the jails. This involves keeping communication open. Of course, advocates cannot disclose confidential information about survivors in jail, and jail staff should understand this from the outset.

Advocates should let the jail staff know about any changes they wish to make with the services they offer, and any issues that arise which impact the work they are doing with survivors. In addition to maintaining open and respectful communication with jail staff, it is important for advocates to assess their own attitudes and assumptions about the people who work in jails. For example, advocates may automatically see the social worker as “good” and the CO as “bad.” Acting on preconceived notions such as these can be a detriment to incarcerated survivors. Sometimes COs prove to be an advocate's biggest ally.

But even when individual COs are helpful and supportive, they are still tasked with exerting and maintaining state control; that is literally their job. The tasks of a CO, together with other conditions of incarceration can and do re-create the dynamics of abuse and may re-traumatize survivors.

Anyone who has had uncomfortable or unjust dealings with law enforcement officers (either personally or through friends, family, and/or their community) can easily make assumptions about jail staff. These assumptions may or may not be correct regarding individual staff members. Instead of making assumptions, advocates should observe carefully and make decisions about people on a case-by-case basis.

## MENTAL PREPARATION

“Security” is a jail's primary concern. On any given day, advocates may need to wait a long time before gaining access to the jail — even if they are scheduled to be there. A unit may be on lock-down (i.e., all prisoners are confined to their cells); there may be a change in shift for the COs; policies or personnel may have changed; or the person at the front desk may simply be having a bad day and decide to take it out on the advocate by not letting them enter quickly. Though frustrating not to be in control of their schedules, advocates can keep in mind that the control and monitoring of their movements — and the sense of being rigidly controlled by others — is something that people in jail must live with all day, every day.



# OVERCOMING BARRIERS

# OVERCOMING BARRIERS

## BARRIERS TO ACCESSING THE JAIL

Sometimes, jails are very welcoming to outsiders. Most volunteer coordinators and social workers are well aware of the unmet needs of incarcerated people, and they may be excited about the services that an advocate will provide. If the staff is convinced that the work is valuable, they may do more than simply provide information on how to proceed; they may champion the advocate's cause and speed the request.

Sometimes, jails support advocacy efforts for their own practical purposes. Research shows that programming within corrections institutions promotes safety by reducing misconduct.

It is also possible that advocates run into resistance. They might need to provide extensive details about who they are and what they have to offer, and they may need to be flexible: adjusting their offerings to fit the needs and limitations of the jail. For example, the services advocates propose may be perceived as a risk to security, or jail officials may be uncomfortable with certain language used. Again, advocates need to be creative and flexible.

Sometimes, a jail's initial resistance relates to protecting the staff's "turf" – jail staff are often unionized or work under contract. It may be difficult to gain access to working with women in jail if the work is seen as an overlap of services already provided. It is highly unlikely that what advocates offer is exactly the same as what is being offered by the jail, so they may simply need to re-name or redefine the work that they do in order to emphasize the difference.

## BARRIERS TO ACCESSING RESOURCES

Different types of programs require varying degrees of resources. For example, an on-going, weekly support group in a jail involves a commitment of staff time and possibly of agency money. However, for an advocate to visit survivors in jail on an occasional, as-needed basis may require far fewer resources.

Many projects do not start out with funding to cover the costs of the work, but sustained jail-based advocacy, or expansion

of existing programs, depends on adequate funding. It may be possible to secure that money through traditional funding sources for anti-domestic violence programs. It may also be possible to obtain a grant from a foundation that supports criminal justice work.

Some traditional funding sources that support survivors' agencies still prohibit their grantees from working with incarcerated women. This usually stems from the misconception that survivors in jail are violence "perpetrators."

Agencies have responded to funding limitations in creative ways. It may be possible to assign jail-based advocacy work to individuals who are either partially or fully funded through an unrestricted source.

## BARRIERS TO GAINING AGENCY SUPPORT

Some advocates have found that their agencies are reluctant to support advocacy work for survivors in jail. Aside from funding concerns, that hesitation may be related to fear of endangering relationships with prosecutors. Or it may be related to an agency policy that focuses on providing services to "victims" and "survivors" of violence, while refusing services to "perpetrators" of violence.

Many advocates who work with jailed survivors find that their relationships do not suffer when they advocate on behalf of survivors charged with crimes. Prosecutors may simply need clarification about an advocate's role, and assurance that they still work with survivors whose abusive partners are being prosecuted. Some prosecutors may benefit from conversations about the sheer number of survivors incarcerated for their acts of survival. Sometimes it can be hard for prosecutors to swallow that they themselves may have contributed to the incarceration of a survivor. But community-based advocates serve survivors, not systems.

It may also help to contact other advocates who have been doing this work to find out how they dealt with concerns about relationships with prosecutors. The National Defense Center for Criminalized Survivors would be happy to put advocates in touch with others who are doing this work.

In terms of an advocacy agency's own policies that seem to prohibit advocacy on behalf of survivors in jail, interest in incarcerated women may present the perfect opportunity to review those policies. There are many questions that might prompt thoughtful discussion on this subject, here are a few to get the conversation going:

- Why were these policies initiated? What is their goal and purpose?
- Are survivors who acted to protect themselves or their children really the people that "anti-perpetrator" policies were intended to exclude?
- Is there a way to re-think or revise those policies?
- If the mission of the agency is to provide services to survivors, don't services to incarcerated survivors fall within the scope of the mission?

Individual agencies need to resolve these questions for themselves. But the very process of engaging in dialogue about such issues may help an agency develop a clearer sense of its purpose, its limitations, and its vision.

## STRATEGIES FOR EMOTIONAL SELF-PROTECTION

Working in a correctional facility is emotionally difficult. As Irene Kinkins, a social worker with decades of experience working with women in jail, commented: "Being behind bars does something to your soul."

- The stresses of working with survivors in jail are often even greater than other kinds of community-based advocacy. The layers of injustice can sometimes feel overwhelming.

Advocates may experience feelings of guilt about being able to leave at the end of the day. They need to be prepared for the emotional impact of this work. It is vital they have ways to share their frustrations with others and to generally take care of themselves.

## SELF-CARE STRATEGIES FOR ADVOCATES

- Avoid scheduling other appointments on the days of jail visits.
- Process experiences with a supervisor or colleague to get support.
- Peer support: advocates can find others doing this work in their state or throughout the country (by calling their state coalition against domestic violence or the Defense Center for information and connections).
- Find creative outlets for feelings (e.g., keep a journal, exercise, meditate, dance, paint, make music, or whatever else helps reduce stress. Note: If journaling, advocates should not use real names of women they are working with).
- Participate in activism: advocates can connect with prisoner rights organizations in their area; get involved in efforts to hold the systems that deal with incarcerated survivors accountable; or join efforts to improve jail and prison conditions.
- Write reflection pieces for so other advocates can read and learn from your experiences.
- Make time with loved ones a priority, especially after jail visits.
- Use self-care techniques such as eating well, exercising, and meditating.
- Celebrate victories: advocates can take survivors out to lunch when they are released or their cases are over, or they can throw an end-of-the-year party for all the people they have worked with who have gotten out.

## SELF-CARE STRATEGIES FOR INCARCERATED WOMEN

The same environment that can be draining for advocates is the environment that incarcerated survivors must exist in. This presents another challenge: How to provide empowerment-based advocacy to survivors in an environment that is dedicated to disempowerment?

This calls for thoughtful planning and resourcefulness on an advocate's part. Much of what advocates can offer — or what works — in a community setting will not carry over directly into jail. The work must change to match the reality of incarcerated life.

Ordinarily, a survivor receiving services from an anti-domestic violence advocacy agency will be encouraged to form their own network of support. Strategies might include contacting a counselor, calling a hotline, or reaching out to other members of a support group.

Life in jail may make these options difficult, if not impossible. A survivor's access to a phone is likely to be limited. They may need to submit the names and numbers of the people they wish to call for approval by jail authorities. There is often a limit on the number of people a survivor can have on their phone list. Adding the number for an agency or a hotline may be a lengthy process, and it might mean displacing a friend or family member's number.

Some jails require prisoners to make collect calls only, and not all agencies or hotlines will accept such calls. Or jails may require incarcerated people to pay for calls, and their resources may be very limited.

Since reaching people outside of jail may be difficult, the alternative is to find support inside the jail. While it is often hard to trust people in jail, some advocates suggest that survivors form a buddy system where they identify one person they trust who agrees to act as a source of support. While this system is not perfect (for instance, a woman is not free to go

from cell to cell to seek out her buddy in the middle of the night, even if she feels the need to talk, and the transitory nature of jails means that someone's buddy may only be in jail for a short period of time), it still might be helpful.

Survivors on the inside have limited opportunities for self-care of any kind (such as taking long luxurious baths, enjoying a free concert, or calling a friend). Even something accessible, such as writing in a journal, may not be an option due to jail policies and confidentiality concerns. An advocate's role as a champion of survivor's self-nurturance does not change, but the specific suggestions have to.

For incarcerated women, advocates might suggest some other options:

- Writing poetry, short stories, or an autobiography of themselves as a child (instead of journaling about the present and what led up to them being in jail).
- Starting whatever exercise program is available at the jail (if any).
- Learning meditation or relaxation techniques.
- Trying guided imagery that takes them to a peaceful, safe place in their mind.
- Identifying for themselves one or two things they can do to take care of themselves after the meeting. Hard feelings may have surfaced during the discussion that it might be important to process.

In many cases, survivors will easily identify some of the self-care strategies they have already developed to help them cope. If an advocate is meeting one-on-one with a survivor and she cannot think of anything, they can take some time to brainstorm together. Chances are that the survivor will eventually identify something she can do to bring herself some comfort.



# ADVOCACY FUNDAMENTALS WITH SURVIVORS IN JAIL

# ADVOCACY FUNDAMENTALS WITH SURVIVORS IN JAIL

***“The most help you can provide to a prisoner is to assist them in building on their own strengths.”***

– Gayle Horii, formerly incarcerated Canadian woman<sup>28</sup>

Many advocates have been doing effective work with survivors in the community for years. This section highlights the special considerations for advocacy in a jail setting or on behalf of incarcerated women.

## SETTING EXPECTATIONS

It is important for advocates to be upfront and realistic by letting survivors know what to expect. It is often impossible to reach incarcerated women by phone to alert them to a change in plans, so keeping one’s word is critical: it conveys respect and helps create a trusting relationship.

Advocates should not make any promises to a survivor in jail unless they are certain they will be able to keep them (it is vital to familiarize oneself with jail policies; see Jail-Based Advocacy). Recognize that external forces may slow down work: while advocates may normally be able to get necessary information for someone in a day or two, trying to get accurate and reliable information for a survivor in jail often takes much longer. As Gayle Horii, a formerly incarcerated woman, cautions, “Give yourself a reasonable amount of time to obtain results and communicate the length of time required in a clear manner.”<sup>29</sup>

## BEING CONSISTENT AND DEPENDABLE

Inconsistency conveys the message that survivors in jail are not important and are not worthy of one’s time. It is critical for advocates to keep their commitments to women in jail, who often have few visitors and may eagerly await a visit from an advocate. Family members are often busy with the task of caring

for children or earning a living, and transportation to the jail may be a burden. Some women may not want their children to see them in jail, and caregivers may have a challenging time arranging for childcare during a visit. Attorneys seldom visit as frequently as their clients would like, thus, a survivor in jail may rely on visits from advocates. This is why it is critical that advocates should not raise expectations, only to let women down, which is unfair and disrespectful to survivors who are likely to have encountered unfairness and disrespect at every turn in the criminal legal system.

## MAINTAINING A STRENGTHS-BASED PERSPECTIVE

Survivors in jail have multiple needs and they also have multiple strengths. One role of an advocate is to help survivors identify and utilize their own strengths.

According to Gayle Horii, sometimes a woman who is incarcerated “simply does not understand that she does have strengths and therefore can make choices [that are] positive to her existence.” In all likelihood, a survivor will be painfully aware of her challenges and shortcomings because everyone else — the judge, the prosecutor, even the defense attorney — will focus on them. Reminding a survivor of her assets can be very empowering. For example, an advocate might notice that a survivor in jail is:

- A fast learner
- A good teacher
- Patient
- Good at making new friends
- Connected to a strong religious faith that helps her in hard times
- Good at maintaining bonds with a supportive family
- A skilled communicator
- Intelligent
- Insightful
- Funny

### AVOIDING GIVING ADVICE

Advocates can play a vital role by giving survivors options and information — about resources, the criminal legal process, or the status of their case — but giving advice can be condescending and potentially harmful. For example, while waiting for a trial, a survivor in jail may be offered a plea bargain. The defendant, in close consultation with their attorney, is in the best position to decide whether to accept that plea. No matter how well intended an advocate's advice may be, they do not have access to all the information that may be legally relevant to a defendant's decision about whether to take a plea. Desperate for guidance and suggestions, survivors in jail may choose to follow an advocate's advice, but the advice may do the defendant more harm than good. It is also important to remember that in most states, advocates are prohibited under the law from giving legal advice.

Another unintended outcome of giving advice is that the advocate may offend the survivor, particularly if the advocate has never been incarcerated. While trying to be helpful, the advocate's advice might come across as condescending.

Without giving advice or discussing details of the case, there are still ways that advocates can help survivors make good decisions. In the situation of a plea bargain, they can help a survivor identify questions to ask their attorney that will help them make an informed decision about their options. The National Defense Center for Criminalized Survivors has a [handout](#) with questions for survivors to consider when offered a plea. That may be a good starting place.

Just allowing survivors the space to talk through their thoughts may be the most productive approach to advocacy. Often, survivors will realize that they already know their own answers. Sometimes the best thing advocates can offer is their ears – no comments, no directives, no recommendations. Listening respectfully and serving as sounding boards allows survivors to reason out their own solutions.

### MAINTAINING BOUNDARIES

Advocates may relate to, and perhaps identify with, survivors on a personal level, but it is especially important to remember roles when working with women in jail. Some advocates may choose to disclose their own histories of abuse and/or of incarceration. Some may also initiate an advocacy relationship with a survivor in jail that continues after they return to the community. Advocates sometimes serve as bridge-builders, connecting women to critical services they will be able to access once they leave jail. Advocates can, and should, care and express concern, but they are not there to develop personal friendships.



It is important to maintain clear professional boundaries because they protect incarcerated women, who are often at their most vulnerable. Boundaries also protect advocates, who may feel so overwhelmed by a woman's needs that they continually try to do more. Finally, boundaries protect the integrity of advocacy programs.

## RESPECTING THE BOUNDARIES OF SURVIVORS IN JAIL

Jails are governed through hierarchies of power and chains of command. People in positions of authority demand respect but are not obligated to reciprocate it. This makes it even more important for advocates to treat incarcerated survivors with respect.

In general, an advocate should not pressure a survivor to disclose any information they are not comfortable disclosing. Such pressure is not therapeutic in any context, and in jail, it may also jeopardize a survivor's case if they have an open legal case and unresolved charges (see Confidentiality).

## TREATING SURVIVORS IN JAIL LIKE THE RESPONSIBLE ADULTS THEY ARE

Advocates sometimes feel overwhelmed by the needs of incarcerated survivors. This may lead to a desire to protect survivors — perhaps by holding out false hope or portraying a situation as better than it really is. It is important for advocates to resist that impulse. Survivors in jail are vulnerable in many ways. They need support and encouragement, but they also need accurate information to allow them to make informed choices — even when that information is difficult for them to hear. Sharing accurate information is respectful and helps women make their own decisions about their lives.

## MAINTAINING PRIVACY

It is critical to have a private place to meet with women in jail. Due to conditions of overcrowding, space can be at a premium in jails; advocates need to be flexible and creative. Some options may include:

- The offices of various staff people while they are at lunch
- A room generally used for storage
- An empty classroom
- A private visiting room
- A small office

The physical surroundings are not necessarily important; what is vital is that there is privacy so that conversations with survivors cannot be overheard.



# **SPECIAL CONSIDERATIONS**

# SPECIAL CONSIDERATIONS

## SAME-SEX ABUSE AS PART OF A RELATIONSHIP IN JAIL

Women may form intimate relationships with other women in jail even if they have never been in a same-sex relationship before. Advocates may learn that an incarcerated survivor is being abused by another woman with whom she is in an intimate relationship. Same-sex abuse in jail raises complicated advocacy issues for a variety of reasons.

Because incarcerated people do not have control over the basic elements of their daily lives — such as when and where they sleep, or how they spend their time — it is particularly difficult for them to seek safety when another person in custody is abusing them. If the jail is a small facility, the only option for “getting away” from the abuser may involve asking to be placed in “protective custody” (this ends up meaning segregation or solitary confinement — not a pleasant alternative).

If the jail is larger, and her abuser lives in her housing area, a survivor might be able to ask for transfer to another unit. Taking this step is not so simple, however, since where she lives is not in her control. Moving requires asking a CO for permission, and such a request might be denied unless the survivor gives a valid reason (and even in that case, it may still be denied).

If the survivor discloses to the CO that she is in danger, she may be at risk of retaliation by her abusive partner. This is especially true if she identifies her abuser, which she will most likely be required to do.

The survivor may be at risk for disciplinary action by the guards or other jail staff if intimate relationships between women imprisoned at the jail are prohibited (as is the case with nearly all correctional facilities). Although it may seem hard to imagine, sometimes jail staff either ignore abuse, or worse, punish women who are being abused because they are engaging in “prohibited conduct” (just by being in a relationship).

If someone discloses to an advocate that another woman at the facility is abusing her, there are several things the advocate can do (in addition to their usual validation of the survivor and her experiences):

- Explore whether there are any other women in her housing unit whom she trusts. While she may experience homophobia from some women inside the jail, others may

be key allies in her efforts to stay safer or reduce the harm directed at her. Depending on the rules of the facility and how much free time or autonomy the women have during the course of the day, the survivor might be able to talk with potential allies and engage in a modified version of the kind of safety planning that women regularly do outside of jail. Maybe she can ask one or two of the women she trusts most to help make sure that she is never alone with her abusive partner.

- If a survivor shares a cell with an abusive partner, maybe she can arrange for another woman to request a room change with her. This would allow the survivor to move to another cell without looking like she is the one asking to move.
- Because the context of jail creates the somewhat unique situation of having survivors, their partners, and witnesses to the abuse all living in close proximity, there may be an opportunity to engage witnesses or bystanders as potential allies in increasing the survivor’s safety. Consider exploring with the survivor the potential risks and benefits of inviting other incarcerated women to intervene when they witness acts of violence or abuse, or to otherwise support the abusive partner in stopping her abuse. At the same time, keep in mind that bystanders come with a range of experiences and attitudes about abuse, and (like people outside of jail) may respond in ways that further blame, shame, or isolate the victim.
- In some situations of same-sex abuse in jail, guards or other jail staff (such as social workers) will be a helpful resource. In some cases, they are aware of what is happening and may have good relationships with the survivor, which makes them helpful allies in enacting safety plans. Even the most sympathetic staff, however, may feel limited by institutional rules and procedures.

As with any other survivor, advocates can be creative and work in partnership with the woman to help her identify the best strategies to help her feel safer given the limitations of her environment.

Advocates may want to strategize with sympathetic jail staff about how they might be enlisted to help create change within the institution.

### WHEN STAFF ARE ABUSIVE

The safety of incarcerated women can also be compromised by COs or other jail staff. There are countless examples of COs abusing the power they have over women in custody through emotional, physical, and sexual abuse. The power and control that dominates the jail environment is inherently abusive, and far too many people exploit that power even further. Guards and other staff may sexually assault or harass women in jail, they may coerce them into performing sexual favors in exchange for “privileges,” or they may treat women in emotionally degrading ways.

Advocates need to be creative when safety planning with women who are being abused by guards or other jail staff. Do not underestimate the risk of retaliation by the abuser against a survivor who comes forward about abuse. In many cases, other staff or authorities will act to protect the abuser, rather than the woman who has been abused; they may even increase abusive and controlling tactics to ensure silence about the situation.

Advocates might be able to use their role as an outsider to promote accountability for such blatant abuses of power by COs or other staff. Of course, any actions they take must be done at the request of the survivor, since acting without her permission could have dire consequences for her safety. It is also possible that identifying abusive staff and taking steps to hold the abuser accountable could limit or end an advocate’s access to the jail. Advocates and their agencies must weigh the risks of such consequences against the risks to women when no one speaks out about abuse.

Resources for advocates working with survivors who disclose sexual abuse during incarceration include:

- Washington College of Law’s End Silence: The Project on Addressing Prison Rape (<https://www.american.edu/wcl/impact/initiatives-programs/endsilence/>): they have a handbook (last updated in July 2014) specifically for individuals in jail or prison on identifying and addressing sexual misconduct by custodial staff (<https://www.american.edu/wcl/impact/initiatives-programs/endsilence/documents/upload/an-end-silence-inmantes-handbook.pdf>)
- Just Detention International (JDI) (<https://justdetention.org/>): they have a service provider resource page for advocates supporting incarcerated survivors (<https://justdetention.org/resources/service-providers-resources/>).



### UNDERSTANDING THE CRIMINAL LEGAL SYSTEM AND PROCESS

Both advocates and their clients benefit from a clear understanding of the basic criminal legal process — at every stage from arrest through sentencing — from the perspective of a defendant. When advocates educate themselves about the path a defendant must travel, they can help survivors make sense of a web of intricate, and not always logical, procedures. Defendants can be empowered through knowledge, just as much as they can be empowered through counseling.

Advocates may already be familiar with the legal procedures in the communities they serve. If they are not comfortable with these processes, however, learning about it creates the opportunity to meet and start to know members of the defense bar (public defenders and private defense lawyers). See the above discussion under the Defense-Based Advocacy section.

#### MISDEMEANOR VERSUS FELONY

Misdemeanor cases are less likely to go to trial than felony cases; they are more often resolved through a plea or other non-trial disposition, depending on the community. Survivors arrested for misdemeanor charges are less likely than those arrested for felony charges to be held in custody for prolonged periods of time, although some people arrested for misdemeanors end up spending a long time in jail. Misdemeanor cases are generally processed more quickly through the criminal legal system than felony cases. When working with someone charged with a misdemeanor, an advocate may have less time to make contact with them before their release from jail and less time to make contact and develop a connection with the defense attorney.

Because misdemeanor cases are often resolved relatively quickly, the Defense Center assists with felony cases more often than misdemeanors. This does not mean, however, that advocacy with survivors charged with misdemeanors is not important – in fact, it is essential, given that so many survivors end up in the system with a misdemeanor charge. In general, the goals of advocacy in misdemeanor cases are the same as the goals in felony cases.

As discussed previously in this manual, it is ideal for advocates to have explicit permission from a survivor's defense attorney before speaking with her. But misdemeanor cases generally move quickly, so advocates may face some difficult decisions about contacting the survivor before she has an attorney or before the advocate has been able to speak with her attorney. This decision must take into account any possible risks to the survivor (please see additional information on this topic in the section, Defense-Based Advocacy).

#### LINKS BETWEEN CRIMINAL CHARGES AND ABUSE

For some criminalized survivors, there is a direct and immediate connection between the abuse and the criminal charges. Many survivors are arrested after defending themselves and/or their children from abusive partners (they may be charged with assault or homicide). Some survivors are coerced into committing illegal acts by an abuser (such as economic or drug crimes, or homicide of others). Other survivors are charged with a crime as a result of “failing to protect” their children from the abuser's violence or failing to get medical intervention. Still others are charged with parental kidnapping or custodial interference after fleeing to protect themselves and/or their children. In all of these situations, the survivor's history of abuse may have legal relevance to her defense or defense theory. There are also many cases in which abusers make false accusations against their partners to get them arrested. In these situations, abusers are using the criminal legal system as yet another tool to gain and maintain control.

When abuse is directly connected to the charges, the most effective defense can only be raised if the defense attorney is aware of the abuse and its relation to the incident. Several factors can interfere with this:

- Survivors sometimes hesitate to talk about their experiences of abuse with anyone.
- Abusers often enforce a code of silence about the abusive relationship.
- Survivors may minimize the frequency and the extent of the abuse they experience.
- Survivors may not realize what information about the abuse their attorney needs to know.
- Attorneys may not know the right questions to ask about the abuse.

Advocates can play a critical role in helping survivors relate vital information about their history of abuse to their defense attorney. More details will be described below in the Individual Advocacy section.

For other survivors, the connection between the abuse they experienced and the charges they face may be less legally relevant. For example, some women use drugs and alcohol as a means of coping with abuse. They may be arrested on drug charges, or for other crimes related to supporting their use of substances. In these situations, the courts are unlikely to consider the history of abuse at the trial stage. Regardless of any legal connection between a survivor's experiences of abuse and her legal charges, all survivors in jail need and deserve support, just as all survivors everywhere need and deserve support.

## TALKING WITH DEFENDANTS ABOUT THE CRIMINAL LEGAL SYSTEM AND PROCESS

### EXPLAIN THE CRIMINAL LEGAL PROCESS

Many survivors charged with crimes have never been arrested before, and even those who have been arrested previously may be uncertain about the various stages of the criminal legal process.

Some jails will inform new arrestees about what to expect from detention and what will be expected of them. They may receive a detailed handbook of the rules and regulations of the jail as soon as they arrive. Jails generally do not tell women anything about what to expect in court, however. Too often, neither does anyone else.

Survivors in jail want to know when they will go to court, and what to expect when they get there. It is helpful for them to have a clear sense of the big picture. Advocates can ease these concerns tremendously by explaining what the following terms mean (Note: terminology may differ in different jurisdictions, and the process will likely vary between misdemeanors and felonies):

- Arraignment
- Preliminary hearing (or grand jury)
- Pre-trial conference
- Trial
- Pre-sentence investigation
- Sentencing hearing

Advocates can make a significant difference simply by explaining the layout of the courtroom and the names and roles of each participant. For example, people may not realize that the State (or the Commonwealth), the District Attorney (or the City or County Attorney), the Prosecutor, and the Government Attorney are all different names often used to describe the same person. A survivor may also think that the prosecutor is their attorney, especially if in the past, the prosecutor appeared to have been representing their interests in actions against their abusive partner.

Survivors also need to know the goal and purpose of each proceeding. Advocates can prepare by learning the jurisdiction-specific answers to the following questions:

- What are the names of different hearings in the process?
- How does the process vary between misdemeanor and felony charges?
- What is the goal and purpose of each hearing?
- For which hearings will the defendant be brought to court from the jail and for which hearings will her attorney simply represent her interests?
- Will the judge, or anybody else, ask her questions?
- Will her abusive partner be in court? Will she have to see him or speak to him?

Advocates can be enormously helpful by talking to survivors about what to expect at any given proceeding; no detail is too small. So much of the legal process is complicated to understand and out of survivors' control, but basic information can go a long way towards helping a survivor feel better prepared and better able to deal with what she will face in court.

For example, generally, at a "preliminary hearing," the prosecutor must prove to the court that there is likelihood that a crime was committed and that the defendant is the person who committed it. The burden of this proof is quite low; the prosecutor only needs to present minimal evidence.

Normally, the defendant will not testify at the preliminary hearing stage. They usually have much to lose and little to gain by doing so. No matter how honestly a defendant testifies, the district attorney will later pick apart that testimony to exploit even the tiniest inconsistencies. If this is not thoroughly explained to a defendant, she may feel very frustrated, scared, or confused after her preliminary hearing; she may believe that she was denied the chance to tell her side of the story. She may feel specifically frustrated and angry with her attorney, whom she may believe was not doing enough to fight for her in court (especially if her abuser testified and did not tell the truth). This may lead the defendant to not trust her attorney or not fully confide in them. That lack of trust can have profound consequences for a survivor defendant. If she does not have enough trust to tell her attorney about her history of abuse, her attorney may not be able to present the strongest defense possible.

Therefore, without giving any legal advice, advocates can help women understand the process they are going through, ease fears and frustrations, and promote trust between a defendant and her attorney.

To ensure that you have the most accurate information about the process, it may make sense to check in with the survivor's defense attorney before explaining to her what will happen at various stages in the legal process. Alternatively, before significant court hearings, you and the defendant might try to arrange a meeting together with her defense attorney to answer questions and make sure everyone is on the same page. Keep in mind, however, that most criminal defense attorneys – especially public defenders – are juggling very heavy caseloads. If they do not have time to meet with you and the defendant before each hearing, it does not necessarily mean that they are not good attorneys or that they do not care about their client's well-being.

### **HELP DEFENDANTS ASK THEIR ATTORNEYS GOOD LEGAL QUESTIONS**

A survivor is likely to have many specific questions and concerns at critical points in the legal process. For example, they may want counsel on whether or not they should accept a plea bargain, waive their right to a jury trial, or testify at their own trial. A defendant needs to make those decisions in close consultation with their attorney, but an advocate can help the defendant frame questions to their attorney so they are more fully informed about the possible consequences of any given decision.

### **ENCOURAGE VALUABLE COMMUNICATION WITH DEFENSE ATTORNEYS**

It is entirely possible that many aspects of a survivor's history of abuse will not be admissible in court. The judge makes the ultimate decisions on this, but the defense attorney is the person best equipped to assess whether some or all of a survivor's history of abuse may be admitted.

While it is not the advocate's role to relay information that a survivor discloses to them in confidence, it is their role to encourage a survivor to communicate important information directly with their attorney. Advocates may also be able to offer the defense attorney insights about what questions to ask to bring out a full picture of the abuse. By encouraging communication between survivors and their attorneys, advocates can serve as a bridge and may be able to help in a significant way.

It is critical that defense attorneys become aware of as many details of the abuse as possible. Fortified with those details, the attorney will be better able to assess whether some or all of that evidence will be relevant to a survivor's legal defense. It is also helpful for attorneys to have a complete history of the abuse as soon as possible. In that way, any discussions or negotiations between the defense attorney and the prosecutor can take into account the full context of the alleged crime.

## SPECIAL CONSIDERATIONS

An advocate might sometimes feel like they are in a difficult position; on one hand, they may understand and validate a survivor's concerns about the quality of legal representation she is receiving, especially if her defense attorney is not in regular communication with her or does not seem to be giving her case the attention it requires. On the other hand, the advocate may recognize that they really do not have sufficient information to evaluate how well the defense attorney is representing the survivor's interests. The attorney may be doing an excellent job of putting together the case – talking to witnesses, reviewing records, retaining experts, and preparing the case for trial – without taking the time to fill the defendant in on each step in developing the case. In most cases, advocates do not have access to all the information necessary to make this determination.

Advocates should encourage the survivor's defense attorney to reach out to the National Defense Center for Criminalized Survivors. Advocates can also reach out to NDCCS with contact information for the defense attorney. NDCCS offers case-specific technical assistance to defense attorneys; staff can share relevant materials, discuss strategies that have been effective for other attorneys working on similar cases, and provide referrals for expert witnesses.

In many instances, defendants would like more time with their defense attorneys to have their questions answered and to gain assurance that their attorney is working diligently on their case. Unfortunately, in most jurisdictions, defense attorneys represent too many clients to be able to give each person the amount of individualized attention that they would like. Nevertheless, even if they are not in regular contact, that does not mean the defense attorney is not doing a good job or considering the survivor's best interests.

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## SAFETY NEEDS

***“I would have never thought that it was true, but it’s much safer for me here than on the outside. In addition to ‘three hots and a cot’, I have protection from him. He tried to get to me, but since he can’t call, and I can refuse visits, and they search visitors, I am as safe from him here as I have ever been. I’m not saying it’s a good place to be, but for women like me, it’s better than living without guards.”***

– Crystal, a survivor in jail on an arson charge<sup>32</sup>

Advocates know how critical the safety planning process can be for survivors. For survivors in jail, there are particular safety considerations that must be addressed, including:

- Safety from the abuser,
- Safety from the abuser’s family,
- General safety in jail,
- Address safety implications and other consequences of arrests and convictions.

## SAFETY FROM THE ABUSER

If a survivor’s abusive partner is still alive, he may be threatening her even while she is in jail. He may try to visit her, write her letters, or send messages to her via her family and friends. Abusers have even been known to attempt to reach a survivor in jail by contacting her social worker and pretending to be someone else.

When survivors are charged with assaulting their abusive partners, the criminal charge can give the abuser a powerful tool — it can give him ways to manipulate the survivor who resisted his violence. He may offer to drop the charges against her if she agrees to do whatever he wants her to do. The charges, however, are not his to drop. While the abuser may be the “complainant” (the person asking for legal action), in most cases it is the government that is prosecuting the survivor, and

the abusive partner does not get to decide whether to drop the charges. However, a survivor may not realize this and may be vulnerable to such manipulation.

While it is the prosecution’s decision whether to proceed with the charges against a survivor, the abusive partner still has a lot of power: if no “victim” or “complaining witness” is available, the court may dismiss the charges. If the abuser does not appear in court to testify against the survivor, she is more likely to be freed; the abuser may offer his silence in court in exchange for continued control over her life. Abusers have been known to make promises to the survivor and then not fulfill them. For example, abusers can:

- Say they will not appear in court, and then appear and testify against the defendant;
- Promise to tell the truth in court, and then lie when on the stand;
- Say they will let a survivor have her children back if she takes a plea bargain, and then go forward with a custody case against her once she pleads guilty and is released;
- Encourage the prosecutor to seek resolutions (i.e., house arrest) that give the abusive partner even more ability to monitor and control the survivor.

Likewise, if a survivor’s abusive partner is also her co-defendant, he may attempt to pressure her into supporting his defense, even if it means compromising her own defense and welfare. He may do this by being menacing and creating fear for her physical safety or the safety of her family. Or he may manipulate her by trying to win her loyalty through promises of love and devotion.

## SAFETY FROM THE ABUSER’S FAMILY

An abuser’s family may actively seek to get in touch with a survivor, or they may threaten her in court, especially if the abuser is no longer alive. The judge may acquit a survivor defendant or give her what the abuser’s family feels is a minimal sentence, and unhappy with the verdict, family members may vow to take justice into their own hands. The abuser’s family can also pose a threat to a survivor by going through her children — either by threatening them with physical harm, or by fighting for custody and preventing the survivor from having contact with her children.

It is helpful for advocates to engage in the same kind of safety planning process with survivors who are concerned about, or are facing, retaliation from the abusive partner’s family that

they would if the survivor was anticipating possible harm from an abusive partner. Advocates can identify the ways that she feels at risk and strategize with her about what protective measures might help her to feel safer, weighing the potential outcomes, risks, and benefits of various options. In some cases, it may be useful to inform various criminal legal system players (including law enforcement officers, bailiffs, or the prosecutor) about the survivor's concerns. Chances are that they have encountered similar situations before.

At the same time, it is important not to assume that the abusive partner's family is necessarily angry at the survivor or will do something to harm her if she is released. In many cases, family members are well aware of their loved one's harmful behaviors and may even be a source of support for a survivor defendant.

### GENERAL SAFETY IN JAIL

A survivor in jail may realistically be concerned for her safety while she is incarcerated. She may fear correction officers (COs), jail staff, or other women in prison. Jails are violent environments in general, and the control – which can be psychological as well as sexual – used by COs and jail staff can mirror control used by abusers.

Also, incarcerated women sometimes abuse each other. While it is beyond the scope of this manual to explore why and how this happens, advocates working in jails or prisons have a responsibility to be aware of jail violence. They need to understand that it may be a very real concern of women in jail (see Special Considerations: Same-Sex Abuse as Part of a Relationship in Jail).

There is also the matter of a survivor's legal safety. Survivors in jail are vulnerable in many ways. If they are not careful about what they talk about and to whom, they may find that conversations they assumed were private will be used against them in court. The same also applies to letter writing. Letters sent to, or received from, a survivor's abuser (or others) may be used against her in court (see Confidentiality for a more complete discussion of this issue).

Advocates can play a vital role in helping a survivor engage in a multi-faceted safety planning process that takes into account her risks and resources while she is in jail, in court, and upon release. Awareness, information about her options, and an effective plan can play a key role in helping a survivor gain a sense of greater safety.

### SAFETY IMPLICATIONS AND OTHER CONSEQUENCES OF ARRESTS AND CONVICTIONS

In addition to the possibility of being incarcerated and facing criminal charges, an arrest or conviction has ever-growing consequences that extend far beyond an individual's involvement in the criminal legal system as a defendant.

Having been charged or convicted of a crime can affect a survivor's employment options, access to public benefits, immigration status, housing options, child custody determinations, access to higher education, voting rights, other civil rights, and eligibility for social services. There may also be court fees and fines, fees for mandatory intervention programs, and in some jurisdictions, people on parole or probation must pay to cover the costs of state supervision.

Unfortunately, many (although not all) of these consequences have direct implications for survivors' safety by decreasing their options and resources and/or giving their abusive partner more leverage with which to control them. Many survivors who have been charged with crimes report that they will never call the police again, even if their partner is seriously harming them.<sup>33</sup>

While it is beyond the scope of this manual to explore remedies for each of the possible consequences of an arrest or conviction for a survivor, it is important to be familiar with the potential consequences of arrests and convictions in order to help survivors charged with crimes avoid or minimize these negative consequences whenever possible.

In many communities, local legal aid offices have become well versed in trying to remedy some of the civil legal consequences of arrests and convictions. Additionally, some public defender offices have information about cleaning or expunging criminal records. And, as discussed previously, it is essential that anyone charged with a crime who is not a U.S. citizen should consult with an immigration attorney who has expertise in the overlap between criminal convictions and immigration.

### NEED FOR FURTHER SERVICES

Survivors in jail have many needs, only some of which are related to their criminal charge. Advocates are in a position to identify those needs and provide referral information. Again, an advocate's role is as a bridge-builder, connecting women to other sources of support.

# CLOSING

The staff of the National Defense Center for Criminalized Survivors hope that the information provided in this manual is useful to advocates working with criminalized survivors and wish them the very best with their work.

Advocacy with survivors charged with crimes is hard – and rewarding – work. Those engaged in this vital advocacy need to network with each other and share successes, challenges, and ideas. Please consider joining the Defense Center’s listserv for advocates who practice defense-based advocacy. Finally, if you have further ideas, input, or questions, please contact NDCCS at [215-763-1144](tel:215-763-1144) or [defensecenter@bwjp.org](mailto:defensecenter@bwjp.org).



# SUMMARY OF ADVOCACY BASICS FOR WORKING WITH CRIMINALIZED SURVIVORS

The following is a recap of some basic guidelines for advocates to follow when working with survivors charged with crimes. For further information about each of the points listed below, please refer to the full manual above.

- Before speaking with a survivor facing criminal charges, an advocate should talk with the defense attorney representing the defendant to discuss issues relating to confidentiality and to clarify their role as an advocate.
- Advocates should not talk to a prosecutor about a specific case without the full knowledge and agreement of the survivor's defense attorney.
- Advocates should avoid discussing the facts of the incident for which the survivor was charged and preface all the work they do by telling incarcerated women that it is important not to discuss any facts related to their cases.
- Advocates need to be very thoughtful about what, if any, notes they make in their work with survivor defendants.
- Advocacy agencies must have clearly established policies in place regarding record-keeping, testifying, and responding to subpoenas.
- To protect the confidentiality and legal interests of survivors who are awaiting trial, advocates should consider offering individual advocacy or general information sessions (not support groups) for defendants who are pre-trial, reserving support groups for those who are serving out their sentences in jail.
- Advocates cannot disclose information they learn from women in the jail with whom they work to anyone, especially jail staff.
- If the survivor is not a U.S. citizen, the advocate should ensure that her defense attorney consults with an immigration attorney about the consequences of an arrest or conviction on her immigration status.
- Advocates should be asking questions about their advocacy strategies, not only in terms of the implications for individual survivors they may be advocating with, but also for any other survivors charged with crimes:
  - “How could this strategy be used against survivors?”
  - “Is there any way it could backfire?”
  - “In attempting to help, could I in fact be doing greater harm?”
- It is important to remember that whether the abuse is directly or indirectly related to the charges is largely irrelevant to an advocate's decision to work with a survivor.
- All survivors in jail need and deserve support, just as all survivors everywhere need and deserve support.

# ENDNOTES

<sup>1</sup> Quoted by Gayle Horii, *Advocating for Women in Prison*, KINESIS, March 2001, 19.

<sup>2</sup> Ellen Pence and Shamita Das Dasgupta, *Re-Examining 'Battering': Are All Acts of Violence Against Intimate Partners the Same?*. Praxis International, Inc., June 2006.

<sup>3</sup> Debi Zuver, *Our Voices Within: Celebrating the Strength of Incarcerated Survivors*, California Coalition for Battered Women in Prison, 2002, 21.

<sup>4</sup> Bureau of Justice Statistics: <http://www.ojp.usdoj.gov/bjs/glance/tables/jailagtab.htm>.

<sup>5</sup> Bureau of Justice Statistics, "Preliminary Data Release - Jails (2023)," June 2024, [bjs.ojp.gov](http://bjs.ojp.gov): <https://bjs.ojp.gov/preliminary-data-release-jails-2023>.

<sup>6</sup> James, Doris J. (2004). *Profile of Jail Inmates, 2002*. Bureau of Justice Statistics Special Report, U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/pub/pdf/pji02.pdf>.

<sup>7</sup> See:  
Bloom, B., Chesney Lind, M., & Owen, B. (1994) *Women in California prisons: Hidden victims of the war on drugs*. San Francisco: Center on Juvenile and Criminal Justice.

Bradley, R. D., & Davino, K. M. (2002). *Women's perceptions of the prison environment: When prison is "The safest place I've ever been."* *Psychology of Women Quarterly*, 26.

Browne, A., Miller, B., & Maguin, E. (1999). *Prevalence and severity of lifetime physical and sexual victimization among incarcerated women*. *International Journal of Law and Psychiatry*.

<sup>8</sup> Survey participant. *Unlocking Options for Women: A Survey of Women in Cook County Jail*. Chicago Coalition for the Homeless, April 2002, p. 6.

<sup>9</sup> Focus group participant. Focus groups were held at the Philadelphia Industrial Correctional Complex and the Cambria Community Center and were coordinated by the Working Group to Enhance Services to Incarcerated Women in Philadelphia, Summer 2001.

<sup>10</sup> Survey Participant, 2002, p. 12.

<sup>11</sup> Survey Participant, 2002, p. 11.

<sup>12</sup> Focus Group Participant, 2001.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Survey Participant, 2002, p. 16.

<sup>16</sup> Focus Group Participant, 2001.

<sup>17</sup> Ibid.

<sup>18</sup> Survey Participant, 2002, p. 18.

<sup>19</sup> Ibid, p. 8.

<sup>20</sup> Focus Group Participant, 2001.

<sup>21</sup> Survey Participant, 2002, p. 17.

<sup>22</sup> Lousie Bauschard and Mary Kimbrough, *Voices Set Free: Battered Women Speak from Prison*, Women's Self-Help Center, St. Louis, Missouri, 1986, 148.

<sup>23</sup> It is beyond the scope of this piece to engage in lengthy discussions of the politics of prisons and jails, the politics of poverty, and the politics of race and gender. There are many gifted authors who insightfully address those topics (Beth Richie, Julia Sudbury, Angela Davis, and others).

<sup>24</sup> *Corporate Globalization and Prisons: On the Backs of Women of Color*, OFF OUR BACKS, Volume xxxii, numbers 5/6, May-June 2002, 16.

<sup>25</sup> *Women in Jail and Prison: a training manual for volunteer advocates*, National Council of Churches in Christ, U.S.A. 1985, 72.

<sup>26</sup> <https://www.confidentialityinstitute.org/resources>

<sup>27</sup> Lori Pompa, co-facilitator of a training session of the Working Group to Enhance Services to Incarcerated Women in Philadelphia, November 2001.

<sup>28</sup> Gayle Horii, *Advocating For Women in Prison*, KINESIS, March 2001, 19.

<sup>29</sup> Horii, at 19.

<sup>30</sup> Ibid.

<sup>31</sup> Joanne S. Kurzmann, *Building Bridges: A Support Group and Advocacy Program for Incarcerated Survivors of Domestic Violence in Cumberland County, Maine*. Paper presented at the 10th National Workshop on Adult & Juvenile Female Offenders, 2003, p. 34.

<sup>32</sup> Beth E. Richie, *Compelled to Crime*, Routledge, New York, 1996, 136.

<sup>33</sup> King County Coalition Against Domestic Violence, *Victim-Defendants: An Emerging Challenge in Responding to Domestic Violence in Seattle and the King County Region* (<http://kccadv.org/Reports/victimdefendantfinalreport1.pdf>), 2003, p. 20.