



Effective Victim Advocacy in the Criminal Justice System A Training Course for Victim Advocates

Kimberly A. Lonsway, PhD,
and Sergeant Joanne Archambault (Ret.)
with contributions by Aurelia Sands-Belle,
Vickie Smith,
and Alison Jones-Lockwood

August 2008, Last updated July 2017

Course Description

Throughout this online training curriculum, we emphasize how important it is for professionals within a community to work cooperatively across disciplines. A fundamental requirement for this type of collaboration is for professionals to understand each other's roles, yet all too often this is not the case. This module is designed to help address this problem, by clarifying the role of victim advocates particularly as it pertains to working with the criminal justice system. This module is designed primarily for advocates themselves, but it will also be useful for other professionals who respond to sexual assault. Training content begins with a discussion of the general role of victim advocates and then explores how this role differs between community-based and system-based advocates. The module then goes on to provide specific strategies that advocates can use to successfully work on behalf of sexual assault victims within the criminal justice system.

Estimated time for completion: 14 hours

Please note: This module is a more in-depth version of *EVAWI 13: Breaking Down Barriers: The Role of Community-Based and System-Based Advocates*. This course is recommended for victim advocates, but other professionals are more than welcome to take this course as well. The material is essentially the same in both *EVAWI 12* and *EVAWI 13*, so we suggest completing one or the other and not both.

OVW Grant Funding

The OLTI was created and continues to be supported with funding from the Office on Violence Against Women, U.S. Department of Justice. However, the opinions, findings, conclusions, and recommendations expressed are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Expert Contributions

OLTI training content is created and updated with input from professionals in a variety of disciplines, including law enforcement, prosecution, health care, victim advocacy, and related fields. Please see the acknowledgements page of each

module, for a list of the individuals who served as contributing authors or expert reviewers.

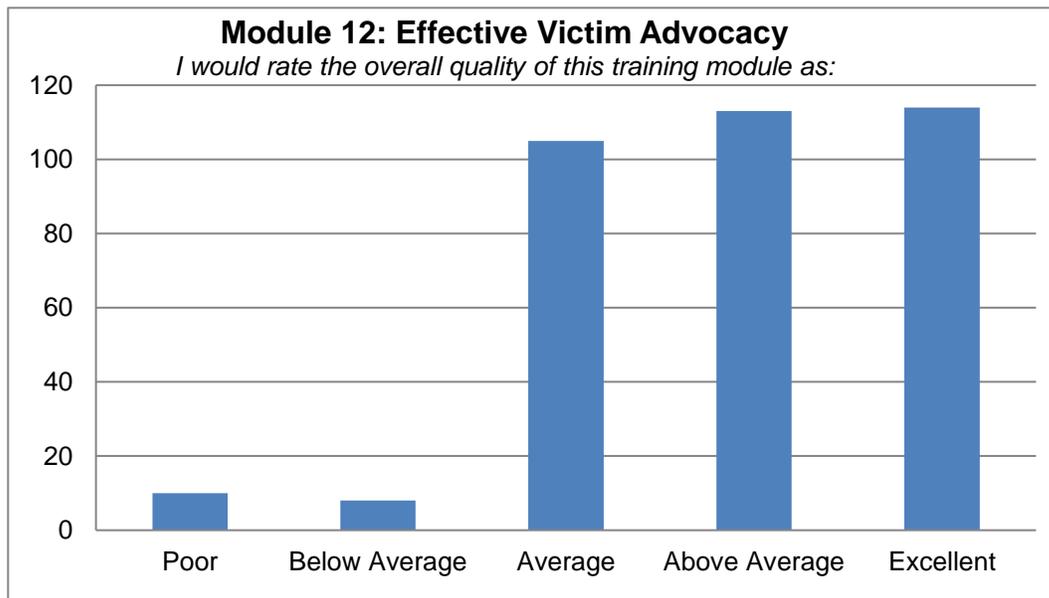
Course Evaluations

At the end of each module participants are asked a number of questions, including the overall quality of the module, as well as its difficulty. They are also asked to indicate how likely they are to apply the information they learned on the job. Their responses are summarized in the following charts, and illustrated with the quotes.

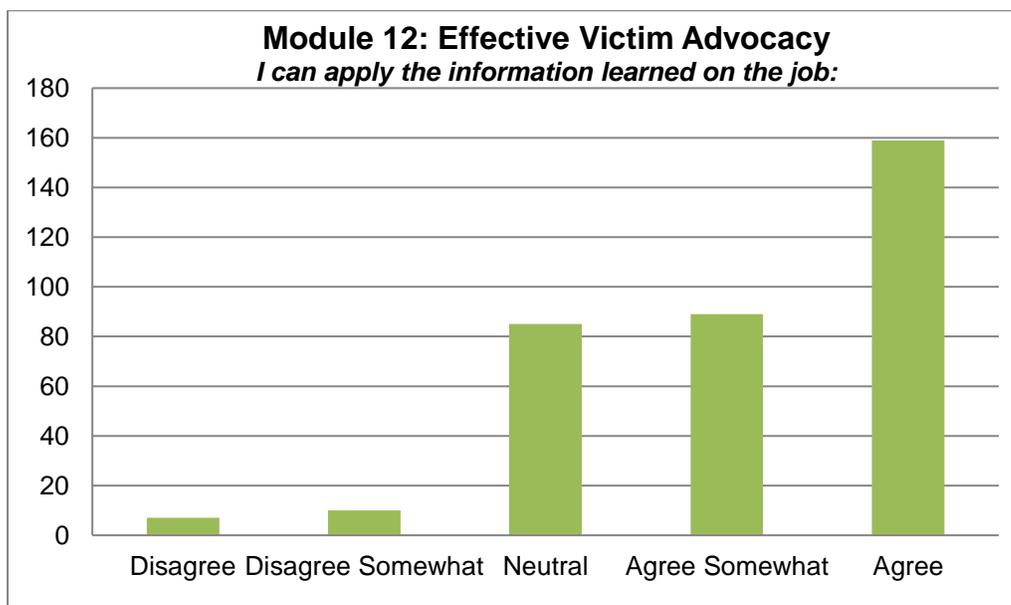
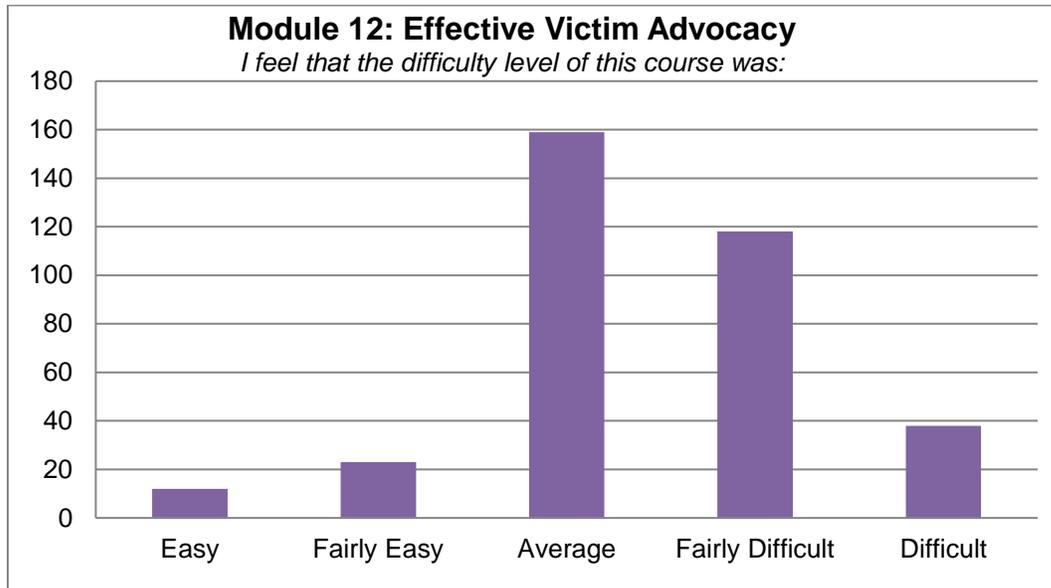
What did you find most helpful in this module?

The detail within the course was the most valuable along with the statistics given.

There was a lot of really good information. I really appreciated the links to outside information that further validated what was being said in the training.



65% rated the module “excellent” or “above average.”



71% “agree” and “somewhat agree” that they can apply what they learned on the job.

Course Objectives

At the end of this training module, the learner will be able to:

1. Review a brief definition of victim advocacy and the general role of victim advocates.
2. Recognize similarities and differences in the professional role of victim advocates who work in a community-based organization, system-based organization, or the U.S. military.

Effective Victim Advocacy in the Criminal Justice System

Lonsway, Archambault

3. Explore the complex issues surrounding victim privacy, confidentiality, and legal privilege of private communications between victims and advocates, and any written records.
4. Identify opportunities for cooperation between advocates and criminal justice personnel, with the potential for increasing victim participation in the process of the law enforcement investigation and criminal prosecution.
5. Examine the role of victim advocates during the medical forensic examination, various stages of the law enforcement investigation, and the process of criminal prosecution.
6. Define the existing rights of crime victims on the state and federal level.
7. Clarify the financial compensation that is available for victims of crime, and recognizing state and federal eligibility requirements that often limit the availability of this reimbursement for victims of sexual assault.
8. Identify other forms of assistance that advocates can provide for victims, including help in meeting civil legal needs and service as an expert witness in criminal or civil litigation.
9. Analyzing common challenges faced by advocates working within the criminal justice system, and exploring possible strategies for successful resolution.

Course Outline

Part 1: Introduction to Victim Advocacy Within the Criminal Justice System

- I. Introduction
- II. Definition of Advocacy
 - a. Individual vs. systems advocacy
 - b. The general role of victim advocates in the criminal justice system
 - c. What does the research say about the impact of victim advocates?
- III. Two Types of Victim Advocates
 - a. Services provided by both types of advocates
- IV. Community-Based Advocates
 - a. Characteristics of community-based advocacy
 - b. Services often provided only by community-based advocates
 - c. The role of community-based advocates in victim decision-making
 - d. Relationship between state coalition and law enforcement organization
- V. System-based Advocates
 - a. Characteristics of system-based advocacy
 - b. Services often provided only by system-based advocates
- VI. Collaboration Between Different Types of Advocates
 - a. The question of “vertical advocacy”
- VII. Issue of Victim Privacy
 - a. Victim needs for privacy
 - b. Definition of privacy
 - c. Privacy rights of victims in each state
 - d. How to explain privacy rights to victims
 - e. Interagency considerations

Effective Victim Advocacy in the Criminal Justice System

Lonsway, Archambault

- f. Privacy challenges in small or isolated communities
- VIII. Confidentiality in Communications and Written Records
 - a. Definitions of confidentiality and legal privilege
 - b. Varying levels of counseling privilege for community-based advocates
 - c. Courts moving toward broader protections of confidentiality
 - d. But ... a subpoena is still a subpoena
 - e. Exception to confidentiality: Some disclosures trigger a mandated report
 - f. Victims can always waive their right to confidential communications
 - g. Confidentiality protections are required for VAWA 2005 grantees/subgrantees
 - h. Privilege does not extend to communications with a third party
 - i. Communications with a system-based advocate are not typically privileged
 - j. Confidentiality and written documentation by community-based advocates
 - k. Consequences of violating confidentiality
 - l. Policies and procedures to promote confidentiality
- IX. Victim Advocates Working Within the U.S. Military
 - a. Policy on restricted reporting
 - b. Advantages of restricted reporting for victims
 - c. Disadvantages of restricted reporting
 - d. Victim preference statements
 - e. Limits on confidentiality in communications
 - f. Exceptions to the confidentiality of restricted reporting
 - g. Protecting victim privacy within the military environment
 - h. Providing assistance to military victims

Part 2: Victim Advocacy at Various Stages of the Criminal Justice Process

- I. The Initial Community Response: Medical Forensic Examination and Law Enforcement Investigation
 - a. Medical forensic examination
 - b. Preliminary investigation by law enforcement
 - c. What exactly do we mean by “preliminary investigation?”
 - d. Determining the appropriate jurisdiction
- II. Notification of Victim Advocates
 - a. Advocates called out as routine procedure
 - b. Advocates notified even if incident doesn’t meet crime elements
 - c. Variations in how victim advocates are notified: Who is contacted first?
 - d. Variations in how victim advocates are notified: Where the interview will take place
- III. Responding to the Victim’s Identified Needs
 - a. Addressing the victim’s concerns regarding prosecution
 - b. Addressing the victim’s reluctance to report
 - c. Not a question of “now or never”

Effective Victim Advocacy in the Criminal Justice System

Lonsway, Archambault

- d. If the victim decides not to report or participate in the exam
- IV. Presence of Others During the Exam or Interview
 - a. Presence of victim advocates
 - b. Law enforcement should not be present during the medical forensic exam
 - c. The presence of other support people
 - d. General role of the advocate or other support person
 - e. When support people should be excluded from the exam or interview
- V. General Responsibilities of Advocates in the Interview or Exam
 - a. Verbal support and encouragement
 - b. Monitoring the victim's well-being and clarifying questions
 - c. Addressing more serious concerns
 - d. The importance of taking breaks
 - e. When the victim's rights are violated
 - f. Balancing the needs of this victim and the next one
- VI. Specific Responsibilities During the Medical Forensic Exam
 - a. Explaining the medical forensic examination to victims
 - b. Facilitating the victim's own decision-making
 - c. Dual purpose of the medical forensic examination
 - d. What can and cannot be concluded from the exam
 - e. Addressing the possible need for emergency contraception
- VII. Payment for the Medical Forensic Exam
 - a. Mandated reporting by medical professionals
 - b. Summary of state laws regarding mandated reporting
 - c. Are victims identified in a mandated report?
 - d. The need for community-wide protocols and outreach efforts
 - e. Medical forensic examinations without law enforcement involvement
 - f. The question of evidence storage
 - g. Concluding the medical forensic examination
 - h. Follow-up appointments
- VIII. Specific Responsibilities During the Law Enforcement Investigation
 - a. The detailed victim interview
 - b. Assisting in the decision regarding whether or not to postpone the interview
 - c. Assisting in the selection of an appropriate location for the detailed interview
 - d. Personal property of the victim's taken as evidence
 - e. Arrest and referral for prosecution
 - f. Assisting victims in obtaining a protective order
 - g. Use of the polygraph prohibited
- IX. Specific Responsibilities During Prosecution and Court Proceedings
 - a. Providing input into charging decisions and plea negotiations
 - b. Requesting special victim protections when necessary
 - c. Discussing any special conditions of the offender's bail, parole, or probation
 - d. Addressing issues of HIV testing

Effective Victim Advocacy in the Criminal Justice System

Lonsway, Archambault

- e. Responding to defense counsel
- f. Explaining rape shield laws
- g. Facilitating victim input at sentencing and beyond
- X. Protecting Crime Victim Rights
 - a. Notification of crime victim rights
 - b. Invoking crime victim rights
 - c. Enforcement of violations
 - d. National Center for Victims of Crime document
- XI. Crime Victim Compensation
 - a. Basic information on state crime victim compensation programs
 - b. National Association of Crime Victim Compensation Boards document
 - c. Implications for this training module
 - d. Restrictions on eligibility
 - e. Under-utilization of crime victim compensation
- XII. Other Forms of Financial Reimbursement for Crime-Related Losses
 - a. Restitution
 - b. Civil actions
- XIII. Civil Legal Issues
 - a. Filing a civil lawsuit
- XIV. Advocates as Expert Witnesses
 - a. Advantages of advocates serving as an expert witness
 - b. Disadvantages of advocates serving as an expert witness
 - c. Recommendations for advocates serving as an expert witness
- XV. Addressing Reluctance to Integrate Advocacy Services
 - a. Common concerns of other community professionals
 - b. Concern that the advocate will become a witness
 - c. Concern that advocates serve as “watchdogs”
- XVI. Strategies for Overcoming Reluctance and Addressing Conflict
 - a. Recognize differences in personality and philosophy
 - b. Address the issue of past conflict
 - c. Address the expectation of future conflict
 - d. Address the concern that advocates will talk victims out of reporting
 - e. Address the “watchdog” role of advocates to ensure it is fulfilled appropriately
 - f. Address the concern that advocates withhold important information
 - g. Address the concern that advocates aren’t really part of the “team”
 - h. An extended example: When the facts “just don’t add up”
 - i. Longer-term strategies for resolving this particular conflict
 - j. Remind community professionals of the benefits of working with an advocate