

Declines

It is estimated that over 50% of sexual assault cases do not result in criminal charges being filed. It is rarely that the prosecutor does not believe something happened or whether the client is believed. The prosecutor has to evaluate if a crime happened and what crime can they prove in court. The burden of proof is beyond a reasonable doubt. The prosecutor must evaluate the available evidence, witnesses and credibility. Sexual assault cases happen in most cases without witnesses, NA, or weapons. Abuse of trust and manipulation are the most commonly use of “force” by offenders. Offenders will often present their own reports of consensual behavior, utilizing their own credibility, or just reinforcing common rape myths. Prosecutors ultimately are trying to determine if they can prove the crime, and what the probability would be that they could win in trial.

Common Legal Reasons for a Decline:

- **Insufficient evidence:** lack of witnesses, no physical evidence, no corroborating evidence, not meeting the elements necessary for defined criminal statutes. Prosecutor does not believe evidence provided will be able overcome a consent defense, or prove someone was not able to consent because of vulnerability, alcohol or incapacitation.
- **Statutory Referral Only:** (Per protocol Detective is required to send all cases involving victims under the age of 18yrs old.) SRO cases often involve victims who won’t participate; vague disclosure or no disclosure.

Advocates Role:

- Explain general process for filing decisions
- Provide emotional support.
- Emphasize they are believed and it is not their fault.
- Clarify that decision does not mean “it did not happen” and does not mean the weren’t believed
- Acknowledge victim strength in process and possible benefits in reporting.
- Acknowledge that the victim did not do anything wrong. The legal system is not perfect and often does not work. Reinforce victims courage to report, it is the system that is not always capable not the client.
- Identify the inherent challenges with prosecuting sexual assault cases in court: the grooming, secrecy, isolation, and abuse of trust. Most victims experience feelings of violation and confusion about the abuse the endured by someone they trusted.

- Inquire about what their questions and concerns are; share with the prosecutor with their permission
- Answer questions and concerns, but do not feel you have to defend the decision. It is important to be realistic about the process, and recognize when clients questions are more specific or go beyond your role in being able to explain how the decision was made.
- Offer a decline meeting with the prosecutor if they want more information
 - *Some clients will indicate they need a more detailed explanation as to how and why charges were not filed in their particular case. The prosecutor is the most appropriate person to answer more specific questions about the legal challenges on the cases. While you should explain in general how decisions are made and the reality of sexual assault cases, more specific questions can be handled by the prosecutor. Advocates can help facilitate direct contact, conference calls, or an in person decline meeting.*

Decline Meetings

An Advocate's role is to prepare the client for what to expect, provide support and facilitate the prosecutor responding to the client's questions. An advocate can also play a key role in helping facilitate the client feel they were responded to, respected and believed, by utilizing opportunities to acknowledge the clients strength in coming forward, validating their frustrations and prompting the prosecutor to do the same. A victim's response by the system can be very important to their healing, regardless of the criminal decision or outcome.

A decline meeting allows a victim to:

- Have the decision explained to him/her as it applies to his/her specific case
- Ask questions and address concerns
- Direct access to the "system" and a more personal response to their case

Many victims have expressed that decline meetings have not made the decision ok, but have helped to gain a better understanding about how the decision was made. The decline meeting has also given the victim a sense of acknowledgement and validation from the "system"; it is not just a case.

A Decline Meeting is NOT about:

- Trying to change the filing decision
- Another interview
- Re-opening the criminal case

There are cases where new information comes forward or they prosecutor indicates they would re-consider the decisions. The prosecutor may indicate they will ask the detective to do some follow up investigation, or will review the case again. Most commonly the decline meeting is only an informational meeting for the client. The decline meeting can also be important in keeping the reality of the systems impact on individual victims.

Difficult decline meetings:

- Agitated or angry clients
- Clients with unrealistic expectations about the meeting
- Cyclical conversations
- Outbursts
 - *Communicate with the prosecutor ahead of time about your client's questions and concerns. Provide some input and guidance on effective approaches or style with your client. If you know your client is extremely agitated or has outbursts prepare with the prosecutor on how to handle. It is normal and expected clients will go through a variety of emotions during a decline meeting. It is not necessary to stop or intervene if the reaction and behavior is not aggressive or threatening.*

What the Advocate can do:

- Offer emotional support
- Take a break, step outside, walk around with client, utilize grounding techniques
- Prepare ahead of time with a challenging client. Be clear about scope and boundaries of the decline meeting.
- End the meeting.
 - *If you have concerns about how a decline meeting went staff it directly with the prosecutor who conducted it first if possible. Consult with your supervisor to consider how to address and improve the outcome or process next time.*