

The Legality of Being a Sexual Assault Survivor:

*By: Lauren Barnwell, SCVAN Senior Attorney and
Amanda Brown, SCVAN Statewide Forensic Nurse Examiner*

The Sad Reality

On average, there are 433,648 victims (age 12 or older) of rape and sexual assault each year in the United States.¹ Sexual assaults are widespread through our communities and have long term effects on the survivors as well as their families. Consider these statistics:

94% of women who are raped experience symptoms of post-traumatic stress disorder (PTSD) during the two weeks following the rape.²

30% of women report symptoms of PTSD 9 months after the rape.³

33% of women who are raped contemplate suicide.⁴

13% of women who are raped attempt suicide.⁵

Approximately 70% of rape or sexual assault victims experience moderate to severe distress, a larger percentage than for any other violent crime.⁶

Enter VAWA

In 1994, the Federal Government enacted the Violence Against Women Act to change the landscape for survivors of these horrendous acts. Since the inception of VAWA, victims of domestic violence, dating violence, sexual assault, and stalking have been able to access services not previously available. VAWA created a community-coordinated response that brought together, for the first time, the criminal justice system, the social services system, and private nonprofit organizations responding to domestic violence and sexual assault. It created recognition and support for the efforts of domestic violence shelters, rape crisis centers, and other community organizations nationwide.

In 2016, the Federal Government passed the Sexual Assault Survivors' Rights Act. This act established additional rights for survivors, specifically the right to:

- (1) receive a forensic medical examination at no cost,
- (2) have a sexual assault evidence collection kit (i.e., rape kit) preserved for the maximum applicable statute of limitations,
- (3) receive written notification prior to destruction or disposal of a rape kit, and
- (4) be informed of these rights and policies.

In January 2019, a statewide Forensic Nurse Task Force was created with members from the South Carolina Hospital Association, South Carolina Victim Assistance Network, South Carolina Coalition against Domestic Violence and Sexual Assault, South Carolina Attorney General's Office, South Carolina Law Enforcement Division, forensic nurses and forensic pediatricians to ensure that trauma-informed services, in line with VAWA, are being offered throughout the state.

Survivor Rights in SC

Currently, South Carolina does not have its own Survivor Bill of Rights. Our hospitals are required to conform to federal VAWA mandates and the Federal Bill of Rights, but no mandates exist in S.C. law. There

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Domestic Violence and Gaps in Federal Gun Law

The "boyfriend loophole" is getting women killed

Domesticshelters.org Jan 08, 2020 By Neda Yildirim

Jasmine Gaytan was killed when she was only 20 years old. Her boyfriend fired the bullets and carried her to the hospital covered in blood. He later pled guilty to second-degree murder. At the time of the incident, they had been together for over eight years.

Unfortunately, Jasmine's story is just one out of too many. According to reports, 4.5 million women have had their intimate partner threaten them with a gun and 1 million women have been shot by their partner^[1].

It is crucial to recognize the strong relationship between gun violence and domestic abuse. Domestic assaults involving a gun are 12 times more likely to result in death. Statistics are clear: domestic abusers who possess guns pose a much greater threat to the household. In a survey of global experts, the United States was found to be one of the most dangerous countries for women who are victims of domestic violence.

Legal Loopholes

In 1996, U.S. Congress passed the Lautenberg Amendment which amends the Federal Gun Control Act of 1968 by banning individuals convicted of a misdemeanor crime of domestic violence to own a gun. However, the law only placed restrictions on current or former spouses and parents or guardians even though individuals killed by a dating partner make up almost half of partner homicides — in short, this federal law does not apply to dating partners. Gun ownership of abusers in non-cohabiting relationships is not restricted and current law leaves their partners vulnerable. Activists call this the "boyfriend loophole."

Moreover, federal laws in place do not apply to any other family member other than the spouse or children. They fail to address violence against siblings, parents or any abused relatives. It is important to bring attention to this issue since the percentage of family homicides that involve murder of a parent has been steadily increasing from 9.7 percent of all family homicides in 1980 to 13 percent in 2008.

On the other hand, current federal law places no restrictions on convicted stalkers and other individuals with protective orders. All states

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2019 Year End Statistics

SAFE Homes-Rape Crisis Coalition

Assisted 3,340 adults and 2,101 children traumatized by domestic violence and sheltered 330 adults and children

Assisted 240 direct and 75 indirect victims of sexual assault

Provided 3,336 individual and 1,322 family therapy sessions for 555 people

Provided 272 therapy/support groups which were attended by 217 individuals

Accompanied 50 victims of sexual assault to the hospital

Assisted 336 victims with filing order of protection petitions and attended 1,249 hearings with domestic violence and sexual assault victims, and received 2,101 law enforcement referrals

We provided 675 education/prevention programs reaching 105,605 individuals

3,768 volunteers contributed 29,764.75 hours this year

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is hope on the horizon, however. Bill 3830 was introduced to the House on January 31, 2019 and currently resides in the House Judiciary Committee, waiting to be voted on and passed as law. While the bill is comprehensive in nature, some standout points are as follows:

Survivors will have the right to:

- Have present a victim advocate of the survivor's choosing;
- Be interviewed by a law enforcement officer of the gender of the survivor's choosing if the request is able to be reasonably accommodated;
- Be interviewed by a law enforcement officer who speaks the survivor's preferred language or have a qualified interpreter;
- Have an attorney present during all interactions with law enforcement or the criminal justice system;
- Refuse to participate in the criminal justice system or to receive medical evidentiary or physical examination;
- Be informed of the results of analysis of the evidence; and
- Request a free and complete copy of all law enforcement reports concerning the sexual assault open conclusion of the case.⁷

Furthermore, Bill 3830 sets out that the evidence from a sexual assault forensic investigation may not be used to prosecute a survivor for any misdemeanor or narcotic/controlled substance related crime.⁷

While South Carolina continues to play catch up to the rest of the country, victims of sexual assaults are left wondering: "what *are* my rights"?

VAWA legislation states that victims of sexual assault must be provided with access to a medical forensic examination:

1. Free of charge, and
2. Without requiring them to cooperate with law enforcement or participate in the criminal justice system.

1. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2018 (2019). **Note:** RAINN applies a 5-year rolling average to adjust for changes in the year-to-year NCVS survey data.
2. D.S. Riggs, T. Murdock, W. Walsh, A prospective examination of post-traumatic stress disorder in rape victims. *Journal of Traumatic Stress* 455-475 (1992).
3. J. R. T. Davidson & E. B. Foa (Eds.) *Posttraumatic Stress Disorder: DSM-IV and Beyond*. American Psychiatric Press: Washington, DC, (pp. 23-36).
4. DG Kilpatrick, CN Edmunds, AK Seymour. *Rape in America: A Report to the Nation*. Arlington, VA: National Victim Center and Medical University of South Carolina (1992).
5. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Socio-emotional Impact of Violent Crime* (2014).
6. Allen J. Wilcox, David B. Dunson, Clarice R. Weinberg, James Trussell, and Donna Day Baird, *Likelihood of Contraception with a Single Act of Intercourse: Providing Benchmark Rates for Assessment of Post-Coital Contraceptives*, *Contraception Journal*, (2001).
7. https://www.scstatehouse.gov/sess123_2019-2020/bills/3830.htm.

South Carolina survivors of sexual abuse deserve more than these scant federal rights. Our survivors deserve strong laws that lessen their burdens, that diminish their hurdles, and destroy the discouragements they have to go through before they are heard. They deserve equanimity.

If you wish to contact your legislator in the House Judiciary Committee, to request the passing of Bill 3830 in a timely manner, a list of committee members is below. You may also access this public information at: <https://www.scstatehouse.gov/CommitteeInfo/housejudiciary.php>.

House Judiciary Committee Members:

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Creating a Safe Place for Children

New research reminds us of the need to listen to children about sexual abuse

Posted Nov 05, 2019 ~ Psychology Today ~ Danielle Render Turmaud, M.S., NCC - Lifting the Veil on Trauma

Recent research conducted by Helton et al. (2019) suggests that over the past several years, there has been a 70% increase in child sexual abuse cases treated in emergency departments. More specifically, the findings indicate that the number of child sexual abuse admissions increased from 5,138 in 2010 to 8,818 in 2016.

Although the findings demonstrate an increase in ER admissions, the research does not explain why this increase is occurring. Perhaps it is because of an increase in child sex trafficking or exploitation, limited options in rural locations to obtain sexual abuse support (Helton et al., 2019), or perhaps it is because of an increase in children disclosing over the past several years. The causal factors are not yet known; but what these findings do tell us, is that we need to listen to children about sexual abuse.

Sexual abuse in children is an immense problem. Although some sources suggest that child sexual abuse rates may be decreasing, other estimates suggest that as many as 1 in 10 children (Townsend & Rheingold, 2013) or as many as 1 in 4 girls and 1 in 6 boys may experience sexual abuse (Finkelhor, 2014). Making matters more complicated, childhood sexual abuse is vastly under-reported; making accurate statistics a challenge. As such, we do not know the precise level of impact it has on our society.

What we do know is that sexual abuse is an issue that affects everyone and has a devastating impact on individuals, families, and communities. In particular, sexual abuse can have especially heinous impacts on the child survivor including increased rates of depression, shame, self-blame, decreased self-esteem, eating disorders, somatic concerns, anxiety, dissociative patterns, substance abuse, Post-Traumatic Stress Disorder and traumatic stress, relationship problems, and more (Ferguson et al., 2013; Hall & Hall, 2011).

Understandably then, the recent research conducted by Helton et al. (2019) reveals a need for continued prevention efforts against childhood sexual abuse. Additionally, these findings remind us that there are many children who experience sexual abuse and need a safe place to disclose their traumatic experiences and obtain support. Although this research demonstrates that a number of children do disclose and obtain help, the reality remains that this is not true for many others.

According to the World Health Organization Guidelines for Medico-Legal Care for Victims of Sexual Violence, a large barrier in obtaining support for children is that children are often reluctant to share about their abuse. This can be because of feelings of helplessness, fear of repercussion, fear of not being believed, or even fear of getting the perpetrator in trouble (particularly if the perpetrator is a caregiver or known to the child). Further, if a child discloses the assault and is not believed or supported adequately, this can lead to increased distress for the child (World Health Organization).

Therefore, these new findings remind us that creating a safe place for children to disclose their adverse experiences is essential. Creating this safe place starts with educating ourselves around the issue and on what steps we can take in supporting children if they disclose abuse. An important aspect to consider is that disclosures from children may come in different forms than expected. For example, the disclosure may be purposeful or accidental, they may involve direct disclosures or indirect disclosures, and often can come in coded or disguised words (especially in younger children as the child tries to use their limited vocabulary or understanding to share what happened

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to them).

Whether we are parents or concerned citizens, there are some steps we can all take to create a safe space for the children in our lives:

- Develop an understanding of child abuse and neglect.
- Educate children about their body parts and which parts are theirs and should not be touched by others.
- Educate children on their body parts teaching them the correct anatomical words for body parts (e.g. vagina and penis) versus other covert words that may be more challenging to understand if disclosures occur.
- Educate children on their ability to say “no” and set boundaries (with everyone).
- Take what children share with you seriously and do not dismiss them (regarding all matters). This will set a precedent for children to know that you are someone who listens to them.
- If you see something (e.g. wounds that look mysterious, a child acting differently, etc.), say something. Do not wait to report issues or get seek support for a child until you are "sure" that something happened.

If a child does disclose abuse:

- Be supportive and tell them that you believe them.
- Reassure the child that they did nothing wrong and that you are there for them.
- Listen and do not ask leading questions. This can distort the child’s story and make them uncomfortable or feel interrogated. It is not your job to get all of the details.
- Breathe. Do not panic. This is a terrifying and distressing experience, but the child needs a calming and supportive presence. Panicking can lead them to retract their disclosure or feel unsafe to share further.
- Document the exact words of the child.
- Report the abuse and contact agencies that are there to support you (in addition to police and child welfare agencies, there are sexual assault centers and child advocacy centers that will provide support for survivors and their families). Communicate what the child shared clearly to supporting agencies so that they can best support the child.
- Take care of yourself. Hearing about the abuse of a child can lead to your own distress or vicarious traumatization. We must take care of ourselves first if we want to adequately support the children we care about.

Some additional information on how to better support children through their disclosures can be found at Childhelp and The National Child Traumatic Stress Network. Let’s create a safer place for children together.

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(Continued from page 2 - Domestic Violence and Gaps in Federal Gun Law)

made stalking a crime but specific definitions and elements of these laws vary. There are significant numbers of individuals convicted of misdemeanor-level stalking crimes each year who remain free to buy and possess firearms. For example, between 2003 and 2012, 3,105 individuals were convicted of stalking in Georgia alone. However, only nine out of all 50 states prevent those with misdemeanor stalking convictions from owning guns. Georgia is not one of them.

Another loophole is ensuring that prohibited abusers surrender their firearms. According to research published on intimate partner violence-related firearm laws and homicide rates, federal laws need to go beyond prohibiting firearm possession by abusers to sufficiently decrease homicide rates. The failure to disarm domestic abusers leads to horrible consequences. In Washington D.C., at least five women were shot and killed by their partners less than a month after obtaining protection orders. Abusers continue to threaten, manipulate and harm their victims or continue to commit other crimes with a previously owned gun.

Weak Spots of Implementation

In addition to the gaps in federal law, there are certain factors that continue to weaken the implementation of existing laws. First, not all states report all prohibited abusers. Most states fail to enter persons with domestic violence protective orders into the database. As a result, background checks do not properly prevent them from obtaining guns. Next, federal background check laws further weaken the system by not requiring background checks to be performed by private gun sellers. In October 2012 in Wisconsin, Radcliffe Houghton opened fire, killing his wife and two other women. Houghton was prohibited from gun possession but he was able to purchase a gun from a private seller on the Internet. Another devastating event took place in Illinois. Dmitry Smirnov shot and killed his former girlfriend in a parking lot after stalking her for a week. Smirnov was prohibited from buying a gun but was able to purchase a gun through a private transaction with an individual who was not required to conduct a background check. While 1 in 7 gun buyers stopped by a federal background check is a domestic abuser, this loophole unintentionally creates room for domestic abusers to illegally obtain firearms through private sales. Nineteen states go further to require checks on all handgun sales, but in all other states victims of domestic violence still live in fear of getting shot.

Call to Action

Since the Lautenberg Amendment, Congress worked on passing a number of bills on gun control. Just counting the ones after the Sandy Hook shooting in 2012, more than 100 proposals have failed. Twenty-four out of the 100 made it to the floor, but facing opposition from NRA, none passed into law. Proposed bills included improving background checks, introducing universal background checks, penalizing political appointees at federal agencies if they fail to report abuse to the database and aimed to close loopholes. Contact legislators and lawmakers in your community and urge them to enact protection laws to save more lives.

If you want to take part in overcoming these loopholes further, become a part of Everytown for Gun Safety and IANSA. You can support by attending events, donating, and raising awareness in your community around the issue. Everytown has been advocating for a legislative agenda that includes more background checks for potential gun owners, laws that would keep guns away from domestic abusers, and better gun-trafficking laws.

The International Action Network on Small Arms (IANSA) is a global movement against gun violence. It has a Special Consultative Status with ECOSOC at the United Nations and is the current official UN coordinator of civil society participation in UN meetings on small arms. To learn more about how to disarm domestic violence, visit their website and get involved.

^[1] Sorenson, Susan B., and Rebecca A. Schut. "Nonfatal Gun Use in Intimate Partner Violence: A Systematic Review of the Literature." *Trauma, Violence, & Abuse* 19, no. 4 (October 2018): 431–42. doi:10.1177/1524838016668589.

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SAFE Homes-Rape Crisis Coalition Honors Outstanding Volunteers

SAFE Homes-Rape Crisis Coalition's staff and clients have all been touched in a unique way by the spirit of our volunteers. It was therefore appropriate to recognize those whose service in 2019 were deemed to be exceptional at our Annual Volunteer Banquet held on March 12, 2020.

VOLUNTEER OF THE YEAR - Robin Moss

This award recognizes the superior achievement, commitment and support of a volunteer to victims of domestic violence and sexual assault.

BOARD MEMBER OF THE YEAR - Karen Rhodes

This award recognizes outstanding leadership and service to victims of domestic violence and sexual assault by a member of the SAFE Homes-Rape Crisis Coalition's Board of Directors.

LEADERSHIP AWARD - Tony Liebert

This award recognizes outstanding leadership and service to victims of domestic violence and sexual assault by a member of SAFE Homes-Rape Crisis Coalition's Board of Directors.

CORPORATE SERVICE AWARD - Operation Drain

This award is presented to a local company in recognition of outstanding corporate support and service to victims of domestic violence and sexual assault.

COMMUNITY SERVICE AWARD OF THE YEAR - Spartanburg Ski and Outing Club

This award is presented to individuals and organizations that have exemplified outstanding community service to victims of domestic violence and sexual assault.

STUDENT VOLUNTEER OF THE YEAR - Candace Quinn

This award is presented to outstanding student volunteers in recognition of superior achievement, commitment and support to victims of domestic violence and sexual assault.

LYNN HAWKINS LIFETIME ACHIEVEMENT AWARD - Bobby Jackson

This award is named in honor of Lynn Hawkins, who served as Executive Director of SAFE Homes-Rape Crisis Coalition from 1988 to 2019. Ms. Hawkins spent three decades of her life advocating for the marginalized, victimized, and abused. Her commitment and expertise has been instrumental in passing legislation to protect victims and in spreading awareness about the issues throughout the state and country. In honor of her dedication and service to survivors of domestic and sexual assault, the Lynn Hawkins Lifetime Achievement Award is given to that volunteer who epitomizes courage and strength in their tireless pursuit to end violence against women, men and children.

DEDICATION AWARDS - Jimmy & Kathy Tindal, The SHOP, SPARTA Transportation, Celanese

These volunteers have been truly dedicated in their long-term and consistent commitment to SAFE Homes-Rape Crisis Coalition and the victims we serve.

HELPING HANDS AWARDS - Wilson Oswald, Claudia Whitt, Bruster's, Natisha Adams

This award is presented to organizations in recognition of exemplary service and dedication to victims of domestic violence and sexual assault.

SHINING STAR AWARDS - Damaris Vega, Spartanburg Knitting Guild, Precious Rivers

This award is presented to individuals and organizations in recognition of stellar support, and commitment to promoting awareness of domestic violence and sexual assault.

ANGELS OF LIGHT AWARD - Church of Jesus Christ of Latter Day Saints, First Baptist North Spartanburg

This award is presented to faith-based groups in recognition of their dedication and ongoing commitment to victims of domestic violence and sexual assault.

KELLEY AWARD - Betty Koester

Donna Kelley was a much loved friend and staff member. Her death in November of 2002 was an incredible loss for us and the victims she served. In honor of her unparalleled commitment to underserved victim populations, an award was created and given to the volunteer that exemplifies that enthusiasm and dedication to empowering those who would otherwise have no support or guidance.

OUTSTANDING SERVICE AWARDS - First Presbyterian church, Brandon Molina, Jainee Feliz-Cabrera, Dr. Esther Godfrey, Kneisley Painting, Woodman Life Chapter 316

This award is presented to individuals and organizations in recognition of their outstanding service to victims of domestic violence and sexual assault in this community.

Frontlines

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U P C O M I N G E V E N T S

- April 2020** **Sexual Assault Awareness Month**
National Child Abuse Prevention Month
- April 19-25, 2020** **National Crime Victims' Rights Week**
Honoring Our Past. Creating Hope for the Future.
- April 29, 2020** **National Denim Day/Wear Jeans with a Purpose**
www.denimdayinfo.org
- May 23, 2020** **1VoiceHubCity**
Singer/Songwriter Competition Concert Finale
Spartanburg @ 7:00 pm www.1voicehubcity.com
- October 2020** **Domestic Violence Awareness Month**
National Bullying Prevention Month
- October 2, 2020** **Putting the Pieces Together:**
An Interpersonal Violence Conference
First Baptist North Spartanburg
- October 21, 2020** **Unity Day 2020. Unite against bullying-**
Wear and Share Orange! (*www.pacer.org*)
- November 6, 2020** **Auction for a Cause**
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SAFE Homes-Rape Crisis Coalition (SHRCC) provides services to victims of domestic violence in Spartanburg, Cherokee and Union Counties and victims of sexual assault in Spartanburg and Cherokee Counties.

SAFE Homes-Rape Crisis Coalition Mission

The mission of SAFE Homes-Rape Crisis Coalition is to use our collective voice to address the impact of domestic and sexual violence by providing quality services to those affected and to create social change through education, training, and activism.

VISION:

We envision a community liberated from all forms of domestic violence and sexual assault.

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