

# SART Protocol

Chattahoochee Judicial Circuit Protocol for Responding to  
Victims of Sexual Assault

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# Acknowledgements

The Chattahoochee Judicial Circuit Protocol for Responding to Victims of Sexual Assault was developed by the Sexual Assault Response Team Protocol Subcommittee. The document was compiled and edited in 2015 by the Subcommittee and the Sexual Assault Support Center. It was revised in 2019 to reflect the SART Membership input and to reflect Georgia's Sexual Assault Response Team Guide, the International Association of Forensic Nurses (IAFN), and the International Association of Chiefs of Police (IACP) best practices standards. Please refer questions and comments to:

## **Sexual Assault Support Center, Inc.**

### **“The Center at 909”**

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As a “living document”, the protocol reflects current best practices in responding to sexual assault. We invite readers to contact The Center to recommend and share information on emerging best practices that will contribute to the continued development of this protocol.

# Forward

## What is a Sexual Assault Response Team (SART)?

The Chattahoochee Judicial Circuit and the Sexual Assault Protocol subcommittee define a SART as a multidisciplinary response team that provides specialized immediate response to victims of sexual assault by implementing a comprehensive, sensitive, coordinated system of intervention and care for sexual assault victims. The SART team is (minimally) comprised of representatives from Law Enforcement, Sexual Assault Nurse Examiners (SANE), Advocacy and Prosecution. A SART is designed as a vehicle for collaboration, relationship building, training, education and accountability among and between professionals, making the most of limited public resources. Although there may be similarities between agencies and services provided, this protocol focuses primarily on adolescent and adult victims (ages 15 and older).

### A SART provides an opportunity to:

- Develop and establish protocols to provide a seamless guideline that ensures victims and responders are well-informed and that the needs of the victim and the needs of the criminal justice system are considered throughout the process.
- Educate the criminal justice system and the community to raise awareness of sexual assault, decrease victim blaming and increase offender accountability.
- Seek feedback from victims of sexual assault to expand understanding of sexual assault dynamics, improve criminal justice system response, and assess effectiveness of the team.
- Build relationships with individual responders to sexual assault that guarantee the opportunity for resolution in the event of a challenge or miscommunication among members of the SART.
- Identify valuable community resources.
- Become familiar with the roles and responsibilities of each discipline that responds to sexual assault, and allows for the sharing of information, knowledge and expertise among team members.

A primary goal of a SART is to reduce further trauma to a sexual assault victim(s) as they access the criminal justice system allowing the victim to see the criminal justice system as an ally that gathers relevant information fairly and without prejudging the facts. SARTs also strive to mitigate the effects of sexual assault on victims and their families, hold perpetrators accountable, enhance community safety, and prevent future victimization. In order to accomplish these goals, a SART must be able to distinguish between obtaining a criminal conviction/sentence and what the victim would experience as having achieved justice. Justice is served when victims are listened to, believed, taken seriously and included in the criminal justice process (if they desire). This is particularly important since one reason victims give for not reporting a sexual assault is fear of not being believed. It is important to the safety of a community that victims believe that reporting to and participating in the criminal justice system is a safe and viable option.

The mission of a SART is to provide a sensitive and competent multi-disciplinary response, to support efforts to restore well-being to the victim, and to bring the offender(s) to justice. To accomplish this mission, the goals of the SART are to:

- ensure competent, coordinated, and effective intervention
- provide a sensitive and caring response to victims of sexual assault by all disciplines
- ensure cultural competency
- ensure complete, consistent, and accurate case investigations
- provide high quality and consistent forensic medical<sup>1</sup> examinations
- ensure the provision of medical and forensic follow-up care
- provide crisis intervention and follow-up counseling referrals
- effectively support the mission of the criminal justice system



## A Victim-Centered Response

A victim centered response includes:

- Prioritizing the safety, privacy and well-being of the victim.
- Developing and implementing training designed to ensure responders are adequately equipped and knowledgeable in responding to victims.
- Recognizing that victims are never responsible for the crimes committed against them.
- Recognizing that offenders are always responsible for their crimes.
- Acknowledging and respecting victim's input into the criminal justice response.



## An Offender-Focused Response

A SART is also offender focused. An offender focused response acknowledges that offenders purposefully, knowingly and intentionally target victims whom they believe they can successfully assault. This includes potential victims who offenders perceive as vulnerable, accessible and/or lacking in credibility. The victim's perceived lack of credibility is seen by the offender as an assurance of their ability to escape accountability for the offense. Unfortunately, a lack of focus on the offender oftentimes is exactly what the offender needs to continue offending. Therefore, an offender focused response draws attention to the actions, behaviors, characteristics and prior criminality of the offender.

An offender focused response requires knowledge of the nature of sex offenders. An offender focused response considers the following:

- Sex offenders are often repeat or serial offenders.
- Sex offenders often target people they know.
- Sex offenders are often practiced liars who have a history of avoiding detection through deception and manipulation.

Successful SARTs incorporate their knowledge of sex offenders into the investigation and prosecution of sexual assault cases while keeping an open mind about the facts and not prejudging the facts during the course of an investigation.



## Measurable Objectives

Every team needs goals and objectives to ensure they are fulfilling their mission. Objectives that are measurable provide a "road map" of progress. Possible objectives are:

- Gathering victim feedback in a predetermined number of cases

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<sup>1</sup> The terms "medical forensic examination" and "forensic medical examination" may be used interchangeably throughout this document. Please note that when discussing the exam itself, the exam will be referred to as the "medical forensic examination" as the patient takes precedence over the collection of evidence.

- Reviewing 4 to 5 cases every year
- Using case reviews to develop recommendations for system response
- Periodically reviewing sexual assault data to assess effectiveness of the team



## Written Member Roles and Responsibilities

Ideally, SART members will have the power to make decisions and effect change within their own organization about how their organizations respond to victims of sexual assault. This is especially important early on in the development of a SART. A SART should develop a document outlining the structure of the team and who is responsible for what. Possible responsibilities include:

- Facilitation of a meeting
- Note taking during the meeting
- Arranging meeting space
- Distribution of the agenda
- Following up as necessary on action items



## Case Review

The primary purpose of the SART is to improve the system response to victims of sexual assault. The case review process provides an opportunity for the team to identify successes and challenges in response using specific sexual assault cases. It is crucial for teams to have a confidentiality policy in place prior to any case discussions and to have an understanding of the limits of an advocate's ability to share confidential information with other team members.

A victim centered response recognizes the importance of when, how, and what information is shared within the team and places paramount importance on the safety and confidentiality of the victim. It is vital for team members to understand and respect that the victim advocate is unable to share any information without written consent of the victim. Team members should recognize the importance of confidentiality and develop a written agreement that recognizes the crucial role that confidentiality plays in communications between a victim and an advocate.

A SART should also develop a mechanism to solicit feedback from victims about their experiences with the system response. Feedback can be solicited in a variety of ways including in-person, by phone, written surveys or responses, or focus groups. Feedback can be used by the SART to assess and improve the SART process.

# Purpose of the Protocol

Sexual assault is a crime of violence against a person's body and will. Sex offenders will use psychological and physical aggression to victimize, often threatening a victim's sense of privacy, safety and well-being. Sexual assault can result in physical trauma and significant mental anguish and suffering for years after the assault.

Yet less than one third of all sexual assaults are ever reported to law enforcement.

Victims may be reluctant to report and to seek medical attention for a variety of reasons. For example, victims may blame themselves for the sexual assault and feel embarrassed. They may fear their assailants or worry about whether they will be believed. A victim may also lack easy access to services. Those who have access to services may perceive the investigation and medical forensic examination as yet another violation because of its extensive nature in the immediate aftermath of the assault. Rather



**...less than one third of all sexual assaults are ever reported to law enforcement.**

than seek assistance, a sexual assault victim may simply want to go somewhere safe and clean up and forget the assault ever happened.

Hence, the first contact after a sexual assault is critical to the victim's recovery.

Responders at every point of contact can dramatically impact the victim's emotional well-being and ability to accept and respond positively to continued investigative efforts. Sexual assault investigations must focus on the medical care of the victim first and the investigation second.

***It is the expectation of our community that all sexual assault victims will be treated with respect and appropriate attention will be given to their emotional and physical needs, regardless of their decision whether or not to participate in the criminal justice process. It is also the expectation of the community that:***

- Investigations will be based on facts presented.
- Interviewers will use techniques specially designed for sexual assault cases.
- Evidence will be properly identified, documented, sensitively collected and preserved.
- Law Enforcement Officers, Victim Advocates, SANEs and other medical professionals will work closely as a team.
- Efforts will be directed toward the respectful and sensitive treatment of victims and successful investigation and prosecution of sex offenders.

Our community understands that every effort made to relieve a victim's feelings of shame and/or self-blame, to regain a sense of control of their lives, and to ensure that all victims are treated professionally and with dignity, will enable victims to provide the clearest and most thorough information about the crime.

The original protocol was completed in 2015 by the sexual assault protocol committee for the Chattahoochee Judicial Circuit pursuant to **O.C.G.A. § 15-24-2**. The protocol is intended to:

- Facilitate a circuit-wide coordinated community response to sexual violence and standardize the quality of care, evidence collection and documentation as supported by the Violence Against Women Act of 2005 (enhanced by the 2013 reauthorization). Such a response can help victims gain access to comprehensive immediate care, minimize trauma, and encourage use of community resources;
- Ensure the provision of consistent, comprehensive, sensitive, and non-judgmental treatment of victims of sexual assault as they progress through the victim services, health and criminal justice systems;
- To promote better and more victim-centered care, support, and evidence collection and documentation, in order to increase reporting and ultimately hold offenders accountable; and
- Delineate the separate roles and responsibilities of responders and establish procedures for interagency coordination and collaboration, thus strengthening relationships between agencies and creating objective uniform standards that will improve overall victim care, and investigation and prosecution of sexual assault cases.

*The protocol should be used by health care providers, including hospitals, all branches of law enforcement including prosecution, and programs which assist victims. This is a victim centered approach to services, with an emphasis upon letting a victim regain control over decisions through involvement in the process.*

# Organization and Guiding Principles of the Protocol

When sexual assault does occur, victims deserve a coordinated, competent and compassionate response from this community. For individuals who experience this horrendous crime, having a positive experience with the criminal justice system, medical professionals, and victim advocates can contribute greatly to their overall healing.

This protocol is guided by the following key principles that support a victim-centered response to the crime of sexual assault:

- Recognition that responders at every level play a significant role in both the victim's ability to cope with the emotional and psychological after-effects of the crime and the decision to participate in their investigation;
- Awareness that a victim's acute distress may create an unwillingness or psychological inability to assist the criminal justice system;
- Understanding that providing victims with information about available resources, and the possible outcomes of choosing one option or another, will help a victim make informed decisions and will assist in their healing;
- Respect for the right of adult victims to choose not to participate or to delay participating in the criminal justice system, pursuant to **O.C.G.A. § 17-5-71** and **§ 17-5-72**.

This means that responders at every level recognize that they are accountable to the victim. This is particularly important since one reason victims give for not reporting a sexual assault is the fear of not being believed. It is important to the safety of the entire community that victims regard reporting to Law Enforcement and participating in the criminal justice system a safe and viable option. It is also crucial that every responder in every discipline is informed about the effect of trauma on an individual. Trauma can affect an individual's memory and ability to give detailed information. For all responders, this means being educated about the effect of trauma on an individual and treating each victim with consideration, professionalism, and compassion.



Responders must also be offender-focused in response to sexual assault. An offender-focused response acknowledges that offenders purposefully, knowingly and intentionally target victims whom they believe they can successfully assault. Responders must recognize that offenders often choose victims based on the victim's accessibility, vulnerability and a perception by the perpetrator that the victim's report of the attack will lack credibility. This is seen by the offender as an assurance of their ability to escape accountability for their offense(s). Offenders hope that the community responders will participate in victim-blaming, not educate themselves about offenders, and not have a solid understanding of the effects of trauma. All of these can combine to allow the offender to continue to re-offend.

If the Chattahoochee Judicial Circuit's collaborative response to the crime of sexual assault can balance the needs of the victim with the expectations of the criminal justice system, while maintaining focus on holding offenders accountable, the goals of a victim-centered response will be met.

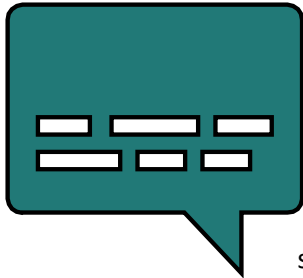
# Sensitivity to the Needs of the Victim

Victim confidentiality should be strictly protected. Professional staff should make direct inquiries of the victim regarding how to address the disclosure of confidential information. Assumptions should not be made concerning whether it is safe to disclose information to family, friends, employer, or news media about the assault or the victim's sexual preference. Any documentation should be undertaken with a sensitivity to the potential for long-term, negative consequences to a victim.

Ensuring that sexual assault victims will be treated with sensitivity and compassion requires that victim services, law enforcement, medical, and prosecutorial personnel be made aware of the special needs of these victims. Since there is no "typical response" to the trauma of sexual assault, it is important to understand the many and varied ways victims may react to this particular crime and the issues surrounding sexual assault that may influence their reactions.

Victims of sexual assault, like victims of other violent crimes, not only must cope with the physical trauma perpetuated against them, they must also deal with the emotional and psychological repercussions of the assault. However, because sexual assault, unlike other crimes, is such a complete and violent violation of the most intimate parts of a person's self, the emotional and psychological repercussions can be devastating. The humiliation and degradation victims may feel often are compounded by feelings of guilt, because society continues to perpetuate the myth that sexual assault victims somehow are responsible for the crime committed against them. For this reason, victims of sexual assault often are reluctant to report the crime, and, therefore, must receive immediate support and validation from agency personnel if they choose to report.

While victims of sexual assault may feel guilty, frightened, ashamed, dirty, angry, anxious, embarrassed or any number of other emotions, it is important to remember that there is no "typical" way for victims to feel, react, or look after a sexual assault. Some victims may appear to be calm while others may look visibly upset or enraged. Agency personnel must unlearn any presumptions they may harbor about how they believe a "true" victim of sexual assault will look or act and learn to accept and support all sexual assault victims. This includes learning to accept and support sexual assault victims of every age, race, gender, or sexual orientation.



Anyone responding to a victim of sexual assault should make the same inquiries of all victims, and offer the same level of support, regardless of gender or sexual orientation.

A desired part of the recovery process for the individual is that others begin to view the individual as a survivor rather than a victim. Throughout the protocol, the term "victim" is used to denote a person who has recently been sexually assaulted. "Survivor" is used to describe a person who has begun the recovery process. The goal of affected agencies should be to assist a victim in becoming a survivor. Giving the victim control over decisions is an important part of the transition from victim to survivor.

# Reporting Requirements

There are specific laws related to the reporting of sexual assault and/or sexual abuse designed to protect elderly persons and children under 18 who may be victims. For more detail regarding reporting requirements and procedures of child victim crimes in our judicial circuit, please see the Chattahoochee Judicial Circuit Child Abuse Protocol.

## A. Reporting of Sexual Assault and/or Sexual Abuse

**O.C.G.A. § 31-7-9** mandates that physicians and certain other personnel employed by a medical facility report “non-accidental injuries” to the administrator of the facility. The administrator or his/her designee must then notify the local law enforcement agency. The person making the report is granted civil immunity. There is no penalty for not reporting an injury.

**O.C.G.A. § 19-7-5** mandates the reporting of child abuse. A “child” is any person under the age of 18. Under this law, child abuse includes sexual abuse. Unlike cases of child physical abuse, sexual abuse is not limited to the acts of a parent or caretaker. The report must be made to Law Enforcement (by calling 911), or the Department of Family and Children’s Services (by calling 1.855.GACHILD), or by submitting a completed form via fax at 229.317.9663, or by email at [cpsintake@dhr.state.ga.us](mailto:cpsintake@dhr.state.ga.us), or the web at <http://dfcs.dhs.georgia.gov/child-abuse-neglect>. The reporter does not have to investigate or verify the abuse, only suspect it. The reporter will not be held liable for disclosing information ordinarily held privileged and confidential. Any person who is required to report child abuse and fails to do so will be guilty of a misdemeanor.



## B. Protection of Elderly Persons or Adults with Disabilities

The Georgia Department of Human Services (DHS), Division of Aging Services, Adult Protective Services (APS) investigates all reports of abuse, neglect, and/or exploitation of older persons (65+) or an adult (18+) with a disability who do not reside in long-term care facilities pursuant to the Disabled Adults and Elder Person Protection Act, **O.C.G.A. § 30-5-1**, et seq.



For persons living in the community, Georgia law requires mandatory reporting of suspected abuse, neglect and/or exploitation by certain professionals who are mandated reporters. Failure for a mandated reporter to report abuse of a disabled adult or elder person is punishable by a criminal misdemeanor. However, all persons are encouraged to report suspected abuse to protective services. Persons who report in good faith are immune from civil or criminal liability. Reporting is kept confidential within the parameters of state law (**O.C.G.A. § 30-5-4**).

**O.C.G.A. § 31-8-80** requires the reporting by administrators, physicians, nurses or other employees of a hospital or facility and the medical examiner, coroner, social worker, Clergyman, police officer or any employee of a public or private agency engaged in professional services to residents or

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responsible for the inspection of long-term care facilities of any suspected abuse or exploitation of a resident or former resident of a long-term care facility. This report should be made to the Department of Human Services (DHS) or the appropriate law enforcement agency. The Office of Regulatory Services of DHS will then initiate an immediate investigation.

Reports are accepted by APS by phone Monday through Friday 8:00 a.m. to 5:00

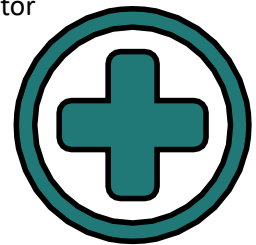
p.m. at 1.866.552.4464 (press 3), online: <https://fw1.harmonyis.net/GADASLiveIntake/>, or by faxing a referral to 770.408.3001.

## Need for Consent of Victim for Medical Procedures

**O.C.G.A. § 31-9-2** requires that there must be consent to any and all medical treatment. Under **O.C.G.A. § 31-9-7**, the legal age of consent for medical treatment is 18. However, there are exceptions: for tests and treatment connected with pregnancy, a female can consent regardless of her age or marital status. Under **O.C.G.A. § 31-17-7**, any minor can consent without either parent's permission to those medical services which deal with the treatment of a sexually transmitted disease. Emergency care can be rendered under implied consent.

## Testing for HIV: defendants and those convicted of an AIDS transmitting crime

A concern often expressed by a victim of sexual assault is whether or not the perpetrator or the person convicted of the crime is HIV positive or has AIDS. **O.C.G.A. § 17-10-15** permits the testing of a defendant and of a convicted person. A trained public health counselor should provide the victim with information about HIV testing of the victim and of the defendant or felon. This counselor should also discuss with the victim the need to protect subsequent partners from HIV transmission. For up to date information about the testing of convicted assailants, consult the Georgia Code or the District Attorney.



# Financial Resources

There are numerous costs associated with a sexual assault, in particular the costs of collecting evidence; hospital or health provider fees, including fees for the physical examination; lab expenses, including the collection of specimens, tests for pregnancy and tests to detect the presence of HIV antibodies; medications to prevent sexually transmitted diseases; follow-up; and treatment for any injuries. In addition, there may be costs to the victim of lost wages, and for a family, funeral expenses.

## A. Medical Forensic Examination Payment



**O.C.G.A. § 17-5-72** states the victim shall have the right to have a forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost of a forensic medical examination. The cost of a forensic medical examination shall be paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of this title.

## B. Victims' Compensation Fund

The victim cannot be billed directly or indirectly for a forensic medical examination, which means that collateral sources (e.g. insurance) cannot be billed. All other services (excluding the forensic medical examination) may be billed to the victim or their respective insurance company(s). The victim, if eligible, may also apply for benefits for other related expenses through the Georgia Crime Victims Compensation Program.

Please see the Criminal Justice Coordinating Council's (CJCC) Victims' Compensation portal for a complete list of information.

Failure to prosecute will not prevent payment being made for costs associated with a sexual assault. The Victims' Compensation Fund is available to any victim regardless of the age of the perpetrator or the age of the victim.

**Hospitals, law enforcement, victim advocates, and prosecuting attorney's offices should inform victims of sexual assault that they may be eligible to receive up to \$25,000 for costs associated with the crime.**

A victim who reported the crime after the 72 hours or submitted a claim after the designated time period has expired, can appeal a denied application.

The Victims' Compensation Fund provides reimbursement to direct care providers and victims of crime for health care costs related to the crime and for counseling, lost

wages, and funeral expenses.

Law enforcement and court personnel are required by law (**O.C.G.A. § 17-17-6**) to notify victims of the availability of the Victims' Compensation Fund. However, the Fund may not be widely known in

areas not served by a victim advocate agency, so many sexual assault victims are never told how to access this resource. The difficulties faced by a traumatized, transient, or illiterate victim often preclude the victim from using this much needed resource. Hospitals, law enforcement, victim advocates, and prosecuting attorney's offices should inform victims of sexual assault that they may be eligible to receive up to \$25,000 for costs associated with the crime. The Center at 909 and District Attorney's Victim Witness Assistance program are available to assist victims in the preparation and submission of these claims.

## Georgia's Crime Victims' Bill of Rights

The Crime Victims' Bill of Rights (**O.C.G.A. § 17-17-1, et. seq.**) was passed by the Georgia General Assembly during the 1995 legislative session and states that it is the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include:

- The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings;
- The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused;
- The right not to be excluded from any scheduled court proceedings, except as provided by law;
- The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused;
- The right to file a written objection in any parole proceedings involving the accused;
- The right to confer with the prosecuting attorney in any criminal prosecution related to the victim;
- The right to restitution as provided by law;
- The right to proceedings free from unreasonable delay; and
- The right to be treated fairly and with dignity by all criminal justice agencies involved in the case.



Victim's should also be made aware of their rights to various notifications involved in the criminal justice process, their right to refuse an interview with the accused's attorney, the right to separate waiting areas during criminal proceedings, and their confidentiality rights. Victim's must also understand their responsibility to provide current address and phone information to the notifying parties. For specifics about the rights listed in the Crime Victims' Bill of Rights, please see [Appendix B](#).

# Roles and Responsibilities of Responders

**The Chattahoochee Judicial Circuit Sexual Assault Protocol** mainly addresses the roles and responsibilities of responders with regard to victims age 15 years and older.

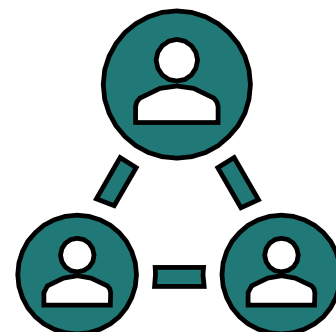
The protocol mainly addresses the following responders:

- Sexual Assault Nurse Examiners (SANE) and other health providers
- Law Enforcement Representatives
- Victim Advocates

Each of these professionals has a role in responding to and caring for patients/victims, investigating the crime, and/or holding offenders accountable.

Each responder should be able to explain to victims the roles of other team members.

While this protocol addresses the role of the core SART members, it is important to recognize that responders at every level play a significant role in the recovery process of survivors of sexual assault. SART members should recognize the role they play in helping the survivor and the community at large to recover a sense of peace and security.



## The Role of the Law Enforcement Officer

***The first contact after a sexual assault is critical to the victim's recovery.***



Law enforcement officers are often the point of first contact for the victim. Responding officers can dramatically impact the victim's ability to accept and respond positively to continued investigative efforts.

Officers should be aware that their actions as the first responder have a vital impact on the future psychological well-being of the victim. Every effort made to relieve victims' feelings of shame and/or self-blame, to regain a sense of control of their lives, and to ensure that all victims are treated professionally and with dignity, will enable victims to provide the clearest and most thorough information about the crime. It is important that law enforcement understand the concept of a victim-centered, trauma informed, and offender-focused approach to the investigation of a sexual assault.

The role of an officer responding to sexual assault focuses on the following:

- protecting the safety and well-being of the victim;
- ensuring the victim receives proper medical attention;
- initiating a collaborative response;
- collecting and preserving evidence, including initial witness statements;
- identifying whether a crime has occurred; and
- conducting an investigation.

The responding officer, if time permits, may also ask the victim some questions about the sexual assault. Questioning should be conducted by a single officer, in the greatest privacy available, and questioning should be limited in scope to crucial information immediately needed by law enforcement:

- Name or physical description of suspect
- Unusual physical characteristics of suspect
- Clothing of suspect
- Method of flight (car, truck, on foot, etc.), and
- Direction of flight

If the crime scene is known, then the forensic or identification unit of the law enforcement agency should be notified as soon as possible that it will be needed at the crime scene and at the medical facility selected for the forensic examination. If the responding officer proceeds to the medical facility or to The Center where the victim is taken, the officer should remain at the facility until primary investigators have arrived, and then thoroughly brief them on any necessary information. These briefings should take place in a private setting where confidential information cannot be overheard by other patients or medical personnel.

### A. Initiating the Collaborative Response

When a victim presents to a responding officer and indicates that a sexual assault has occurred, the officer should initiate the multidisciplinary response/SART by promptly contacting 911 to request that an on-call advocate from The Center at 909 be dispatched. ***A victim advocate should be contacted in every case of sexual assault whether or not a victim chooses to have a sexual assault forensic examination.***

***The victim should always be referred to a SANE, local hospital, or other medical professional for assessment and care.***

The responding officer should promptly contact the local hospital Emergency Department and 911 to dispatch an advocate. If the victim declines to report to the Emergency Department for emergency medical clearance, law enforcement may bring the victim directly to The Center at 909. The advocate must be contacted to provide access to The Center. ***Even if a victim has bathed, douched, or previously had consensual sex, the officer should nevertheless proceed to transport the victim to the appropriate medical facility or The Center. The evidence collection time period is 120 hours<sup>2</sup> after the assault has occurred (though evidence has been collected outside of this time period).***

### B. Role of Law Enforcement during the Forensic Exam

The law enforcement officer may be present and participate with the SANE or medical professional during the taking of the *assault and forensic history*. However, the law enforcement officer should

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<sup>2</sup> "International Association of Chiefs Of Police Sexual Assault Response Policy And Training Content Guidelines." *Theiacp.org*, IACP, 23 Mar. 2017, [https://www.theiacp.org/sites/default/files/all/i-j/IACP Sexual Assault Response Policy and Training Content Guidelines.2017.3.23.pdf](https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf).

not be present during the taking of the *medical history or during the medical forensic evidence* examination.

### C. Conducting an Initial Victim Statement Interview

The initial victim statement is typically taken upon first contact with the victim and law enforcement. The initial victim statement is the opportunity for law enforcement to obtain basic

“Pressuring a reluctant victim to sign a form stating that they are not interested in prosecution and will not hold the agency accountable for stopping the investigation is poor practice and is potentially damaging to an agency.” -IACP

information and establish the location and elements of the crime. Where a victim advocate is available, the advocate may sit in on the initial victim statement if the victim chooses. The initial victim statement is not a comprehensive interview – the initial statement is used to assess safety and health needs, ascertain jurisdiction,

identify and preserve sources of evidence and determine next steps.

Responding officers shall refrain from asking the victim if they would like to press charges at the preliminary interview. The victim shall not be asked to sign documentation waiving the right to do so at a later date; if the victim chooses not to press charges immediately following the incident, the option should remain open in the event that they feel better able to participate at a later time. Because victims may be reluctant to contact law enforcement at a later time due to shame or embarrassment, officers should follow-up with victims to discuss options, answer additional questions, and determine whether or not the victim has decided to press charges.

Waiver of Prosecution/Agreement to Prosecute forms should not be used by law enforcement agencies in the state of Georgia for any reason with respect to sexual assault investigations. Waiver of prosecution forms could result in a loss of benefits under the Georgia’s Crime Victims’ Compensation Program.<sup>3</sup>

### D. Report Writing for Sexual Assault Cases<sup>4</sup>

Officers should be aware that reports are used for more than mere documentation of incidents. Reports are used by defense attorneys to craft the suspect’s defenses, by prosecutors to determine charging decisions, by advocates to develop safety plans with victims, by judges to set or deny bail, by community corrections to set probation parameters, as well as others. Reports may also be released to victims and the media. As such, the following should be considered when writing reports in sexual assault cases:



<sup>3</sup> “Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault.” *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

<sup>4</sup> “International Association of Chiefs Of Police Sexual Assault Response Policy And Training Content Guidelines.” *Theiacp.org*, IACP, 23 Mar. 2017, [https://www.theiacp.org/sites/default/files/all/i-j/IACP Sexual Assault Response Policy and Training Content Guidelines.2017.3.23.pdf](https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf).

- Document every response to or investigation of a reported sexual assault by completing a narrative report and a properly coded offense report, whether or not an arrest is made. It is recommended that officers and investigators also complete a supplemental report to augment the narrative report.
- As accurately as possible, use the victim, witness, and/or suspect's own words in written reports by using quotations wherever possible. Do not sanitize or clean-up the language used by the victim.
- Capture details necessary to establish any premeditation/grooming behavior by the perpetrator, coercion, threats and/or force, and traumatic reaction during and after the incident (e.g. victim demeanor, emotional response, changes in routines or habits), and/or any attempts to intimidate or discourage the victim from reporting the assault.
- Document the details of the crime by asking the victim what they thought, felt, and feared at the time of the assault; what they experienced before, during, and after the sexual assault; how the experience changed throughout the event (consensual to non-consensual); and what they saw, smelled, tasted, heard and touched during the incident.
- Document the victim's condition as observed by the officer. Avoid the use of vague words; instead use accurate descriptors.
- Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault. Victims may freeze (not be able to resist physically); this may be an indicator of fear and trauma.
- Silence should not be construed as consent. Resistance can be communicated through more than words. Detail and describe what "no" looked like by documenting the victim's subtle and overt actions.
- Detail and describe what fear felt like for the victim in his, her, or their own words.
- Create a timeline to show the effects of the traumatic event on post-assault behavior and actions of the victim as compared to previous behavior (i.e. in a non-stranger case, the victim no longer goes to the gym that the suspect belongs to, will not be in the same room as the suspect, or the victim drops out of school, etc.)
- Accurately document all information provided by the victim even if it does not cast him or her in a positive light.
- Every effort should be made to avoid using consensual language, words that imply mutual participation, and terms of affection (such as participated, engaged in, caressed) unless they are direct quotes (in which case, place them in quotation marks); instead, describe the specific actions, behaviors, and conduct of the suspect as they align with the specific elements of the crimes.
- Exclude officer opinion and judgment from the written report.
- If a consensual encounter turned non-consensual, clearly document the details of how and when the suspect's behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.
- Include any observations or witness statements that corroborate the victim's or suspect's account of the events that occurred.
- If volunteer victim advocate is present, avoid using their name in the report. Instead list "victim advocate" with the hotline number for contact purposes.

## E. Efforts to Encourage Reporting and Enhance Public Trust and Transparency<sup>5</sup>

In the aftermath of a sexual assault, a victim may fail to self-identify as a rape or crime victim. Further, they may feel that they do not have the emotional or physical capacity to commit to a full investigation and a court trial. The ability to capture blind reports, anonymous reports, third party reports, and on-line report options will allow victims to take the investigative process one step at a time. This will allow time for the victim to process the aftermath of the assault, establish trust with an investigator, and become comfortable with the investigative process.

*Non-reporting: departments should establish a system for collecting, documenting, and maintaining evidence while allowing the victim time to recover, consider options, and decide how they would like to proceed. (May also be titled Anonymous Reports, Jane Doe Reports, Investigative vs. Non-Investigative, Reported vs. Non-Reported, or Investigation-delayed reports).*

**An advocate should be present during the interview if the victim chooses. It is NOT part of the role for victim advocates to ask any substantive questions or to provide any factual information about the sexual assault.**

## F. Conducting a Comprehensive Interview/Assault History

If available, officers who have specific training in sexual assault interviews and investigations should perform the comprehensive interview with the victim.

The comprehensive interview should take place after the victim has had time to rest and recover from the medical forensic examination. In most cases, it is appropriate to postpone the interview at least one or two days. An advocate should be present during the interview if the victim chooses. It is NOT part of the role for victim advocates to ask any substantive questions or to provide any factual information about the sexual assault. The advocate and the law enforcement officer should work together to minimize re-victimization during the interview process.

Victim interviews take time to complete. Law Enforcement should allow ample time to conduct a thorough victim interview. The comfort and needs of the victim should be taken into consideration throughout the course of the interview process. Law Enforcement Officers should consider that trauma, cultural differences, cognitive ability, fear, self-blame and other factors can influence the victim's ability to provide concise details about the assault. Law Enforcement and the Advocate should work together to ensure the victim's comfort in order to facilitate the disclosure of as many relevant details as possible. Toward that goal, whenever possible, The Center at 909 should be utilized for adult interviews and a copy of the report be given to The Center for compensation purposes.

The purpose of the comprehensive interview is to develop a fuller picture of the circumstances of the sexual assault. The interview presents an opportunity for the victim to provide additional

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<sup>5</sup> "International Association of Chiefs Of Police Sexual Assault Response Policy And Training Content Guidelines." *Theiacp.org*, IACP, 23 Mar. 2017, [https://www.theiacp.org/sites/default/files/all/i-j/IACP Sexual Assault Response Policy and Training Content Guidelines.2017.3.23.pdf](https://www.theiacp.org/sites/default/files/all/i-j/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf).

information they may not have remembered, may have been afraid or embarrassed to share, or may have suppressed immediately following the assault.

It presents an opportunity for law enforcement to:

- verify, clarify and expand on the initial interview;
- confirm and establish the elements of the crime;
- develop supporting details related to the circumstances surrounding the assault.

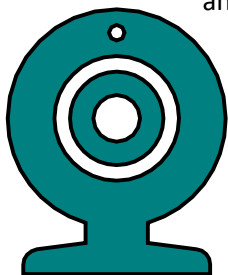
Victims may fear not being believed. A victim-centered approach to interviewing acknowledges these factors and attempts to make the victim comfortable by:

- Establishing a rapport before beginning the interview
- Explaining the investigative process and why certain questions are necessary
- Utilize the Advocate present as a means of comfort for the victim
- Avoiding victim-blaming questions – such as why did you? Or why didn't you?
- Encouraging the victim to provide a comprehensive statement of the event from beginning to end – with only minimal interruption but with the understanding that follow up questions will be necessary for clarification.
- Acknowledging the impact of trauma on the victim during the interview.

A victim's right to change their mind regarding moving forward with the investigation and prosecution should only be constrained by the statute of limitations. Even then, the victim may serve as a witness in another case involving the same suspect, so an interview and investigation should always be conducted.<sup>6</sup>

## G. The Use of Body Cameras During Victim Interviews<sup>7</sup>

As the ability to gather digital information from body-worn cameras increases, the responsibility to thoughtfully and respectfully address the privacy rights of individuals, safety of victims and officers,



and autonomy of victims increases as well. The use of body-worn cameras presents benefits and opportunities as well as challenges that must be carefully measured and scrutinized. The use of body-worn cameras should be implemented with consideration to the complexities of responding to victims of domestic violence, sexual assault, dating violence, and stalking. Development of policies and practices must be done in collaboration with many community and criminal justice partners.

As we implement programs, it is critical to be cognizant of possible negative unintended consequences that can include the following:

- A lack of protection of the privacy, confidentiality, and rights of the victim

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<sup>6</sup> "Sexual Assault Incident Reports: Investigative Strategies." *Theiacp.org*, IACP, <https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>.

<sup>7</sup> "Deliberations from The IACP National Forum On Body-Worn Cameras And Violence Against Women." *TheIACP.org*, IACP, Jan. 2017, <https://www.theiacp.org/sites/default/files/all/d-e/DeliberationsfromtheIACPNationalForumonBWCSandVAW.pdf>.

- A decrease in victims reporting crimes
- A decrease in victim safety
- A misunderstanding of the victim's experience of the violence due to a lack of knowledge of how victims and perpetrators may present to law enforcement and are captured in the recording
- Capturing privileged or confidential information that may include conversations with medical personnel, victim advocates, or legal advisors
- The use of recordings from a call for service in other civil cases and processes such as child welfare or custodial rights and visitation
- Nonintentional release of private data information due to insecure data storage systems or department policy
- Hesitation within marginalized communities and vulnerable populations to report for fear of discriminatory repercussions
- An increase of the time needed to process and/or review evidence by both law enforcement and prosecutors

**At no time should any recording devices be utilized within The Center at 909's medical forensic examination area.**

**Sexual assault kits associated with sexual assaults that have not been reported to law enforcement should not be submitted to the GBI Crime Lab.**

## H. Investigation-Submitting Sexual Assault Kit to GBI Crime Lab<sup>8</sup>

In 2016, the Georgia legislature passed **Senate Bill 304 (Compassionate Care for Victims of Sexual Assault Act) which amended Chapter 1 of Title 35 of the Official Code of Georgia Annotated**, regulating the submission of sexual assault kits to the Georgia Bureau of Investigation's Department of Forensic Sciences (GBI Crime Lab).

This law mandates that law enforcement take possession of Sexual Assault Kits (SAKs) within 96 hours of a medical forensic exam for a **reported** sexual assault. Additionally, the SAK must be submitted to the GBI Crime Lab within 30 days of collection, when the sexual assault has been reported to law enforcement.

**Sexual assault kits associated with sexual assaults that have not been reported to law enforcement should not be submitted to the GBI Crime Lab.** The DNA profiles created by analysis of these kits are not eligible for upload in the Combined DNA Index System (CODIS). Only DNA profiles that are associated with a reported crime are eligible for upload into CODIS, per National DNA Index System Operational Procedures.

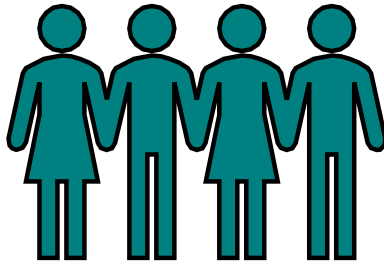
*Pursuant to O.C.G.A. § 17-5-71, SAKs associated with non-reported sexual assaults should be maintained in the possession of law enforcement for a minimum period of 12 months or until such*

<sup>8</sup> "Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault ." *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

*time as the victim decides to report the crime to law enforcement.* These kits are referred to as non-reported SAKs or non-investigative SAKs. When a non-reported or non-investigative SAK is converted to a reported or investigative SAK because the victim reported the sexual assault to law enforcement, the SAK should be submitted to the GBI Crime Lab, as any profile developed could be considered eligible for upload into CODIS.

## I. Reluctant and/or Recanting Victims

It is not uncommon for sexual assault victims to be reluctant about reporting to law enforcement and participating in the criminal justice system. Victims who are reluctant often feel they have no



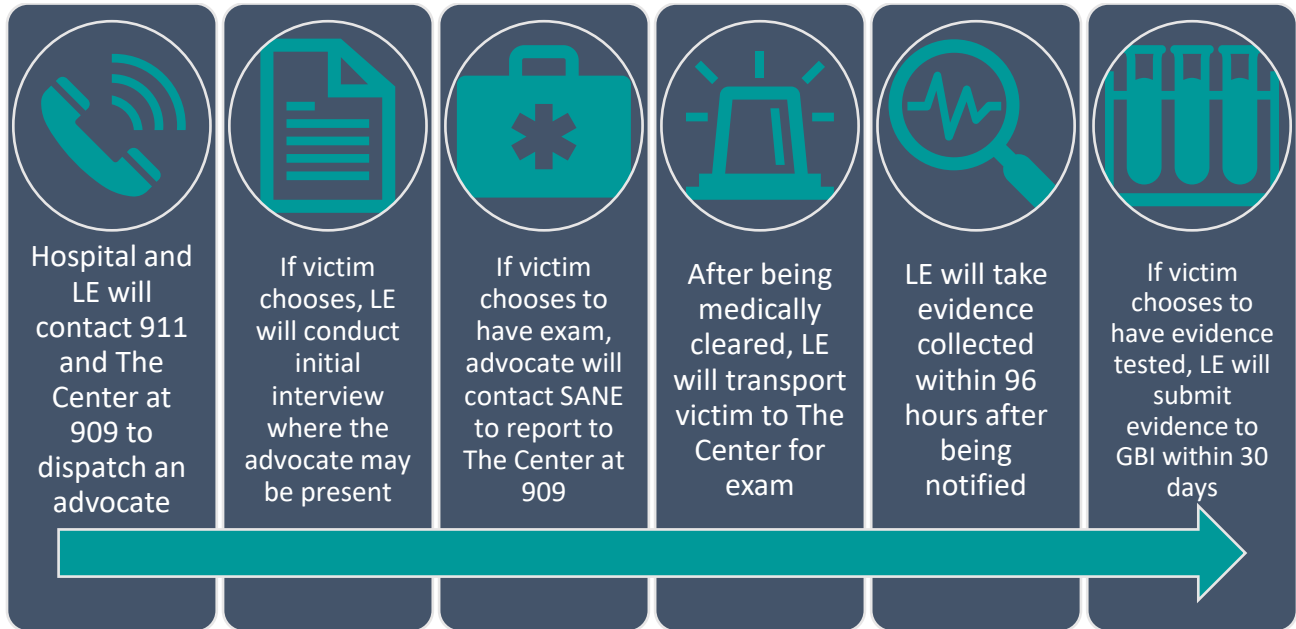
other choice but to recant in an effort to disengage from the criminal justice system. A victim-centered approach by law enforcement recognizes the tremendous cost to a victim who proceeds with the criminal justice system and understands that recantation of one or more aspects of a prior statement doesn't necessarily mean false reporting.

Various influences affect a victim's willingness to participate and/or recant. Among those influences are:

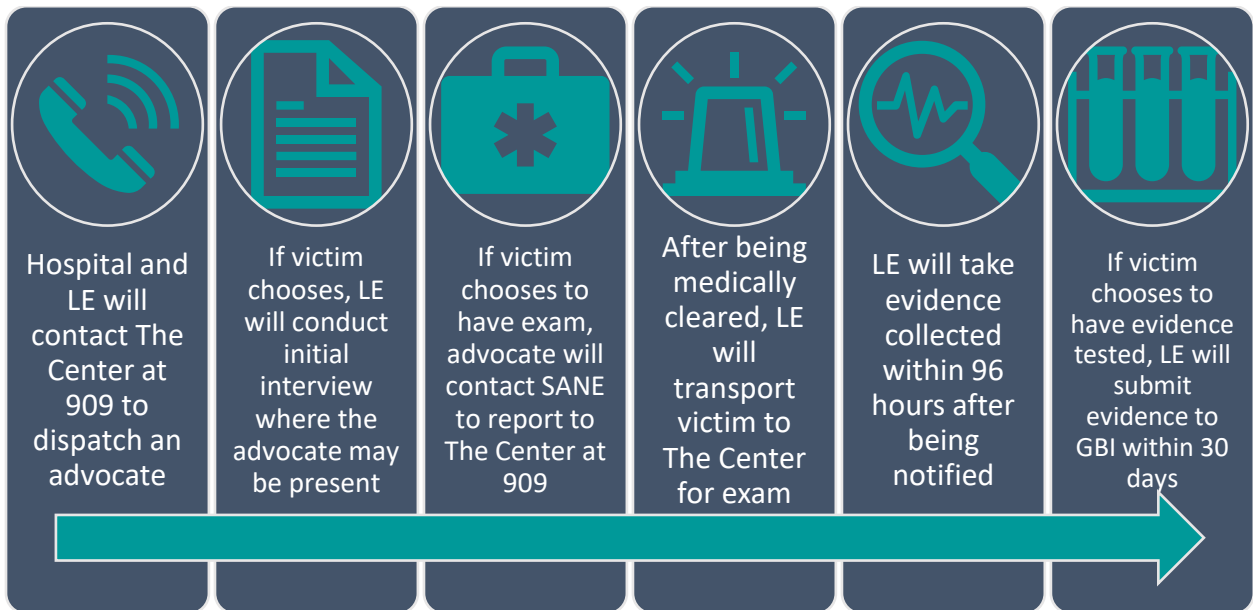
- A victim's feeling of embarrassment, fear, and shame
- A victim wanting to put the assault behind them
- Anxiety over having to face the perpetrator in court
- Pressure from offender, friends, family, or community
- Pressure from cultural and/or religious communities
- Concern or confusion about the likely outcome of a prosecution
- Concern that the victim will not be believed
- Concern over an arrest record/outstanding warrant
- Concern because of possible engaging in illegal activities

***Remember, trauma effects everyone differently. Depending on the amount of time between the assault and when it is reported, and the amount of support the victim may have received, she or he may still be in crisis and experiencing symptoms of trauma. Officers should be aware of the signs of trauma, including fragmented memory, gaps in memory, or an exhibition of a range of behaviors that may change over time as the victim processes the event.***

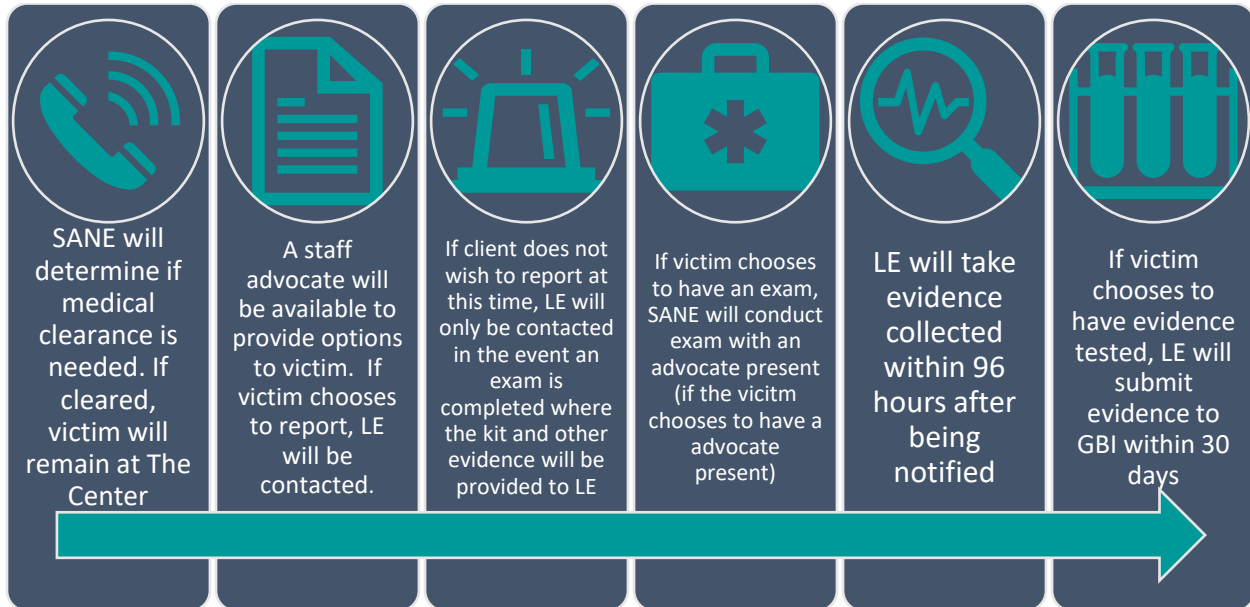
## J. Victim reports at hospital



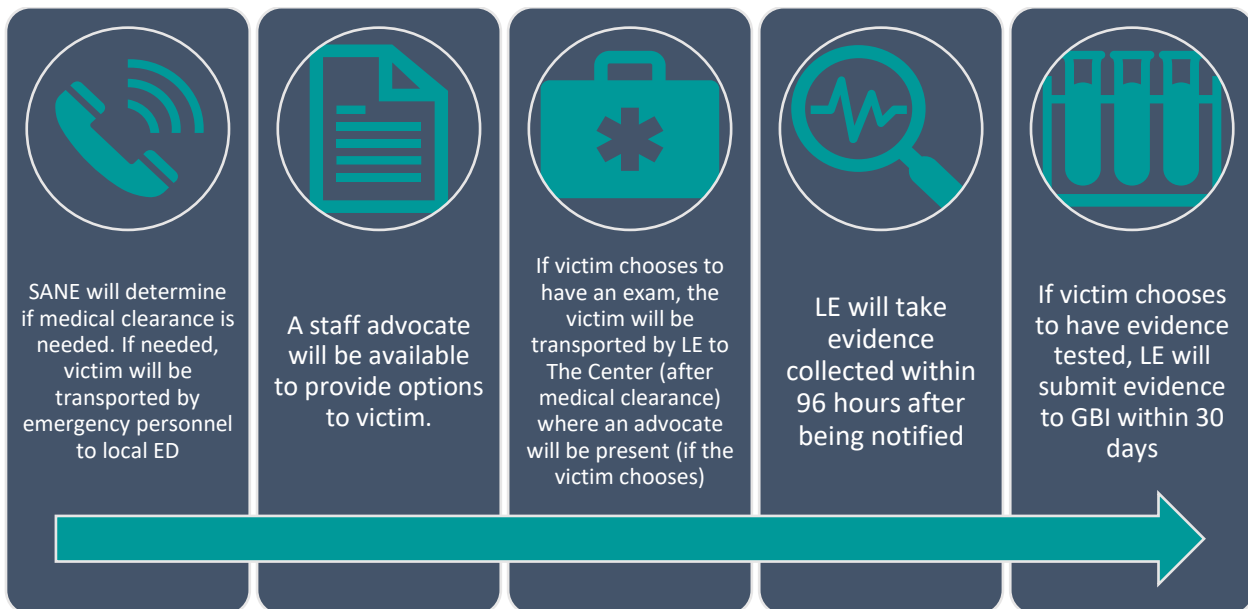
## K. Victim reports to hospital accompanied by law enforcement



## L. Victim Presents Directly to The Center At 909 and Is Medically Cleared

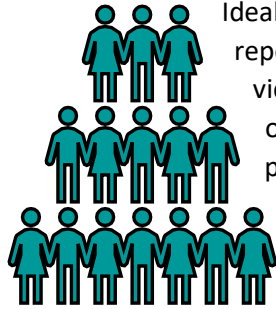


## M. Victim Presents Directly to The Center at 909 and Is Not Medically Cleared



# The Role of the Victim Advocate

Services to victims may be provided by a number of programs or agencies within a community including sexual assault centers, victim assistance programs, or other crisis centers or programs. These programs can be non-profit or governmental and may become involved at various points in a sexual assault case.



Ideally, these organizations should begin assisting victims at the time the assault is reported. They should work with all affected agencies to form a continuum of care for victims. Unlike other agencies (i.e., law enforcement, medical, or prosecutor's offices), which serve victims at specific junctures in the case, many victim service programs help victims from "start to finish" to aid in the survivor's recovery.

Victim service providers need to achieve an effective balance between advocating for victims and working within the parameters of the criminal justice system. Toward that end, victim service providers may offer some or all of the following services:

- Helping prevent additional trauma or injury to the victim;
- Protecting and ensuring the victim's privacy;
- Helping victim's deal with any problems encountered during the aftermath of the crime.
- Maintaining frequent communication with victims regarding the status of the criminal investigation and court proceedings;
- Advising victims of procedures for payment of forensic portion of medical examination;
- Assisting victim's complete compensation application for non-reimbursed expenses caused by the crime such as medical, counseling, prescriptions, lost wages, etc.;
- Notifying victims of all available services such as support groups, counseling, education;
- Explaining the Victims' Bill of Rights, **O.C.G.A. § 17-17-1, et. Seq.**, how to request various notifications (e.g., notices of bond hearings, release of defendant from incarceration, case status), and how to provide input during the case proceedings;
- Encouraging and supporting victims to become active participants in their own case; and
- Offering support and assistance to the families of victims;

**The victim service provider** needs the cooperation of many other agencies to provide information and support; thus networking and maintaining effective lines of communication with law enforcement, medical, prosecutorial, criminal justice and other social service organizations is essential for the victim service organization to be the effective "hub of the wheel" for victims.

[Appendix C](#) references various types of victim assistance programs that may exist in some jurisdictions.

The victim advocate provides essential support, reassurance, crisis intervention, safety planning, and information to victims of sexual assault during the medical, investigative and judicial process. They are trained to assess victim needs and to provide counseling, advocacy, information, referrals, and support. Additionally, they serve as important liaisons with SANEs, law enforcement officers and prosecutors throughout the entire criminal justice process.

Victim advocates are an important resource for explaining victim's rights. They assess ongoing victim safety issues and provide referrals to medical, counseling and social service resources. Advocates may assist prosecutors in identifying expert witnesses and supporting victims in court.

*In the Chattahoochee Judicial Circuit, advocates from the Sexual Assault Support Center, Inc. (aka SASC and The Center at 909) are on call 24 hours a day.* When local law enforcement receives a report of a sexual assault, the law enforcement officer shall contact 911 dispatch to request a victim advocate; 911 dispatch shall then in turn **contact The Center at 706.571.6010** in order to dispatch a victim advocate to the medical facility. IF the victim makes first contact through The Center and /or the hotline, then the advocate on call should assess victim safety issues and inform the victim or caller of their options for services and involvement in the criminal justice system.



Advocates may also provide referrals to medical, counseling, and social service resources. [The role and responsibilities of the advocate are defined below:](#)

- **The Victim Advocate**, in coordination with the attending SANE or health professional, will assess and accommodate the special needs of the patient/victim including but not limited to any needs relating to language or culture, physical or mental ability, age or gender.
- **The Victim Advocate**, in coordination with the attending SANE or health professional, will provide supportive, unbiased information concerning available options about emergency contraception, follow-up counseling, and reporting methods.
- **The Victim Advocate** will provide crisis intervention, support, and referrals to the patient/victim and to family and friends.
- **The Victim Advocate** will determine the need for safety planning and will assess whether the patient/victim is in need of food, clothing, shelter, transportation, and will access or assist in accessing services and or resources.
- **The Victim Advocate** should be present while the SANE conducts medical and forensic history, and the exam, if the patient consents. If time and situation permit, the Advocate may be present while the Officer conducts the initial victim statement, if the victim consents. If the initial victim statement is conducted in the field, the Advocate may be contacted as soon as the safety of the victim and others is ensured.
- **The Victim Advocate** may be present while the Officer conducts the comprehensive interview, if the victim consents.
- **The Victim Advocate** may also accompany the victim through the court process, including but not limited to the preliminary hearing, bond hearing, prosecutor's meetings or interviews, grand jury, arraignment, or trial.

The Advocate should remain mindful that advocacy is but one component of a multidisciplinary team, and that the team concept is crucial in ensuring a **VICTIM-CENTERED** approach to the response. The Victim Centered Approach means that the needs and interests of victims are of central concern to system personnel as they respond. For an Advocate this means:

- Advocating on behalf of the survivor's rights;
- Abstaining from any part of the process that the survivor does not want an advocate to attend;

- Giving full consideration to survivors' wants and needs and when presented with conflicting choices, defers to the choice of the survivor;
- Ensuring the survivor has the information and knowledge to enable them to make informed decisions;
- Respecting the human dignity and the uniqueness of the victim, unrestricted by consideration of ethnic, age, social or economic status, personal attributes, sexual orientation, disability or the nature of the health problems;
- Maintaining respect for the survivor in interdisciplinary communications;
- Working collaboratively with team members to ensure the provision of quality services to the survivor;
- Reinforcing explanations by SANE/Healthcare provider, law enforcement, prosecution and other professionals when appropriate; and
- Acting as a liaison between SART members and the survivor.

## A. Victim Advocate and Victim Service Providers Confidentiality/Privilege

### COMMUNICATIONS BETWEEN VICTIMS AND AGENTS PROVIDING SERVICES: O.C.G.A. § 24-5-509(B)

An agent of a program cannot be compelled to disclose any evidence in a judicial proceeding that the agent acquired while providing services to a victim, so long as such evidence was necessary to enable the agent to render services, unless the privilege has been waived by the victim or a court determines otherwise.

The two main types of communication in advocate-victim relationships are privileged and confidential communication.

**Privileged communication** is addressed in Georgia law (see quote) and states no advocate of a domestic violence or sexual assault program can be forced to give court testimony or provide to a court records pertaining to any victim they have served - except in very narrow circumstances as outlined in the law. To qualify for

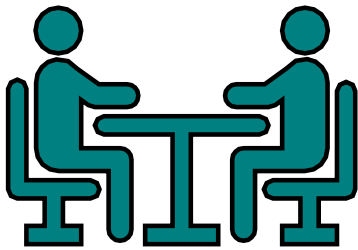
the privilege

- an advocate must be a current or former employee or volunteer with a program whose main purpose is to provide domestic violence or sexual assault services to victims and their families
- the program cannot be under direct supervision of a law enforcement agency, prosecuting attorney's office, or government agency, and
- the advocate must have completed a minimum of 20 hours of family violence and sexual assault intervention and prevention training.

This law applies primarily to community-based advocates. If a party to a legal action wants information or documents to be disclosed in a criminal or civil proceeding, they must present a court order. Advocate privilege is a qualifying privilege and not an absolute. Limitations and exceptions of advocate privilege exist in criminal and civil proceedings. An advocate is required to report suspected child and/or elder abuse or neglect. A victim can waive advocate privilege giving the advocate the permission to testify in court proceedings or provide documentation to

the court. For further information about limitations, please refer to Georgia Code O.C.G.A. § 24-5-509.

**Confidential communication** is communication made with the expectation of privacy and that is not accessible or known to others. Advocates should educate themselves on the basics of maintaining confidentiality and understand the scope of confidentiality with each agency involved. Advocates should use this knowledge to determine the best method for maintaining their records of contact with victims. Victims will not seek assistance if they do not feel a sense of



security; thus, an integral part of protecting a victim's confidentiality begins with establishing a relationship based on trust and respect. Advocates must be committed to maintaining the highest possible level of confidentiality in their communication with victims. All advocacy agencies and programs must provide victims with a reasonable expectation of confidentiality with respect to their conversations and exchanges.

A best practice for community-based advocates is to obtain written permission from victims prior to contacting or sharing information with any other service providers or responders. Victim-witness advocates and other system-based advocates, on the other hand, are not in a position to guarantee confidentiality to victims because they are employed by a law enforcement or prosecuting attorney's office. Since system-based advocates are employed by a government agency, anything said to them is part of their employment and can be discoverable. It is, therefore, a best practice for these advocates to inform victims (prior to the victim's disclosure) about the level of confidentiality that can and cannot be afforded to them.

## B. Mandatory Reporting for Advocates:

Per Georgia code, advocates are mandatory reporters. Mandatory reporting applies to suspected cases of child and adolescent abuse (under age 18) of physical and sexual assault and neglect. Mandatory reporting does not apply to adult victims unless the patient is disabled or over 65 years of age. Please see [Appendix D](#) for Georgia Mandatory Reporting Laws.

## C. Medical Forensic Exam:

Pursuant to the National Protocol for Sexual Abuse Medical Forensic Examinations<sup>9</sup>, it is **best practice** for a victim advocate to be present during a forensic medical exam. The advocate's role during the victim's forensic medical exam is to provide emotional support. The advocate will often be the first to interact with the victim; therefore, they are in a unique position to empower, inform, and to establish a supportive, safe environment. *However, the advocate must not directly assist in the forensic collection of evidence in any way.* It is important for advocates to be able to discern their role in providing emotional support. They must also support the need of the forensic examiner to develop rapport with the patient. It is important for advocates to understand that they provide continuity of care and their relationship with the victim does not end after the exam. Their role is unique in that they often provide comprehensive, long-term services designed to address any needs relating to the assault.

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<sup>9</sup> "Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault ." *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

# The Role of the Medical/Health Professional or Sexual Assault Nurse Examiner (SANE)

A victim will often report sexual assault first to a health care professional or facility.

In this portion of the Protocol, the survivor will be referred to as patient, to reflect the person's actual status when dealing with healthcare providers. In the event that a patient indicates that there has been a sexual assault, medical personnel will call 911 who will dispatch law enforcement. If the patient is an adolescent (ages 15-17), the patient may be transported to The Center at 909 or Children's Tree House.

As per **O.C.G.A. §17-5-72**, the adult victim has a choice to consent to a forensic medical exam or not, either as a reporting or non-reporting case. Law enforcement or the medical facility will call SASC: The Center at 909 to have an advocate dispatched as soon as possible. After initial triage is completed at medical facility, the patient will be transported to The Center for the examination. The on-call advocate will notify The Center's Sexual Assault Nurse Examiner (SANE) Coordinator or a contracted SANE. The SANE is an advanced trained nurse who serves the patient by providing prompt, objective, compassionate and comprehensive medical treatment and forensic evaluation within a coordinated community response.

The primary objectives of the SANE or other trained healthcare providers are to provide:

- Life-saving interventions
- Timely patient treatment
- Evidence recognition, preservation, and collection

SANE's or other trained medical professionals accomplish this by:

- Providing assessment and treatment of the patient, assuring life-threatening injuries are identified and treated.
- Treating the patient as one would any other traumatized patient that is seen in a medical facility. The physical and psychological well-being of the sexual assault patient is always given precedence over forensic needs.
- Remembering that the patient is a crime scene. Conduct and document each exam knowing that fact and/or expert testimony in court may ultimately be required.
- Providing timely, priority care to the patient.
- Providing a medical forensic examination by a specially trained medical professional.
- Providing treatment appropriate to the patient's injuries, including but not limited to, prophylaxis for sexually transmitted infections (STI's) and emergency contraceptive protection.
- Providing written instructions to the patient, detailing what further medical care they should seek, referrals to other healthcare providers, and the local advocacy agency.
- Maintaining the confidentiality of the patient and integrity of the medical forensic record.

Healthcare providers (other than a SANE) should be currently licensed in the state of Georgia and (preferably) specifically trained to provide comprehensive care to the sexual assault patient. A healthcare provider should be one of the following qualified professionals:

- A registered nurse
- A nurse practitioner
- A physician assistant
- A physician

Adult victims of sexual assault have the following reporting options:

- Reporting the assault to law enforcement and having evidence collected.
- Choosing NOT to report and NOT having evidence collected.
- Choosing to have evidence collected anonymously and stored for no less than 12 months.

Whichever decision is made by the victim, they should be supported by the SANE or medical professional. The victim who decides not to report or who is undecided should be assessed and treated in the same manner as the victim who is reporting.

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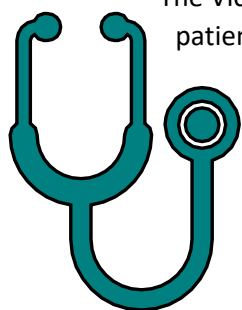
#### A. The roles and responsibilities of the SANE or medical professional are outlined below:

- **The SANE** or medical professional will first assess the patient for acute medical needs and provide stabilization, treatment for acute injuries, and/or consultation. At times, treatment of other injuries may be delayed to ensure that evidence is preserved.
- **The SANE** or medical professional will conduct a complete medical and forensic examination in a supportive and objective manner in order to treat the patient and collect evidence according to the National Protocol for Sexual Assault Medical Forensic Examinations Standards or the International Association of Forensic Nursing (IAFN) Standards.
- **The SANE** or medical professional, in coordination with the Victim Advocate, will provide supportive, unbiased information concerning available options about medical care, emergency contraception, follow up counseling, and reporting methods. Consents are obtained as appropriate.
- In the event that the patient chooses the anonymous reporting method, the attending SANE or medical professional, in coordination with the Victim Advocate, will provide information on the evidence holding period and timeline, method for future contact if and when the victim chooses to convert to the standard reporting method, and how anonymous reporting may affect any possible future prosecution.
- **The SANE** or medical professional will also conduct an assault history to guide the forensic examination focusing on information about the assault such as the day and time of the assault; characteristics of the assault such as penetration of any orifice, weapons, forms of violence, and resulting injuries; the patient's level of consciousness during the assault; and

whether the patient has bathed, showered, douched, urinated, etc. since the assault. The SANE or medical professional will allow the Officer and/or Advocate to be present during the interview, if the victim consents.

- **The SANE** or medical professional will conduct the forensic medical examination and properly collect and document any evidence. The SANE or medical professional will allow the Victim Advocate to be present, if the victim consents. The Law Enforcement Officer should not be present for the forensic medical examination.
- **The SANE** or medical professional will photograph the patient's injuries, if the patient consents.
- **The SANE** or medical professional does not attempt to gather detailed investigative information such as the height or weight of the perpetrator, but they will document what is necessary to guide the forensic exam and treat the patient.
- **The SANE** or medical professional coordinates with the Victim Advocate to determine whether or not the victim is safe both physically and emotionally and will assist as needed in determining the need for safety planning.

Any healthcare professional(s) should remain mindful that medical care and forensic evidence collection is but one component of a multidisciplinary team response to sexual assault and that the team concept is crucial to ensuring a Victim Centered approach to the response.



The Victim Centered approach means that the needs and interest of the sexual assault patient are of a central concern to system personnel as they respond. For healthcare providers this means they will:

- Be an advocate for the patient's physical and psychological well-being;
- Provide the patient with a safe, secure, and private place for their exam and treatment;
- Ensure patient confidentiality is maintained at all times;
- Ensure that the forensic medical examination is conducted; and
- Serve as an advocate of the truth by creating an accurate and truthful medical forensic record that will assist in the investigation of the legal case by the law enforcement agency.

## B. The Medical Facility

The medical facility administration must support the SART and the physicians and nurses who wish to provide forensic medical examinations. Unless the facility administration supports the program, the medical team will find it very difficult to maintain an adequate level of service. Each medical facility should meet the minimum standard as outlined in the industry's standard of practice. This involves, but is not limited to:

- A dedicated room or a room that can be easily converted to use for the examination. The room should be able to be locked from the inside and have a bathroom and/or shower attached.
- A quiet, comfortable place out of the public spaces of the facility where the patient can wait for the examination to begin. Also, this space can be used by Advocates, clinical

support staff, and Law Enforcement to speak with and counsel the patient, their partner, and/or their family.

- Appropriate equipment available to magnify body surfaces, ability to illuminate body surfaces with an alternate light source, and photography that will allow accurate identification of the patient's injuries and facilitate the accurate documentation of them.
- Specially trained medical professionals to conduct the forensic medical examination.
- Specially trained medical professionals to present fact and expert witness testimony in court without the medical professional experiencing personal financial loss.
- Confidentiality and integrity of the medical forensic records, held in a secure location, with limited access. Maintain a record of those that see or obtain a copy of this record.

Not every medical facility in the SART's locality will be able/want to provide these services to the sexual assault patient. If a facility does not meet the comprehensive care level, then procedures should be in place to facilitate the timely transfer of the patient to a designated facility. Once the medical facility has been designated, all components of the SART need to make their members aware of the designation, minimizing the delay in the performance of the forensic medical examination.

### C. The Forensic Medical Examination:

The purpose of the forensic medical examination includes:

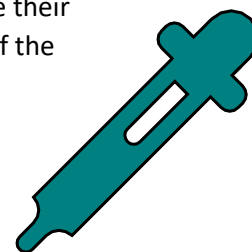
- Identifying medical evidence to prosecute the offenders
- Screening for injuries/medical conditions and initiating medical treatment when needed
- Answering questions and reassuring patients about their physical wellbeing.

The forensic medical examination should be conducted by the SANE or other medical professional as soon as possible, but within **120 hours post assault**<sup>10</sup>. Passage of time and the healing process can obscure medical evidence (trace evidence and physical injury) and decrease the effectiveness of prophylactic medications.

The forensic medical examination is first and foremost a medical evaluation looking for traumatic injuries of a sexual assault victim. It is an integral part of the medical process that provides comprehensive care of the patient. The forensic medical examination involves:

- A complete and thorough past and current medical history of the patient;
- A detailed history of the assault / incident;
- A head to toe physical examination;
- A detailed anogenital examination;
- Collection of specimens for sexually transmitted infection (STI) testing, with or within serum for HIV/Syphilis.
- Photo documentation with magnification

The evidence collection portion of the forensic medical examination includes:



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<sup>10</sup>US Department of Justice Office of Violence Against Women. (2013), A National Protocol for Sexual Assault Medical Forensic Examinations: Adult/Adolescent 2nd ed., p. 8.

- A Sexual Assault Evidence Collection Kit (rape kit) when the assault included the exchange of bodily fluids or trace evidence and occurred within the past 72 hours (in some cases collection may be helpful up to 120 hours after the incident). The rape kit includes:
  - a. Collection of blood, urine, hair, and other bodily secretions as deemed necessary;
  - b. Collection of the patient's clothing, especially undergarments; and
  - c. Collection of any possible physical evidence that may have transferred onto the victim
- Maintain and document the chain of custody for evidence.

**In accordance with O.C.G.A. § 16-6-2, the cost for the forensic medical examination will be paid through the Georgia Crime Victims Emergency Fund as provided for in Chapter 15 of Title 17 to the extent the expense is incurred for the limited purpose of collecting evidence.**

- Maintain the integrity of the evidence to ensure that optimal lab results are obtained

**In accordance with O.C.G.A. § 16-6-2, the cost for the forensic medical examination will be paid through the Georgia Crime Victims Emergency Fund as provided for in Chapter 15 of**

**Title 17** to the extent the expense is incurred for the limited purpose of collecting evidence. The billing costs for all exams, whether conducted at various medical facilities, shall be the reimbursable amounts set by the **Victims Compensation Forensic Medical Examination Fee Schedule** which reflects the maximum allowable cost for each service and/or procedure related to the forensic medical examinations for sexual assault victims. Total billing per victim shall not exceed two exams per year with all bills per application not to exceed \$1,000 per victim per state fiscal year.

## D. Treatment Protocols

- The patient is treated prophylactically for sexually transmitted infections (STI's), per the current CDC guidelines.
- Discuss the probability of pregnancy with patients and administer a baseline urine pregnancy test for all patients with reproductive capability. Post-coital contraception may also be considered if the pregnancy test is negative.
- Aftercare instructions and education are provided at this time. The patient should be strongly encouraged to follow-up with subsequent treatments and to utilize supportive individuals or groups in the community who offer services to victims of sexual assault. Any literature on or by these individuals or groups may be provided at this time. Counseling and emotional support are continued, though this support may shift to other providers.

## E. Conclusion

The sensitive treatment of sexual assault victims and the careful collection of the forensic evidence related to their assault will require much from the SANE or other health care providers. However, this same sensitivity and carefulness will also do much to aid the transition of the patient from victim to survivor and the prosecution of the perpetrators of such crimes. **Therefore, the sexual assault exam and collection of evidence should be performed by a trained SANE, when at all possible, or other forensically trained medical professional to ensure the success of these two purposes.**

# The Role of the Prosecutor

The District Attorney is the chief law enforcement officer for the Chattahoochee Judicial Circuit. The primary responsibility of the District Attorney is to see that justice is accomplished within the framework of the United States Constitution and the laws of the State of Georgia. The District Attorney represents the State of Georgia in the prosecution of felony criminal cases in the Superior



Court. Misdemeanor cases are prosecuted in State Court by the Solicitor General in Muscogee County and by the District Attorney in other counties that do not have a Solicitor General.

The prosecutor is committed to ensuring the public safety and the safety of victims through effective and efficient prosecution of cases. It is the role of the prosecutor to lead victims through the criminal justice process and be their voice in the pursuit of justice, recognizing that every case and every victim is unique. It is very important to the prosecutors seek convictions that will hold offenders accountable for their actions, and to seek sentences that adequately punish the perpetrator for the crime committed while at the same time protecting the constitutional and legal rights of the accused.

Prosecutors play a pivotal role in the outcome of sexual assault complaints with the most critical decision being the decision to prosecute or not prosecute after evaluating whether there is enough evidence to proceed in court.

If charges are filed, the victim is afforded many rights pursuant to the Victim's Bill of Rights, **O.C.G.A. § 15-17-1, et. Seq.**, found in [Appendix B](#). The District Attorney's Office and Solicitor General's Office, with assistance from Victim Advocates, strive to keep the victim notified and informed on all developments in the case. The victim has the opportunity to appear and be heard in court proceedings and has a direct line of communication with prosecutors.

Although the ultimate decision of how the case will proceed rests within the sole discretion of the prosecutor, input from the victim is an important component in the decision-making process and carries considerable weight in determining the best course of action.

Victims should feel comfortable that prosecutors will explain the various stages of the court proceedings to them and prepare them to testify in court should it become necessary. Steps are taken to ensure that the victim is safe in the courtroom setting. Each victim presents with unique circumstances of victimization. The District Attorney's Office and Solicitor General's Office strives to listen to what each victim of sexual assault has to say, answer any questions and address any concerns each victim may have, and make the best possible decision on how to proceed on behalf of the victim.

The Chattahoochee Judicial Circuit's team approach to prosecuting offenders best serves victims while promoting accountability and punishment for perpetrators of sexual abuse and violence. The prosecutor(s) should remain mindful that prosecution is but one component of a Multidisciplinary Team, and that the team concept is crucial in ensuring a **Victim-Centered** approach to the prosecution.

The **Victim-Centered** approach means that the needs and interests of survivors are of central concern to system personnel as they respond. For a prosecutor this means:

- Enhancing cooperation between the prosecutor's office and community organizations that may assist the victim(s);
- Giving victims choices and options whenever possible;
- Demonstrating sensitivity by using non-judgmental questions, comments, and body language;
- Establishing and maintaining communication and relationships with area law enforcement, advocates, child and adult protective services, and community medical/forensic services;
- Facilitating communications within the prosecutor's office and among members of the SART; and
- Maintaining respect for the survivor in interdisciplinary communications.

## A. Roles and Responsibilities of Prosecution

According to the National District Attorneys Association, the primary responsibility of prosecution is to see that justice is accomplished.<sup>11</sup> In responding to sexual assault cases, this means prosecutors provide for the safety, well-being, and protection of rights of the victim and the community by holding the offenders of these crimes accountable through the prosecution of sexual assault cases. To accomplish this task, prosecutors must work in collaboration with law enforcement, victim advocates, medical personnel, crime lab personnel, and the victim. Prosecutors are responsible for reviewing sexual assault reports to determine if enough evidence exists or could be obtained to file criminal charges. If the victim chooses to participate in the investigation and prosecution of the case, prosecutors then have the added challenge and responsibility of responding in a victim-centered way that meets the needs of the victim as well as the needs of the community.

**According to the National District Attorneys Association, the primary responsibility of prosecution is to see that justice is accomplished.**

The goal of providing a victim-centered, offender-focused, and trauma-informed approach is to decrease re-victimization by ensuring victims receive compassionate and respectful treatment and to hold the offenders accountable. Prosecutors maintain a victim-centered approach by giving serious consideration to the prosecution of each case, supporting the victim's rights under the Georgia Crime Victims' Bill of Rights, and providing direction as part of the SART to increase the number of cases that are suitable for filing. Prosecutors also determine if there is sufficient evidence against the offender or if additional investigation is needed.

Offender-focused prosecution allows the use of prosecutorial tools such as Federal Rules of Evidence 404(b), 608, and 609.<sup>12</sup>

## B. Initial Case Evaluation

Vertical prosecution is considered best practice in all sexual assault cases. This means that the same prosecutor is assigned to the case from beginning to end, allowing the victim to work with the same prosecutor and investigator from the time potential charges are first reviewed through the

<sup>11</sup> National District Attorneys Association. (2012). National Prosecution Standards. Third Edition. <https://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20w%20Revised%20Commentary.pdf>

<sup>12</sup> Federal Rules of Evidence, (2018). Article IV – Relevance and its Limits, Article VI- Witnesses

sentencing of the offender. Vertical prosecution has been shown to improve conviction rates, reduce victim trauma, and provide more consistent and appropriate sentencing.

### C. Victim Interview

It is recommended that prosecutors meet with the victim in person before making a determination about whether charges should be filed against the offender. This allows the prosecutor to assess the victim's ability to participate in the criminal justice process and to learn how the victim hopes the

#### Helpful Hint:

Prosecutors are uniquely positioned to educate the community, jury by jury, about the dynamics of sexual assault and the tactics the perpetrators use.

case will be resolved. This meeting provides prosecutors a feel for the case beyond just reading a report. It also demonstrates to the victim that the prosecution is taking the case seriously.

Prosecutors should include a victim advocate during all interviews and

meetings with the victim, as the advocate can provide emotional support to the victim as they share details that are important in the case.

Prosecutors should also be mindful that victims might believe that the prosecutor is "their" attorney, representing their individual interests. This misconception should be addressed and clarified at the beginning so as not to result in misunderstandings and disappointment on the part of the victim.

Interviewing the victim provides prosecutors the chance to review the case from the victim's perspective, explain the criminal justice process, uncover potential details that may have been overlooked in the investigation, and determine what outcome the victim desires. The victim needs a safe environment in which to explain what occurred during the assault and the relevant facts. To create a safe environment and establish rapport:

- ensure that an advocate is present for victim emotional support;
- allow adequate time for the interview;
- conduct the interview in a place where the victim feels safe and is able to speak freely;
- adopt a "seeking to understand" perspective in questioning the victim;
- assure that the victim is safe by ensuring the defendant is not present or in the area;
- review the victim's rights and explain the prosecution process, including rape shield law, preliminary hearing, pleas, trial, potential sentencing, etc.; and
- inquire about any threats made towards the victim.

### D. Collaboration with Law Enforcement

Prosecutors should review the investigation reports carefully prior to meeting with the victim, as they may learn new information that can either strengthen or weaken the case against the offender. It is also important that prosecutors work closely with law enforcement to ensure the collection of evidence needed to substantiate a case. They should also meet with law enforcement to discuss the investigation prior to making a charging decision in the case.

## E. Filing Charges

The determination to file charges in a sexual assault case is more complex than merely evaluating the evidence. It is the nature of sexual assault crimes that little or no physical evidence may be present. However, corroborating witness statements, participation of the victim in the case, and other acts committed by the offender play a significant role in the prosecution of the case. Prosecutors understand the danger in focusing on what appears to be negative victim characteristics or conduct. Instead, they should carefully consider all of the offender's conduct, behaviors, and characteristics. This includes the practice most offenders use in targeting victims who are vulnerable, who may not report the crime, or who may appear unsympathetic and not credible. Prosecutors should avoid basing the charging decision on the victim's actions that may increase risk or the culpability of the offender. Offenders are likely to present themselves as highly credible while their victims may not.



The prosecutor should discuss the decision to file or not to file charges personally with the victim. If charges are not filed, the victim is more likely to respect the prosecutor and the legal system if she/he feels respected and understands why the decision was made. This discussion should occur promptly, before the defendant is notified, and an honest explanation for the decision should be offered to the victim.

When the decision is made to charge the offender, prosecutors should work with victim advocates to support victims in the criminal justice process by:

- recognizing the emotional and psychological limits of victim;
- explaining to victims the process of the investigation and prosecution;
- explaining court attendance to victims;
- providing prompt notification of court proceeding dates, times, and any changes;
- discussing the estimated timeline of the case;
- preparing victims for testimony and estimating the amount of time they will be on the stand;
- preparing victims and family members for disclosure of traumatic information in the trial (911 tapes, photos, etc.);
- cautioning victims about the potential consequences of discussing the case with people outside the criminal justice system;
- ensuring victims are aware of the Georgia Crime Victims' Bill of Rights, including the right to refuse to be contacted on behalf of the defense;
- preparing victims on how to respond to inquiries from defense attorneys, investigators, and the media;
- informing victims about the potential for media presence in the courtroom and rules regarding the limitations on publicity regarding the victim; and
- being mindful of the need to separate victims from the offenders during any proceedings at the courthouse.

## F. Developing Prosecution Response

Prosecutors have unique roles on the SART. Through them the SART can track prosecution rates and number of plea agreements reached, and work to educate the judges in the community. After 3-5

**Many medical personnel report being more confident in performing forensic medical exams when they understand how closely prosecution and defense examine each aspect of the exam.**

years of operation, it would be appropriate for the SART to begin tracking how prosecution rates have been affected by the presence of the SART.

Having a prosecutor at the table can be a great asset for the SART. Victim advocates, medical personnel, and law enforcement do not necessarily

understand how all of their actions can affect the ability of the case to move forward. Prosecutors can offer a unique perspective to assist the team in seeing the “big picture” when it comes to the court system. Many medical personnel report being more confident in performing forensic medical exams when they understand how closely prosecution and defense examine each aspect of the exam.

The following checklists help the other SART members to understand and discuss the roles and responsibilities of the prosecution and assist with development of the prosecution response, which will be used to determine the SART’s first responder protocols. It is vital that each of the first responders review their agency procedures and responses in light of SART collaboration.

- a. The SART should discuss the following questions as the answers will lead the team in development of the prosecution response:
  - a. How do we define an optimal investigation of sexual assault crimes to aid us in having better cases to prosecute?
  - b. What will we do if, after the law enforcement investigation, more investigation is needed?
  - c. Are sexual assault cases difficult to prosecute? Why? What would you change?
  - d. How can victim advocates assist in better prosecution of cases?
  - e. How is gaining experience in prosecuting sexual assault cases beneficial to prosecutors?
  - f. Should the District Attorney’s office review every sexual assault case reported to any law enforcement agency that serves the community?
  - g. What should be the criteria in which we base whether to prosecute a case? Simply on merit? Or on merit plus community safety, victim impact, justice? Only if there is DNA evidence?
  - h. Should every sexual assault case go to grand jury? What would be the benefit? The drawbacks?
  - i. Should we develop specialized sexual assault prosecutors for adolescent and adult sexual assault cases?

- j. What are the benefits and drawbacks to meeting with a victim in person to assess the case? To let her or him know the case will not be going forward?
- k. How does establishing rapport with the victim work toward the end of developing a cooperative witness?
- l. When should the prosecutor have direct contact with the victim?
- m. Are there situations where advocates are not able to be present when prosecution is with the victim?

## G. Court Procedure

### a. Initial Court Appearance

Going to court can be a very frightening experience for victims. The initial appearance may be the first time the victim has seen the offender since the assault. Offenders and sometimes their family members may attempt to intimidate the victim. A trauma-informed, victim-centered approach recognizes the initial appearance is a critical emotional moment for the victim; the outcome of which may influence the victim's desire to move forward.

Prosecutors can support victims by:

- a. discussing the advantages and disadvantages of the victim's attendance at court proceedings;
- b. making sure they are informed about all the facts of the case if they are stepping in for another prosecutor;
- c. planning ahead about where the victim will be waiting prior to and during all court proceedings; and
- d. making sure that the victim and the offender enter the courtroom at different times.

### Commonly Used Defense

Defendants in sexual assault cases typically use one of three defenses: 1) that the sexual act was consensual; 2) denial of anything to do with the crime; 3) mistaken identity

### b. Trial Preparation

Utilizing a victim-centered approach, prosecutors recognize the need for victims to be fully prepared for the realities of the trial process: the timeline, expectations upon the victim, and the type of support from the prosecution team. It is extremely important to inform victims of any continuances and other delays. Prosecutors who involve the victim in preparing their case empower the victim and help improve the victim's testimony. This preparation should include:

- a. asking the victim if there are any dates that need to be avoided;
- b. providing the victim with advance notice of pre-trial motions;
- c. providing the victim advance notice of trial dates;
- d. ensuring that the victim is fully prepared and as comfortable as possible;
- e. providing courtroom orientation;

- f. encouraging the victim to report to police any violations of no-contact orders and keeping a log of the violations;
- g. ensuring that any interpretation or communication needs of the victim are prepared for before trial and ensuring victim presence during the trial;
- h. reminding the victim that what she/he shares with family and friends is not privileged information and is subject to subpoena;
- i. explaining the right of privilege held by sexual assault victim advocates and encourage the victim to use the victim advocates for emotional support;
- j. explaining to the victim that the courtroom is open during the trial;
- k. considering the use of expert witnesses – interviewing them in advance and preparing them for testimony;
- l. issuing timely subpoenas to the victim and witnesses;
- m. letting victims know that they can ask to take a break and repeat or clarify questions that are confusing or that the victim doesn't understand;
- n. preparing the victim for all testimony and anticipated cross examination; and
- o. explaining that a witness is required to simply answer questions and is not to give narrative answers or raise new topics.

Defendants in sexual assault cases typically use one of three defenses 1) that the sexual act was consensual, 2) denial of anything to do with the crime, and 3) mistaken identity. Trial preparation requires preparing arguments to counter these defenses, as well as addressing the common myths and misconceptions surrounding sexual assault, credibility issues related to the victim, and demonstrating the criminal intent of the defendant.

Presenting the victim as a target and the defendant as a premeditated perpetrator can be extremely helpful. Defense attorneys often raise a host of issues intended to question the credibility of the victim and the legitimacy of the victim's story. Prosecutors may be able to use these credibility concerns to their advantage by arguing that, due to the victim's state of intoxication, history of drug/substance abuse, history of criminal involvement, she/he was, in fact, at a greater risk and more vulnerable to the predatory nature of a sexual offender. Who better for a perpetrator to target than someone who is vulnerable, accessible, and who is likely not to be believed?

### c. Jury Selection/Voir Dire

Jury selection is critical to the outcome of a sexual assault trial. The potential jurors bring their own beliefs about sexual assault, misconceptions, and personal experiences. Some jurors may have experienced sexual assault or have a friend/family member who has experienced a sexual assault. Jurors have also been exposed to fictional accounts or dramatized accounts of sexual assault through the media that bear little resemblance to the reality of sexual assault. Identifying the potential impact of a juror's experiences and beliefs is essential in the jury selection process.

**Voir Dire is the only opportunity prosecutors have to an interactive conversation with potential jurors and provides an opportunity to address the myths and misconceptions**

**about sexual assault.** A frank and non-judgmental dialogue can have a tremendous impact on the likelihood of a conviction.

#### d. Direct/Cross Examination

The heart of the prosecutor's case is the direct examination of the sexual assault victim. This is the opportunity to introduce the victim to the jury by explaining the background of the victim and the context of the assault. Potential cross-examination points should be incorporated and explained in the direct examination. Similarly, the cross-examination of the defendant should support the victim's testimony, demonstrating that the victim was selected intentionally by the defendant – due to perceived lack of credibility, vulnerability, or accessibility.

#### e. Sentencing

The sentencing phase of a sexual assault trial can be especially traumatic for the victim and their family members. This is the victim's opportunity to face the offender and share the impact that the sexual assault has had on them, which can be both intimidating and redeeming. To prepare victims for sentencing, prosecutors should:

- a. ask victims if they want to be present in the courtroom, and support their decision if they don't wish to be present;
- b. prepare the victim about how to address the court; and
- c. offer to help the victim create a victim impact statement.

# Collegiate Response

Twenty to twenty-five percent of college women and fifteen percent of college men will experience sexual assault during their college career. More than ninety percent of sexual assault victims on college campus will not report their assault.<sup>13</sup> College freshmen and sophomore women appear to be at greater risk of sexual assault than are upperclassmen. Eighty-four percent of the women who reported a sexual assault experienced the incident during their first four semesters on campus.<sup>14</sup> Students living in sorority houses are three times more likely and students living in on-campus dorms are 1.4 times more likely to be sexually assaulted than students living off-campus.<sup>15</sup> An analysis reviewing more than 200 studies found that being a victim of sexual assault is associated with an increased risk of anxiety, depression, suicidality, post-traumatic stress disorder, substance abuse, obsessive compulsive disorder, and bipolar disorder.<sup>16</sup>

## Helpful Hint for Faculty

Students who need assistance often turn to faculty or staff members they feel comfortable with. Should a student seek assistance or ask to talk about an incident of sexual assault, the faculty or staff member should recognize that the victim is showing a great deal of trust in them.

When students encounter sexual violence, their trust and sense of safety are violated. This violation can potentially interfere with their lives and educational goals. Campus administrators, law enforcement and security, advisors, and student health center personnel must be committed to providing a caring, effective, and

consistent lawful response to any student who has been sexually assaulted.

An assortment of law enforcement, advocacy, medical, psychological, and administrative services must be made readily available to students who have been sexually assaulted. As such, all campuses are encouraged to develop a relationship with and/or assign a campus liaison to participate in the community's SART, the entity responsible for coordinating forensic, medical, legal, and support services in instances of sexual assault.

Protocols and policies for all types of campus-based law enforcement and security departments must address the progression of both on- and off-campus processes, which may occur simultaneously and independently from one another.

When developing protocols, applicable federal and state laws must be addressed, including:

- Title IX
- The Clery Act
- The Campus Sexual Violence Elimination (SaVE) Act

<sup>13</sup> Cullen, F., Fisher, B., & Turner, M., The sexual victimization of college women (NCJ 182369). (2000). Retrieved from the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: <https://www.ncjrs.gov/pdffiles1/nij/182369.pdf>

<sup>14</sup> Gross, A., Winslett, A., Roberts, M., & Gohm, C. (2006 March 1). An Examination of Sexual Violence Against College Women. Sage Journals <http://journals.sagepub.com/doi/abs/10.1177/1077801205277358>

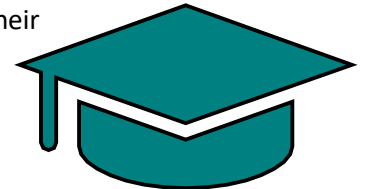
<sup>15</sup> Mohler-Kuo, M., Dowdall, G. W., Koss, M.P., & Wechsler, H. (2004 January). Correlates of Rape While Intoxicated in a National Sample of College Women. Journal of Studies on Alcohol. <http://archive.sph.harvard.edu/cas/Documents/rapeintox/037-Mohler-Kuo.sep1.pdf>

<sup>16</sup> Dworkin, E.R., Menon, S.V., Bystrynski, J., & Allen, N.E., (August 2017). Sexual assault victimization and psychopathology: A review and meta-analysis. Clinical Psychology Review. <https://www.sciencedirect.com/science/article/pii/S0272735817300880?via%3Dihub>

## A. Title IX

Title IX is a landmark federal civil right that prohibits sex discrimination in education. Under Title IX, colleges and universities must have an established procedure for handling complaints of sex discrimination, sexual harassment, or sexual violence. Every school must have a Title IX Coordinator who manages complaints. The Coordinator's contact information should be publicly accessible on the school's website.

The school, when necessary, will act to ensure a complainant can continue their education free of ongoing sex discrimination, sexual harassment, or sexual violence. The school can issue a no-contact directive under Title IX to prevent the accused student from approaching or interacting with the complainant. Schools must ensure that any reasonable changes to housing, classes, or sports schedules, campus jobs, or extracurricular activities, and clubs are made to ensure the complainant can continue their education free from ongoing sex discrimination, sexual harassment, or sexual violence. Additionally, these accommodations should not overburden the complainant or limit their educational opportunities; instead, schools can require the accused to likewise change some school activities or classes to ensure there is not an on-going hostile educational environment.



In cases of sexual violence, the school is prohibited from encouraging mediation rather than a formal hearing of the complaint.

### Important Note

*Title IX uses the words accused, accuser, and complainant instead of victim, survivor, or suspect. This is due to the fact that a sexual assault is considered a violation under federal civil rights law or Title IX. Please refer to U.S. Department of Education Office for Civil Rights for more information.*

## B. The Clery Act

The Clery Act was named after Jeanne Clery, who was raped and murdered in her dorm room by a fellow student on April 5, 1986. Her parents championed the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act) in her memory. This Act is federal law that requires colleges and universities to report crimes that occur within a defined geography. This information is available each year in an Annual Security Report (ASR).

The Clery Act requires a list of educational resources (such as medical care, mental health resources, and other support options that are available either on campus or within the local community) to be made available to students on or around campus. The Act also requires publication of reported incidents of a specific crime while alerting the public to possible safety risks or incidents on campus.

## C. Violence Against Women Act: The Campus SaVE Act

The Campus Sexual Violence Elimination (SaVE) Act increases transparency on campus of incidents of sexual violence, guarantees victims' enhanced rights, emphasizes disciplinary proceedings, and requires campus-wide prevention education programs.

The Campus SaVE Act amends the Clery Act, which requires campuses to provide annual statistics on incidents of campus crimes, including sexual assaults occurring on campus and reported to campus authorities or local police. The Act broadens this requirement to mandate fuller reporting of sexual violence to include incidents of domestic violence, dating violence, and stalking.

Colleges must publish the following victims' rights and college responsibilities:

- information on obtaining orders of protection, no-contact orders, and victim notification;
- information on how the college will protect the confidentiality of the victim;
- written notification of available services for mental health, victim advocacy, legal assistance,

### Suggestions for Faculty/Staff

- a. Believe what the student tells you
- b. Be a patient, active listener
- c. Reassure the student that they are not alone and that what happened is not okay
- d. Don't try to make decisions for the student
- e. Offer information on available resources
- f. Offer support
- g. Educate yourself

and other available community resources;

- written notification about victims' right to change academic, living, transportation, or work situations even if they do not formally report; and

- written explanation of a student or employee's rights and options, regardless of whether the crime took place on campus or off campus.

- Colleges must publish the

following procedures for reporting sexual violence:

- information on how to preserve evidence of the crime;
- information on to whom and how to formally report the incident;
- the right to decline formally reporting to authorities, including law enforcement agencies;
- the Campus SaVE Act must provide prompt, fair, and impartial disciplinary proceedings that ensure equitable process to both parties;
- officials conducting disciplinary proceedings must be trained annually on sexual violence investigation and determinations;
- both the accuser and the accused have a right to have an adviser of their choice present during the disciplinary process;
- both the accuser and accused are required to receive the final results of a disciplinary proceeding in writing; and
- both the accuser and accused have a right to appeal disciplinary proceeding decisions or changes to the final result.

## D. Sexual Assault Victim Services

Every campus plan to address sexual assault must include a strategy for delivering and coordinating a continuum of services to address victim needs. The plan should identify an individual or group on campus to oversee the victim services delivery system and conduct regular reviews of effectiveness. At a minimum, the victim services plan must ensure that:

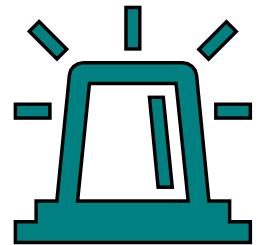
- victims have access to services provided by people with expertise in various aspects of sexual assault, including support for emotional, medical, and legal needs
- services for victims are available at all times, including non-business hours and academic breaks
- victims are informed about campus resources and community-based services (e.g., local sexual assault center) and their programs and services
- victims are assured that trained law enforcement or campus security officers are available and prepared to respond appropriately; and
- services are accessible and appropriate for all members of the community campus, including students, faculty, staff, minority groups, individuals with disabilities, lesbian/gay/bisexual/transgender/questioning/queer (LGBT+) campus community, non-traditional college students, commuting or parenting students, and on-campus friends of victims.

## E. Campus Law Enforcement and Security

Campus law enforcement and security departments play a significant role in institutional responses to sexual assault. Their response to reports of sexual assault must be based on protocol, supported by training, and sensitive to victim needs.

**Campus law enforcement and security departments must have a clear protocol for situations when the victim chooses not to officially report a crime. In such cases, authorities must be prepared to refer victims to appropriate support services and respect requests for confidentiality and anonymity.**

To achieve these goals, every campus plan to address sexual assault must include first responder and investigation protocols for campus law enforcement or security departments



## F. Protocols for Departments That Do Not Investigate Sexual Assault Reports

When the campus is not the primary investigative agency for sexual assault, administrators must implement a written policy and protocol establishing procedures for the following:

- notifying the appropriate investigative law enforcement agency;
- providing written information to the victim about contacting appropriate campus and community sexual assault support services;
- informing the victim about forensic medical examination services and how to access these services;
- interacting with other offices on campus such as judicial affairs, housing, student health center, counseling center, and campus ministries;
- complying with the federal Clery Act;
- confidentiality of the case as outlined by Title IX and the Office of Civil Rights; and
- following up with the victim.

## G. Protocols for Departments That Investigate Sexual Assault Reports

Every campus with a law enforcement or security department with the responsibility for investigating reports of sexual assault must develop a protocol that includes the following:

- procedure for notifying and mobilizing all critical campus units in the event of a sexual assault;
- requirement to notify victims of the right to have an advocate or support person present during their interviews with law enforcement or Title IX Coordinator;
- procedure for contacting a qualified support person for the victim (e.g., a sexual assault victim advocate/counselor or other specially trained individual);
- procedure for connecting the victim with medical forensic evidence examination services if the victim desires;
- steps for complying with legal reporting requirements, including those mandated by the Clery Act;
- resource information for both on- and off-campus services providers for victims;
- policy for transporting the victim to off-campus offices (e.g., local law enforcement, medical forensic examination site, etc.);
- procedure for obtaining alternative living arrangements for the victim, if requested;
- procedure to ensure confidentiality as allowed by law;
- procedures for releasing information to the media and issuing timely warnings to the campus community, pursuant to confidentiality policies and the Clery Act;
- responsibilities of both on- and off-campus law enforcement agencies;
- procedures for working with the local District Attorney's office;
- protocol for working with victims who choose not to officially report an incident, but still wish to seek medical and/or emotional support services;
- training plan for relevant entities regarding the implementation of the protocol; and
- procedures for regularly evaluating and updating the protocol.

# Incarcerated Victim Response

## A. Sexual Assault in Detention

Sexual assault that occurs behind bars is a widespread crisis in prisons and jails across the country. Since 2007 the Bureau of Justice Statistics (BJS) has conducted a series of national surveys to determine the reported number of staff sexual misconduct and inmate-on-inmate non-consensual acts. The 2015 BJS survey report states that 24,661 allegations of sexual victimization were reported to correctional administrators in prisons, jails, and other adult correctional facilities. The number of allegations increased 180% from the 2011 to 2015 report.<sup>17</sup>

In another study, BJS found that one in twelve former jail inmates and one in eight former prison inmates who were sexually abused prior to their incarceration stated that they were sexually

victimized by another inmate, highlighting the extreme risk to victims of previous abuse.

Unfortunately, the BJS data still represents only a fraction of the true number of detainees who are victimized, especially those held in county jails. The number of admissions to local jails over the course of a year is approximately 17 times higher than the nation's jail population on any given day. The BJS surveyors were only able to cover a very small portion of jail detainees over an entire year.

### Agency Protection Duties

**§115.65 / §115.365**

When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

Sexual assault in detention facilities mirrors that of the outside community. Inmates who are gay, transgender, young, mentally ill or incarcerated for the first time and for non-violent offenses tend to be victimized. Incarcerated victims of sexual assault experience the same emotional pain as other sexual assault victims. While there are services provided to victims in detention, incarcerated victims have less access to supportive community resources, such as confidential counseling, often provided by community-based agencies. This absence of confidential counseling after the trauma of a sexual assault causes many victims to develop serious long-term problems like Post-Traumatic Stress Disorder (PTSD), depression, and alcohol and other drug additions. Moreover, the high rates of HIV and other sexually transmitted infections in detention place incarcerated victims at a greater risk for infection. Ninety-five percent of inmates return home upon release, bringing their emotional trauma and medical conditions back to their communities. Sexual assault in detention needs to be addressed not just by the corrections community, but by the community as a whole to ensure the safety and well-being of all inmates.

The Prison Rape Elimination Act (PREA) was signed into law in September of 2003 to address the problem of sexual assault of people in the custody of detention agencies. PREA applies to all correctional and detention facilities, including prisons, jails, juvenile facilities, military and Tribal facilities and Immigration and Customs Enforcement (ICE) facilities.

<sup>17</sup> U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics. (July 2018). Sexual Victimization Reported by Adult Correctional Authorities, 2012-15. <https://www.bjs.gov/content/pub/pdf/svraca1215.pdf>

Major provisions of PREA include development of standards for detection, prevention, reduction, and punishment of prison rape; collection and dissemination of information on the incidence of prison rape; award grant funds to help state and local governments implement the purposes of the Act.

## Coordinated Response

### §116.65/§115.365

*The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.*

## B. SART and Detention

A SART within a detention facility can provide support to the PREA Coordinator, ease staff discomfort with handling sexual assault disclosures, and serve as the core component of the facility's coordinated response. The SART should operate from a solid protocol, based on PREA standards. The protocol should be developed by a multidisciplinary team (representative of the staff, contractors, and volunteers who are tasked with responding to sexual assaults). One benefit of the SART is that, while all staff must know the basics of responding to sexual assault, SART members can become specialists – receiving both initial and on-going training in how to follow the SART protocol. Such expertise will further enhance the facility's ability to comply with PREA standards.

The coordinated response standard requires a written plan for handling incidents of sexual abuse. As such, it can be used to spell out the roles and responsibilities of the various SART members. The SART protocol can serve as the written coordinated response plan.

The SART will be integral in making sure that the facility's response policies are effective. For example, the SART protocol should describe:

- how to preserve evidence (§115.21/§115.321);
- the requirement that all sexual abuse allegations are referred for investigations (§115.22/§115.322);
- the multiple ways that an inmate can report (§115.51/§115.351); and
- how victims can reach out for outside, confidential support services (§115.53/§115.353).

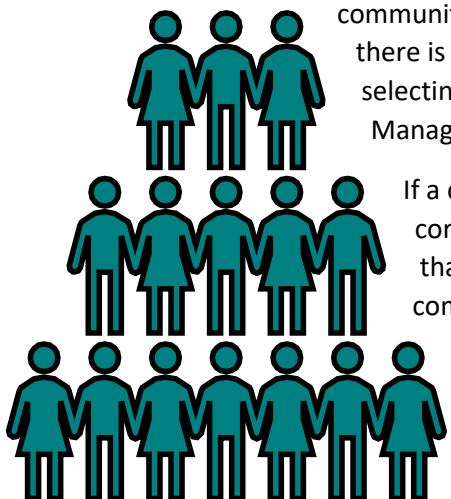
The SART protocol is an important tool for defining staff duties, including all staff and agency reporting responsibilities, and first responder duties mandated under the standards. The facility may already have a sexual harassment policy and may have an agreement with the local sexual assault center in the community. The jail can build on these to meet the PREA standards. The facility must also have a policy against retaliation and the SART can verify that its implementation is consistent with PREA requirements.

## C. SART Members

Depending upon the size and the number of facilities under an agency's authority, it may be effective to establish an agency-level SART composed of:

- the agency PREA Coordinator or designated Facility PREA Compliance Manager;
- facility director or designee;
- facility medical and mental health staff;
- a representative from the community based SART;
- a community-based sexual assault victim advocate;
- a law enforcement investigator
- DJJ Investigator (PREA or designee);
- DJJ Office of Victim Services Advocate or Designee;
- a SANE; and
- a prosecutor

This model reinforces the multidisciplinary team approach of the SART and improves services for the victim, both while incarcerated and post-incarceration, by extending the connection to care in the



community. The agency PREA Coordinator should coordinate the SART. When there is more than one facility, the PREA Coordinator should be involved in selecting SART members and work with the facility-level PREA Compliance Manager to supervise the team.

If a community's sexual assault center wishes to participate in a correctional facility SART, having a sexual assault victim advocate from that program can provide the facility the opportunity to include trained, community-based victim advocates in an immediate response to victims at the facility. The responsibilities of the facility and the victim advocacy program should be detailed in a MOU or within the SART protocol (§115.21/§115.321).

The SART should meet on a regular basis to evaluate the facility's PREA compliance, plan training, and review incidents. Meetings might be held every other week at first and become monthly once solid systems are in place.

Muscogee County Jail utilizes internal medical and mental health providers. Inmates have access to The Center at 909's hotline (706.571.6010) to file a report or speak with an advocate as necessary. Counseling resources are also available for inmates through a local service provider while incarcerated.

## D. Medical and Mental Health Care

The SART can be a way to build cooperation and communication between custody staff and the medical and mental health staff. It is important that the SART role in a response be clearly defined and that they receive training in how to preserve evidence until the victim is seen by a medical forensic examiner. Involvement of medical and mental health staff in the SART can also help a facility meet several of the standards related to medical and mental health care.

§115.81/§115.381 Screening History – medical and mental health staff work with classification staff to identify and help inmates who need services or who might be at risk for abuse.

§115.82/§115.382 Acute Care – Victims receive timely, unimpeded access to emergency medical treatment and crisis intervention services. Victims are also offered timely information about access to emergency contraception and sexually transmitted infections prophylaxis, where medically appropriate.

§115.83/§115.383 Ongoing Care – SART protocols clearly outline how victims will receive emergency and on-going care; medical and mental health staff work with the team to make sure all needed services are provided and care improves both the well-being of the victim and the victim's ability to participate in any investigation.

## Victim Specific or Cultural Considerations<sup>18</sup>

The victim specific or cultural consideration section is designed to help SART members understand victims from diverse cultures to ensure all victims are served with respect regardless of their background. This section is intended to be a tool to help professionals; however, it is the responsibility of each SART member to integrate cultural sensitivity into their services for victims. It is hope that SARTs will utilize these considerations to increase their understanding of diversity and learn ways to serve victims with respect to their cultural background and identities.

### A. General Considerations for All Victims

Regardless of how openly sexual violence is discussed within communities, rape and sexual violence are not a cultural practice or culturally accepted for any culture.

Many communities do not use eye contact when in conversation with others; this is a cultural practice of respect for elders/adults and should not be considered a form of disrespect or not paying attention. Many communities will nod their head in respect with the intention of “I hear you.” Many times, nodding one’s head is misinterpreted as “you are agreeing with me” or “you understand me.” Therefore, be sure to ask for a verbal response before making decisions. Not all females will shake hands with someone of the opposite sex. In some cultures, neither females nor males will shake hands.

Family and community are important across cultures. Some victims will avoid telling family what has occurred or avoid reporting to law enforcement as they do not want to be shamed or bring shame upon the family.

Regardless of age or the cultural community the victim belongs to, these factors do not imply that service providers should talk to them in slower English or louder, as this minimizes one’s abilities and intelligence. Avoid stereotyping and making assumptions about identity, appearances, race, class, age, or disabilities.

Many victims and families have trust in the legal system. When a victim chooses to report, there is an implication that the case will be charged. When cases are not charged or prosecuted, victims may be re- victimized by their community for what appears to be lying about the incident.

If a victim states she/he is sexually active, do not assume she/he is referring to heterosexual sex.

Be aware that when victims go to a clinic or hospital, the perpetrator may accompany her/him. Regardless of whom the victim says she/he is with (friend, partner, brother, etc.), the professional should see her/him alone. When the victim is separated from the person she/he came in with, it may be helpful to ask, “are you comfortable with that person being here?” This type of question may open communication about unsafe situations.

Attempt to find out who financially supports the family. If the perpetrator is a family member or sole provider, losing financial support may deter the victim from reporting. When using an interpreter, pay attention to what the interpreter says and watch body language. Not all interpreters relay the correct information, and some may add their own opinions while interpreting, which is unacceptable. Always use a trained and qualified interpreter. Never use family members, care givers, or children as interpreters.

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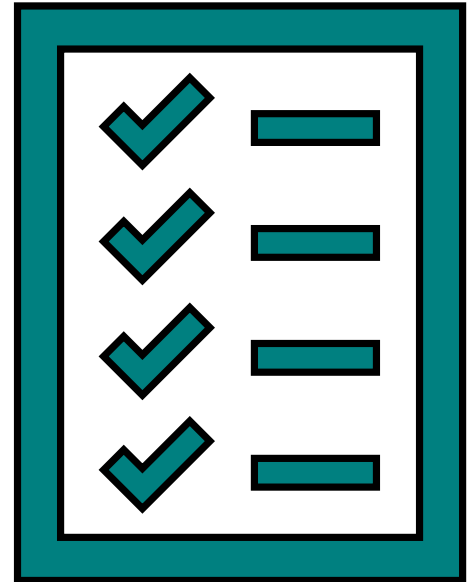
<sup>18</sup> “Georgia Sexual Assault Response Team Guide a Multidisciplinary Victim-Centered Approach for Responding to Victims of Sexual Assault .” *Sexual Violence Resource of Georgia*, Criminal Justice Coordinating Council, 10 Oct. 2018, <https://svrga.org/sites/default/files/docs/field/resources/sartguide101018.pdf>.

# Appendix A

## Sexual Assault Protocol Checklist

### A. Emergency dispatcher:

- Quickly obtain the victim's name and location
- Ascertain the safety of the victim; activate emergency medical services as needed
- Dispatch appropriate law enforcement units
- Maintain an open line with the victim
- Keep victim calm; advise that help is on the way
- If possible, encourage victim not to wash, change clothes, disturb crime scene, etc. until forensic exam can be completed
- If possible, obtain information from the victim about the sexual assault
- Relay helpful information to officers
- Preserve a record of emergency communications, including the victim's call for evidence
- Dispatch The Center at 909 Victim Advocate 706.571.6010



### B. Responding Law Enforcement Officer:

- Determine if there is a threat to victim's safety and if it is specific and observable
- Determine victim's physical/medical needs; request emergency care if needed
- Calm and reassure victim
- Inform victim of actions being taken; keep victim informed of investigative process
- Preserve evidence/secure scene(s)
- Determine if offender is known and possible location
- Activate SART – Officer, SANE, Advocate (brief all responders as needed)
- Request forensic/ID unit as necessary
- If victim is a juvenile, follow referral guidelines listed under the CAC Protocol
- If adult victim falls under mandated reporting, contact Adult Protective Services, inform 911 communication center immediately
- Conduct initial victim statement, with advocate present, when possible, if victim consents
- Obtain necessary consent forms from victim and witnesses
- Determine need for search warrant and execute search warrant as needed
- Conduct witness interviews including disclosure witnesses
- Conduct initial suspect interview to obtain statement.
- Ensure all preliminary field reports are forwarded to the investigative unit for review

### C. SART Collaborative Protocol Checklist:

- Officer, Advocate, SANE will work together to determine safety needs of victim
- Officer, Advocate, SANE will work together to determine special needs of victim
- Officer, Advocate, SANE will work together to provide victim with information on Victim's Rights and Victim Compensation
- Officer will conduct initial victim statement with Advocate present, if victim consents
- SANE will conduct forensic history with Officer and/or Advocate present, if victim consents
- Officer will leave the room for medical history and forensic examination
- Officer will conduct victim interview with advocate present, if victim consents

### D. Case Report Checklist

- Primary Officer's incident report
- Supplemental reports filed by assisting officers
- Crime scene entry log
- Written statement of the victim
- Copy of recorded statement of the victim
- Statements of witnesses
- Copies of recorded statements of witnesses
- Primary investigator's case activity log
- Primary investigator's case summary
- Wanted poster/composite drawings
- Photographic line-ups; admonitions
- Reports of anonymous crime information from sources such as Crime Stoppers, etc.
- Statements of suspect; non-custodial
- Statements of suspect to arresting officers
- Statements of suspect to civilians
- Constitutional rights; Miranda law
- All of suspect's custodial statements to law enforcement
- Copies of all recorded suspect statements
- Diagram of crime scene
- Photos of victim(s)
- Photos of crime scene(s)
- Property and evidence forms
- List of property in police custody
- List of property sent to crime lab
- NCIC criminal history
- Juvenile history data
- Probation/parole data
- Booking photo/Mug shot of suspect
- Previous reports in suspect's name
- Reports on Address call history
- 911 calls on sexual assault case

- Transcript of 911 calls
- Computer printout of address and phone number of 911 caller
- Written report from Forensic/ID unit
- Weapon follow-up (NCIC/ATF)
- Crime lab reports
- EMS reports
- Medical facility reports
- Copies of news stories
- Copies of affidavits for search warrant, warrants and returns
- Copies of consent to search forms
- Copies of other judicial orders
- Copy of arrest warrant
- Arrest and booking report
- Arraignment sheet

#### E. Victim Advocate Roles and Responsibilities Checklist:

- Determine whether the victim is safe (both physically and emotionally) and provide safety planning if needed
- Determine the immediate medical care needs of the victim and whether the victim wants to go to the hospital or another medical provider for STI/pregnancy care
- Assess and accommodate the special needs of the victim, including but not limited to language or cultural barriers, physical, mental, age, gender, rural, etc.
- Provide crisis intervention, support, information and referrals to the victim and family/friends
- Provide non-judgmental information about options
- Determine whether the victim wants to report the assault
- If not reporting, provide information on the evidence collection timeline and how it affects the victim's future options
- If reporting, contact law enforcement or follow SART protocol
- Provide transportation to medical facility for medical evaluation if necessary
- Inform victim of preserving options through evidence collection and evaluation
- Assess whether victim has need of clothing/food/shelter/transportation
- Access services and resources for victim or assist them in accessing services and resources as needed
- Accompany, support, and provide information throughout all aspects of the process
- Provide continuing follow-up care after the initial response by regularly checking-in with victim on their needs, concerns, comfort, and questions
- Ensure the victim understands the systems in which they find themselves, including the roles and objectives of each agency and individual involved in the response
- Serve as a liaison between the victim and professional agencies
- Advocate on behalf of the victim's self-defined needs, decisions, wishes, questions/concerns
- Provide support, information, and referrals to family/friends of the victim

- Provide accompaniment when requested (FME, courtroom, etc.)

## F. Prosecutors' Roles and Responsibilities Checklist

- Evaluate the case for prosecution, considering all the merits and seriousness of the case as well as the interests of justice, needs of the victim, and community safety
- Ensure a collaborative and thorough investigation of the facts and circumstances of the case
- Hold perpetrators of sexual assaults accountable for their crimes
- Provide a victim-centered response
- Encourage the use of the term "victim" by judges rather than "accuser"
- Encourage specialization for SA prosecutors and facilitate vertical prosecution (one prosecutor from beginning to end)
- Increase the knowledge and expertise of all attorneys who prosecute SA cases in the dynamics of sexual assault and the laws
- Take the victim's input into account throughout the process
- Meet with the victim in-person to both evaluate the case and to share information
- Work in a coordinated and collaborative fashion with law enforcement, medical personnel, and crime lab
- Evaluate cases submitted by law enforcement
- Inform victims of the case status from the time of the initial charging decision to sentencing
- Discourage case continuances
- Explain the reasons for continuances and seek mutually agreeable dates for hearings that are scheduled
- Arrange for interpreting services for victims and witnesses when necessary to assist a victim in understanding questions and frame answers
- Bring to the attention of the court the views of the victim on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution
- Pursue to the fullest extent that the law allows, those defendants who harass, threaten, or otherwise attempt to intimidate or retaliate against victims or witnesses
- Arrange for the prompt return of the victim's property if it is no longer needed as evidence in court
- Seek no-contact orders as conditions of bail or own recognizance releases
- Include the victim whenever possible in decisions regarding the filing of the case, the reduction of charges, plea bargain offers, dismissal or other possible case dispositions
- Consult with law enforcement, medical personnel, and sexual assault victim advocates in the furtherance of the prosecution of the case
- Notify the victim of her/his rights regarding HIV testing of the defendant
- Refer the victim to advocates for information regarding crime compensation from the state
- Advise the victim of her/his right to have a support person and advocate present during interviews and in court
- Discuss the case with the forensic medical examiner and law enforcement prior to trial date

## Appendix B

### Georgia's Crime Victims' Bill of Rights: O.C.G.A. § 17-17-1

#### A. Victims Have the Right:

- To be treated fairly and with dignity by all criminal justice agencies involved in the case
- To proceedings free from unreasonable delay
- To be notified of the availability of victim's compensation, which is available under the Georgia Crime Victims Compensation Program at (800)547.0060 or [www.cjcc.ga.gov](http://www.cjcc.ga.gov)
- To be notified of the Georgia Crime Victims Bill of Rights
- To be notified of community-based victim service programs
- To reasonable, accurate and timely notice of the following:
  - a. An arrest warrant being issued for the accused
  - b. The accused's arrest
  - c. The condition that the accused is prohibited from contacting the victim
  - d. The accused's release or escape from custody
  - e. Any court proceeding where the release of the accused will be considered
  - f. Any scheduled court proceedings or any changes to such proceedings, including restitution hearings
  - g. The accused's release on an electronic release and/or monitoring program
- To be present at all criminal proceedings in which the accused has the right to be present
- To NOT be excluded from any scheduled court proceedings, except as provided in O.C.G.A. §17-17-1 or otherwise provided by law
- To a waiting area, during judicial proceedings, that is separate from the accused and his or her relatives, friends and witnesses
- To be reasonably heard at any scheduled court proceedings involving the release, plea or sentencing of the accused
- To complete a Victim Impact Statement and have it presented to the court prior to the trial or plea of the accused (O.C.G.A. 17-10-1.1)
- To restitution as provided by law
- To refuse to submit to an interview by the accused, accused's attorney or agent of the accused
- To a requirement by court that defense counsel not disclose victim information to the accused (17-17-10)
- To be notified by the Department of Behavioral Health and Developmental Disabilities (DBHDD) if the accused is committed to the DBHDD for an evaluation, as mentally incompetent to stand trial or as not guilty by reason of insanity at the time of the crime. Upon the written request of the victim, at least ten days before the release or discharge, the department shall mail notice to the victim of the accused release from such facility.
- To request not to receive any form of written, text, or electronic communication from an inmate who was convicted of a criminal offense against the victim
- To be advised on how to file a complaint with the Judicial Qualification Commission if a judge denies the victim's right to be heard

## B. Victim's Responsibility

*Victims must provide to the law enforcement agency, prosecuting attorney, and custodial authority a current address and telephone number to be notified of specific actions in a criminal case against the accused.*

- It is the right and the responsibility of the victim who desires notification under this chapter or any other notification statute to keep the following informed of the victims' current address and phone number:
  - a. The investigating law enforcement agency
  - b. The prosecuting attorney
  - c. The Department of Corrections (if the accused is in the custody of the state) or any county correctional facility
  - d. The State Board of Pardons and Paroles
- The victim has the option to waive any of the information or notification or other obligations specified under the Crime Victims Bill of Rights.
- A victim has the right to designate a spouse, adult child, parent, sibling or grandparent to act on behalf of him or her, when the victim is physically unable to personally assume the rights under the law.
- If the victim has been trafficked for labor or sexual servitude (as defined in **Code Section 16-5-46**), they have the right to be notified of the availability of compensation through the federal government pursuant to **22 U.S.C. Section 7105**.

## C. Law Enforcement

*Upon initial contact with a victim, all law enforcement and court personnel shall make available to the victim the following information written in plain language:*

- The possibility of pretrial release of the accused
- The victim's rights and role in the stages of the criminal justice process
- The means by which additional information about these stages can be obtained
- The availability of victim compensation, which is available under the Georgia Crime Victims Compensation Program at 800.547.0060, [cjcc.ga.gov](http://cjcc.ga.gov), or [crimevictimscomp.ga.gov](http://crimevictimscomp.ga.gov)
- The availability of community-based victim services programs

Whenever possible, the investigating law enforcement agency shall give to a victim prompt notification as defined in paragraph (9) of Code Section 17-17-3 of the arrest of the accused.

Whenever possible, the custodial authority shall give prompt notification to a victim of the release of the accused.

## D. Prosecution

Whenever possible, the prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the release of the accused pending judicial proceedings.

Victims have the right to confer with the prosecuting attorney in any criminal prosecution related to the victim.

The prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the disposition of an accused's case, including the view of the victim regarding:

- Plea or sentence negotiations
- Participation in pretrial or post-conviction diversion programs.

Victims have the right to notification, by the prosecuting attorney, of the procedural steps in processing a criminal case including the right to restitution, the rights and procedures of victims under the law and suggested procedures if the victim is subjected to threats or intimidation.

Upon the written request of the victim, the prosecuting attorney shall notify the victim of the following:

- That the accused has filed a motion for new trial, an appeal of his or her conviction, or an extraordinary motion for new trial;
- Whether the accused has been released on bail or other recognizance pending the disposition of the motion or appeal;
- The time and place of any appellate court proceedings relating to the motion or appeal and any changes in the time or place of those proceedings; and
- The result of the motion or the appeal.

## **E. Department of Corrections**

Whenever possible, the custodial authority shall give prompt notification to a victim of the accused's release from custody of the state or any county correctional facility.

Whenever practical, the custodial authority shall provide notification to a victim of an escape by the accused and his or her subsequent re-arrest.

The Department of Corrections shall provide, to the prosecuting attorneys, the procedures a victim shall follow in order to block inmate mail. If a victim submits a request to block inmate mail, the Department of Corrections shall notify the custodial authority and notify the inmate of sanctions if direct or third-party contact of the victim is made.

## **F. State Board of Pardons and Paroles**

If a victim has expressed objection to the release of the accused or has expressed a desire to be notified, they must provide the State Board of Pardons and Paroles with a current address and telephone number.

Upon notification by the victim to the State Board of Pardons and Paroles, of their desire to be notified, the State Board of Pardons and Paroles shall give 20 days advance notification to a victim, whenever it considers making a final decision to grant parole or any other manner of executive clemency action to release a defendant for a period exceeding 60 days.

The board shall provide the victim with an opportunity to file a written objection in any parole proceedings involving the accused.

## Appendix C

### Other Types of Advocacy Agencies and Programs

**Justice System Advocates**—The role of Justice System Advocates is to provide support and communication to victims involved in the criminal justice system. Victim Witness Advocates are employees of the District Attorney's Office, or Law Enforcement. *They do not share the same privilege as Sexual Assault or Community Based Advocates and are obligated to share information about the victims(s) and/or about the sexual assault(s) case(s) with other members of the criminal justice system.* Victim Witness Advocates can provide information, support and accompaniment to court. Victim Witness Advocates provide services to victims of all crimes not just sexual assault. It is important for the sexual assault victim to be informed about the differences in roles between Victim Witness Advocates and Sexual Assault or Community Based Advocates.

**Campus Advocates**—Many colleges and universities have advocates that provide support, information and referral to victims of sexual assault. These advocates can be peer volunteers, staff of a university or staff of a community-based advocacy agency. Depending who they are employed by or volunteer for, Campus Advocates may or may not have the same privilege as employees of a community-based advocacy agency.

**Tribal Advocates**—Tribal Advocates are based within some larger tribes, and often work out of the community health clinics. Tribal advocates provide support, referral and information to victims. They also collaborate with other community-based advocates or agencies.

**Hospital Based Advocates**—Hospital Based Advocates usually work within a hospital or medical center. These advocates are often employees of the hospital and provide crisis intervention services and medical advocacy to individuals seeking a SANE examination. Hospital based advocates generally do not provide long term services, and depending on whom their employer is, may or may not have confidentiality privilege

## Appendix D

### A. Georgia Mandatory Reporting Laws

#### a. Mandated Reporter Law: O.C.G.A. §19-7-5 (2016)

- The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof.
- As used in this Code section, the term:
  - a. "Abortion" shall have the same meaning as set forth in Code Section 15-11-681.
  - b. "Abused" means subjected to child abuse.
  - c. "Child" means any person under 18 years of age.
  - d. "Child abuse" means:
    - a. Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child;
    - b. Neglect or exploitation of a child by a parent or caretaker thereof;
    - c. Endangering a child;
    - d. Sexual abuse of a child; or
    - e. Sexual exploitation of a child.
- However, no child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be an abused child.
- "Child service organization personnel" means persons employed by or volunteering at a business or an organization, whether public, private, for profit, not for profit, or voluntary, that provides care, treatment, education, training, supervision, coaching, counseling, recreational programs, or shelter to children.
- "Clergy" means ministers, priests, rabbis, imams, or similar functionaries, by whatever name called, of a bona fide religious organization.
- "Endangering a child" means:
  - a. Any act described by subsection (d) of Code Section 16-5-70;
  - b. Any act described by Code Section 16-5-73;