

Paulding County Sexual Assault Response Protocol

2021 SART Protocol Committee Members:

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I. Purpose of the Protocol

The protocol is intended to facilitate the provision of consistent, comprehensive,

sensitive, and non-judgmental treatment to survivors of sexual assault as they progress through the health and criminal justice systems. It is also intended to standardize the collection of evidence in order to aid in the prosecution of cases. A further purpose is to develop a coordinated effort among health providers, law enforcement, prosecution, and survivor advocates ensuring that survivors receive efficient and comprehensive medical care, evidentiary examination, emotional support, and referral information. Health care providers, care providers, including hospitals, all branches of law enforcement, including prosecution, and programs which assist survivors should use the protocol. Protocol shall be established pursuant to O.C.G.A. § 15-24-2.

II. Persons Covered

This protocol is for those ages thirteen and greater, regardless of their sex (male, female, intersex) that are survivors of sexual assault. This includes survivors who were assaulted within Paulding County or present in Paulding County after an assault which took place elsewhere. A general definition used in this protocol is that sexual assault includes sexual contact or intimacy performed upon one person by another without mutual consent, or with the inability of the survivor to give consent due to age or mental or physical incapacity. In Georgia, there is no one law applicable to the crime of sexual assault. Rather, there are a number of laws that refer to rape; sodomy, aggravated sodomy, statutory rape, sexual battery, aggravated sexual battery, child molestation and aggravated child molestation.

Existing county or jurisdictional child abuse protocols should be followed when the survivor is a child and has been sexually abused.

III. Providing Care & Common Response

Special Note on Language: 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 criminal justice process, the term “victim” is used to denote a person who has been sexually assaulted. “Survivor” is typically used to describe a person who has begun the recovery process. The goal of affected agencies should be to assist a victim to become a survivor. Giving the survivor control over decisions is an important part of the transition from victim to survivor. Throughout this protocol we will use the term survivor.

Providing care to the survivor will require special sensitivity on the part of law enforcement, medical, and support personnel. The survivor of sexual assault may suffer from physical, emotional and/or psychological trauma. Physical aggression has been used to humiliate, harm, or degrade the survivor. The survivor’s sense of self may have been threatened by the hostility and the aggression involved. The survivor may wonder what he or she could have done to deserve this assault. The potential of people learning about the attack and the threat of pregnancy or a sexually transmitted disease may also cause distress. Some survivors may fear being

denied fair treatment. As the survivor reports the incident, the individual may be worried, hurt, frightened, ashamed, isolated, embarrassed, or humiliated. It is important that the survivor feel acceptance and support, regardless of the survivor's emotional and/or cultural response. The survivor may also be feeling fearful and anxious after the assault in dealing with the legal, medical and social systems and will need assistance and understanding through these phases.

Anyone responding to a survivor of sexual assault should make the same inquiries of all survivors, and offer the same level of support, regardless of gender, race, religion, or sexual orientation.

Survivor confidentiality must be strictly protected. Professional staff should make direct inquiries of the survivor 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 survivor's sexual preference. Any documentation should be undertaken with sensitivity to the potential for long-term negative consequences to a survivor.

IV. Financial Resources

The 2011 Georgia Legislature passed a bill to pay the costs of collecting evidence in rape and aggravated sodomy cases. This law went into effect on July 1, 2011. O.C.G.A 17-5-72 provides that a survivor shall have the right to a forensic medical examination, regardless of whether the survivor participates in the criminal justice system (or cooperates with law enforcement by pursuing prosecution of the crime). A survivor is not 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 Compensation Program (Eligibility applies to sexual assaults occurring on or after July 1, 2011).

For such other medical costs associated with the assault, reimbursement can be claimed through the Crime Victim's Compensation Fund, and payment will be made directly to the hospital or other medical provider. However, if a survivor is insured or on Medicaid, then those sources will be sought first before the Crime Victim's Compensation Fund is administered by the Criminal Justice Coordinating Council (CJCC). The Crime Victim's Compensation funds are available to any survivor regardless of the age of the perpetrator or age of the survivor.

Survivor Support Services

Rape crisis centers, survivor (victim) assistance programs, crisis centers, or other agencies can provide services to survivors. These programs can be non-profit or governmental and are free to the survivor. In Paulding County, the three survivor support services are LiveSafe Resources Sexual Assault Program, the Victim-Witness Assistance Program through the District Attorney's Office, Paulding Judicial Circuit, and Paulding Children's Advocacy Center.

(1) LiveSafe Resources Sexual Assault Program provides a 24-hour crisis line, psychological support and support to the survivor, accompaniment to the hospital, support groups, advocacy for survivors including support throughout the criminal justice system, and assistance with applying for financial compensation. This program can provide training to medical personnel on the psychological reactions and needs of sexual assault survivors. Note: The LiveSafe Resources Sexual Assault Program does not extend its medical forensic exam services to child survivors under the age of 13 years old (see Paulding Children's Advocacy Center below).

(2) Victim Assistance Programs are located in the prosecuting attorney's offices. They provide information, support, and guidance for the survivor through the criminal justice process; information regarding the status of the court case; information and explanation regarding criminal proceedings; accompanier to attend court with the survivor; emotional support and referrals to counselors and other agencies. Assistance is also provided to the survivor in applying for financial compensation through the Crime Victim's Compensation Fund. Both felony and misdemeanor charges are currently handled by the District Attorney's Office. Once a State Court is in place for Paulding County in 2022, misdemeanor charges will then be handled by the Solicitor General's Office.

(3) Paulding Children's Advocacy Center: The Paulding Child Advocacy Center coordinates, in a child friendly environment, the interagency investigation and intervention regarding allegations of sexual, severe physical abuse as well as any minors who have witnessed violence crimes. Additionally, the center is able to provide interviews for adults with developmental disabilities that cognitively function as a minor. The Center is responsible for facilitating bi-weekly multidisciplinary team meetings where all cases are reviewed. Peer supervision is provided for forensic interviewers. Services include: expanded forensic interviews, crisis consultation, TF-CBT for primary and secondary survivors as well as support groups. The Center links children and their families with appropriate services, i.e. for medical evaluation or counseling. The Center also provides expert testimony, and training and prevention education, including the Stewards of Children's Program which is aimed at adults accepting the responsibility for preventing child sexual abuse.

The Paulding Child Advocacy Center follows and is a part of the Paulding Child Abuse Protocol.

Survivor service organizations are involved at various points in sexual assault cases but should begin at the time the sexual assault survivor reports their assaults and should work

with all affected agencies to form a continuum of care for survivors. Unlike other agencies (i.e. law enforcement, medical, or prosecutor's offices), which service survivors at certain specific junctures in the case, many survivor services programs help survivors from "start to finish." The following section includes a discussion of issues relating to survivor service programs and their involvement and coordination with other agencies, which respond to sexual assault survivors.

I. Initial Disclosure of Sexual Assault (LiveSafe Resources Sexual Assault Program)

A sexual assault can be reported multiple ways; via a law enforcement agency, hospital or other medical facility, or an emergency crisis line operated by a sexual assault crisis center or other crisis agency. Each of these agencies should have an immediate concern for the safety and physical and emotional wellbeing of the survivor.

Note: A survivor who is under the age of 18 will require involvement from law enforcement (Crimes Against Children) and Division of Family & Child Services (DFCS). Any survivor 18 years or older law enforcement response would be from Criminal Investigation Department (CID). Additionally, any survivor taken to an emergency room or medical facility will automatically enact a response from law enforcement, regardless of the survivors' age.

Survivor service programs often play dual roles:

- a.) Providing Crisis Intervention
- b.) Acting as a Liaison with Partner Agencies

It is important to involve victim services programs as soon as possible regardless of which entity or agency receives the initial report of a sexual assault.

II. Coordination of Services (LiveSafe Resources Sexual Assault Program and Victim - Witness Assistance Program)

The initial point of contact's primary concern should be for the safety and wellbeing of the survivor. The role of the survivor service provider is to:

- Identify and address the immediate concerns of the survivors (e.g., are they in a safe place, are there family members or friends who should be contacted, do they need emergency medical care and if so transportation to the hospital, clothing to wear home from the hospital)
- Provide emotional support and crisis intervention to survivors and their families
- Be present during the medical exam

For their own safety and to avoid interfering with the investigation, survivor advocates do the crime scene. Survivor advocates are not investigators or attorneys and do not

investigate cases or give legal advice. Many different agencies come into contact with the survivor at various stages after reporting an assault. The survivor service organization is often considered the core of this response as they provide consistent support and advocacy throughout the process. The role of the survivor advocate should be explained to the survivor, and the advocate should make sure the survivor is comfortable with the advocate continuing to provide service.

There are two types of advocates that work with survivors of sexual assault; community-based and systems-based advocates. While both support the survivor at various stages in the process, they are unique in the services they provide. The survivor service providers need to achieve an effective balance between advocating for survivors and working within the parameters of the criminal justice system. A Community-Based Advocate's role is to support the survivor with a focus on health and welfare. They serve as confidential source of support and are able to provide resources and referrals to agencies in the community regardless of involvement in the criminal justice process. A Systems Based Advocate's role is to support the survivor and keep them engaged during the criminal justice process. They cannot offer confidential services and are generally associated with a government agency. Note that there is overlap between the two roles and it is best for the two to work in partnership to ensure survivors' needs are met.

System Based Advocates Role Includes:

- Maintaining constant communication with survivors regarding the status of the criminal case and court proceedings;
- Notifying survivors of all available services such as support groups, counseling, education, etc.
- Explaining the Survivors' Bill of Rights (OCGA 17-17-1 et seq.), and how to request the various notifications (i.e. notices of bond hearing, release of defendant from incarceration, case status, etc.) and how to provide input during the case proceedings;
- Helping prevent additional trauma or injury to survivor;
- Encouraging and supporting survivors to become active participants in the case;
- Protecting and ensuring the survivor's privacy; and
- Helping survivors in dealing with any problems they encounter during the aftermath of the crime;
- Helping survivors complete compensation applications to help with non-reimbursed expenses caused by the crime (such as medical, counseling, prescriptions, lost wages);

Community Based Advocates Role Includes:

- Notifying survivors of all available services such as support groups, counseling, education, etc.
- Helping survivors complete compensation applications to help with non-

reimbursed expenses caused by the crime (such as medical, counseling, prescriptions, lost wages);

- Helping prevent additional trauma or injury to survivor;
- Encouraging and supporting survivors to become active participants in the case;
- Keeping survivors notified of any pending criminal matters;
- Attending Court with the survivor;
- Protecting and ensuring the survivor's privacy; and
- Helping survivors in dealing with any problems they encounter during the aftermath of the crime.

III. Guidelines: Survivor Services

If Initial disclosure is made to (LiveSafe Resources or Paulding CAC) Crisis Center

- Determine if survivor is in immediate danger.
- Ascertain if emergency medical assistance is needed.
- Help identify and address the immediate concerns of the survivor.
- Ask if survivor wants to report the crime to the police (if not already reported). If the survivor chooses to report, the advocate should offer assistance with this process.
- Offer crisis support services.
- Caution the survivor against destruction of evidence.

Medical Examination (LiveSafe Resources or CHOA or Wellstar @ SafePath CAC)

- Explain medical examination procedures to the survivor.
- Provide survivor with emotional support during examination if the survivor wants this.
- Upon request of the survivor, discuss assault with family and provide support to secondary survivors.
- Ensure survivor has clothing to wear home after the medical examination is complete.
- Give survivor written information about compensation and Survivors' Bill of Rights, and counseling services available.
- Obtain consents for follow up care and make referrals to other agencies as appropriate.

Pre-Arrest (LiveSafe Resources or Paulding CAC)

- Accompany survivor to any law enforcement proceedings including interviews, line-ups, etc. when applicable (LiveSafe Resources).
- Maintain contact with law enforcement and serve as a liaison between law enforcement and survivor when needed.
- Program Manager will regularly communicate contact information for Advocates employed through LiveSafe Resources that may serve as liaisons for survivors and law enforcement in Paulding County.

Post-Arrest (VW)

- Make contact with survivor to inquire about desires regarding bond of the accused
- Provide information to the survivor about the possibility of the accused's pre-trial release from custody.
- Paulding Jail will notify survivor of bond status of the accused upon their release. Must have the proper telephone number given to law enforcement for the jail notification or the survivor may have the VW advocate call the jail to update them with the correct information.

Pre-Trial (VW)

- Facilitate meetings between survivor and prosecutor in order to prepare for trial
- Establish procedures for notifying survivor of case status, using the Survivor's Bill of Rights as a guideline.
- Provide survivor with a written, concise explanation of the criminal justice system.
- Assist survivor in preparing a Survivor Impact Statement to inform the prosecutor of the physical, financial, and emotional impact of the crime.
- Provide guidance for facilitating survivor/prosecutor communications concerning plea negotiations, which is a discussion about the possibility of the accused admitting his guilt without a trial in return for an agreed upon sentence.
- Accompany survivor to any pre-trial court hearing or notify survivor of results if survivor is not present.
- Provide notification about postponements or changes in court appearances.

Trial (VW and LiveSafe Resources)

- Accompany survivor to court hearings.
- If there is not a separate waiting area for the survivor, request that the judge keep contact between the survivor and accused to a minimum.
- Prepare survivor for the possibility of media coverage and questions.
- Arrange special assistance or transportation for survivors with special needs (medical, handicapped, etc.) or lack of transportation.

Sentencing (VW)

- Assist survivor with the preparation of a survivor impact statement, if not already prepared.
- Communicate with prosecutor about whether survivor wants to speak about the crime's impact during sentencing phase.
- Continue court accompaniment and support.
- Educate about possibilities about sentencing.

Post-sentencing (VW)

- Explain to survivor how to request notification from the Georgia Corrections and Parole Board Office of Survivor Services of change of status of Custody (escape, death, transfer, etc.).
- Help survivor update or prepare survivor impact statement to be mailed to the Georgia Corrections and Parole Board Office of Survivor Services and/or, if applicable, to the appropriate division of the Department of Corrections.
- Explain to survivor procedures for being notified by the Georgia Corrections and Parole Board Office of Survivor Services of the release of inmate from the state prison system.
- Explain procedure for survivor to appear in person at the Georgia Corrections and Parole Board Office of Survivor Services.
- If applicable, explain restitution collection and procedures.
- Inform survivor of the importance to notify the Georgia Corrections and Parole Board Office of Survivor Services, Probation Division and the Probation Officer of any change of address or phone number.
- Explain to survivor how to claim any personal property held as evidence and assist as necessary.
- Provide guidelines for reporting harassment or violation of protection orders or bond orders, or probation restrictions by assailant.
- Explain procedures regarding those accused who are put on probation or given split sentences, i.e., sentenced to prison followed by a period of parole and/or probation.
- Provide referrals to survivor for other community services.

Ongoing Survivor Services (LiveSafe Resources or Paulding CAC)

- Provide referrals to survivor for other community services and assist in accessing these services.
- Provide continuing support or counseling as long as survivor requests it.
- Offer a 24-hour crisis line number for survivors and their families.
- Offer follow-up medical exams as appropriate.

Law Enforcement Response

I. Responding to Survivors – The Role of Law Enforcement

Sexual assault survivors are typically traumatized and often embarrassed to report the offense to the police. The fear of investigative and prosecutorial procedures may add to a survivor's reluctance to report. Police officers and criminal investigators play a significant role in the survivor's willingness to cooperate in the investigation. The survivor's ability to cope with after-effects of the crime plays a part in how well the investigation proceeds. It is critical that law enforcement agencies treat survivors of sexual assault with compassion and consideration, and provide the necessary information and assistance to make their interaction with the criminal justice system easier.

In particular, investigators need to be sensitive to the following areas that may impact a survivor's comfort level with reporting an assault; cultural context, social status, economic status, age, physical abilities, biological sex as well as sexual identity. Special training is recommended so that law enforcement can have a better understanding of the issue of sexual assault and its potential impact on a survivor. It is important to note that a sexual assault has a greater potential for creating a lasting impact upon the survivor, family members and friends than many other crimes.

II. Complaint Reporting Procedures

In most cases, the initial report of the sexual assault by the survivor to a law enforcement agency comes through the dispatch or communications center. In these cases upon receipt of the initial call the dispatch or communications center operator should:

- Determine the survivor's name, where calling from, where the attack occurred, when it occurred, name or description of assailant, direction, and means the assailant used in leaving.
- Advise the survivor not to change clothing, shower, or touch anything in the immediate area where the assault occurred.
- Dispatch appropriate responding personnel, law enforcement and medical, as needed. If a survivor does not want to report to law enforcement, dispatch should connect the survivor with LiveSafe Resources for further assistance. Note: SANE exams are available regardless of a survivor's desire to report to law enforcement at that present moment.
- 911 Center will maintain an open line with the survivor if there is an impending danger until responding law enforcement personnel has arrived at the survivor's location. If the assault has already occurred, they do not stay on the line.
- Maintain a copy of the 911 calls.

The dispatcher or emergency communications personnel are critical in aiding the survivor to regain control and composure after the assault. Personnel should remain calm and understanding and avoid being judgmental.

In other cases, the initial complaint may be received directly after the assault from family

members, friends, neighbors, or witnesses. Or the complaint may be received from clergy, medical personnel, or others sometime after the assault has taken place. In these instances, similar information still needs to be obtained and appropriate personnel dispatched as necessary.

III. Initial Law Enforcement Response

This pertains to the arrival of a uniformed patrol officer to the reporting survivor. It should be emphasized again that a thorough collection of evidence and the establishment of a cooperative relationship with the survivor are essential to the identification of the suspected perpetrator and the subsequent prosecution.

The officer should first respond to the survivor's physical or medical needs. This may include the application of immediate first aid while waiting for the appropriate emergency medical response unit to arrive and give more complete and thorough medical attention prior to transporting the survivor to the appropriate medical facility. It is necessary for the responding officer(s) to address these needs by keeping the survivor calm, by remaining empathetic, and advising the survivor of all procedures so that the survivor can make informed decisions.

Detectives will arrive and should make every effort to increase the survivor's comfort level prior to transporting the survivor to LiveSafe Resources for a SANE exam, in the case that the survivor requires immediate medical attention take to the nearest emergency room for an adult or any minor 13 years of age and older and to Children's Healthcare of Atlanta for any minor 12 years of age or under.

Advise the survivor of the importance of the physical evidence that the medical facility will obtain in order to successfully identify and prosecute the assailant(s). If the survivor needs and requests the support of a family member or friend, the officer should arrange contact as quickly as possible. The officer should advise the survivor that a trained staff/volunteer sexual assault program advocate will meet the survivor at the designated location to lend assistance.

The primary responsibilities of the responding officer(s) and/or detective are to:

- Ensure the immediate safety and security of the victim.
- Determine jurisdiction of sexual assault when possible.
- Contact appropriate investigation bodies for possible activation of SANE nurse.
- While limiting investigative questioning to those matters necessary to identify the victim and to describe and locate the suspect, obtain preliminary information necessary to complete an original incident report, including preliminary interviews of all witnesses, the victim, and the initial reporter of the crime. The initial incident report should also include all of the elements of the crime.
- Conduct questioning in private and only by one officer, when possible.
- Determine possibility of a drug facilitated sexual assault

- Protect the crime scene by securing physical evidence. This may include fingerprints, trace evidence, victim's clothing, or additional evidence that may be collected from the victim. This initial protection should prevent the unnecessary loss of physical evidence until appropriate evidence collection personnel can respond to process the crime scene. However, at this state it is unnecessary to ask questions beyond the point of securing the scene to continue the investigation.
- Inform the victim of the Victim's Bill of Rights.
- Inform the victim of medical and support services available and of the importance of seeking an immediate medical examination as well as follow up medical treatment.
- Inform the victim of the need to refrain from washing, showering, brushing teeth, using a mouthwash, smoking, eating, drinking, douching, urinating, or defecating to prevent the loss of valuable physical evidence. Stress the evidentiary importance of preserving personal clothing and articles from the crime scene. However, if the victim has bathed or douched, proceed with collection of evidence.
- Determine if victim will consent to a sexual assault examination.
- Transport the victim to the appropriate medical facility or SANE exam site. To protect the identity of the victim, when possible a non-uniformed officer should transport the victim to the medical facility in an unmarked police vehicle.
- Inform SANE of any information about the assault, which may be useful in the medical examination and evidence collection procedures. Advise medical personnel/SANE whether or not the victim's clothing is needed to be sent to the Crime Lab. When necessary, present medical personnel with the Georgia Bureau of Investigation Rape Kit.
- Remain on hand at the hospital or exam site for safety and security of the victim and to assist with return transportation. In the event that the law enforcement officer must leave the premises, the law enforcement officer and SANE will discuss safety and chain of custody.
- In accordance with O.C.G.A. 35-1-2, when a forensic medical examination is performed, evidence is collected, and the alleged victim has requested that law enforcement officials be notified, the individual performing such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence. Law enforcement officials shall take possession of such evidence no later than 96 hours of being notified. It shall be the duty of every law enforcement officer who takes possession of the evidence to ensure that such evidence is submitted to the Georgia Bureau of Investigations within 30 days of it being collected, in accordance with the procedures established by the division.
- Ensure that evidence is properly stored and identified for not less than ten years after the report of the alleged sexual assault. If the victim does not cooperate with law enforcement or prosecution, evidence shall be stored and identified for not less than 12 months from the date any such physical evidence is collected.
- Prepare an incident report which should include the following:
 - Details concerning the type of offense committed including the elements

of the crime or crimes.

- When and where the assault occurred.
- The extent of injuries to the survivor.
- Whether a weapon was involved.
- The identity and description of the assailant(s) if known and relationship to the victim, including any known address or work location of the assailant.
- Any statements the victim made to the responding officer.
- If responder had contact with perpetrator, any statements the perpetrator made.
- Possibility of a drug facilitated sexual assault
- Names, addresses and phone numbers of any witnesses or other persons who may reach the victim.
- Victim's personal information including phone numbers and addresses for home, work, and a contact person's address and phone number.
- Forward copy to investigations for follow-up.

IV. Law Enforcement Activation of SANE Nurse

The SANE Program operates in conjunction with LiveSafe Resources to serve female, male and intersex victims of sexual assault ages thirteen years and older. The SANE Program exists to meet the needs of the patient and law enforcement providing services for acute cases. Acute cases are any sexual assault or aggravated sodomy which has occurred within 120 hours of the reported sexual assault. Any case that presents outside the time frame of 120 hours requires a medical consultation with LiveSafe Resources SANE Program Manager to determine the next appropriate steps which may still involve evidence collection through a SANE Exam.

Note: If patient is being seen at SafePath Children's Advocacy Center for forensic medical services, follow the procedures of the center.

- The SANE Nurse is activated by Law Enforcement (Detective/Investigator) with jurisdiction in Paulding County or by LiveSafe Resources Advocate in non-law enforcement report cases when evidence collection is required. The SANE Nurse may also be activated by local dispatch through the programs on-call schedule.
- The SANE Nurse will activate a Sexual Assault Advocate to respond for the examination.
- The SANE Suite is located at LiveSafe Resources, 48 Henderson Street, Marietta, GA 30064.
- Access to the SANE Suite is gained by entering through the SANE Suite Door at the rear of the building. Law enforcement, SANE Nurses, and LiveSafe Resources Advocate may park in the designated spaces near the SANE exam suite.
- Law enforcement will wait until the SANE Nurse or LiveSafe Resources Advocate arrives to gain access to the SANE Suite.
- Any sexual assault victim with injuries requiring medical attention (i.e. fractures, lacerations, strangulation, etc. requiring treatment by physician or impaired by alcohol/drugs) will need to be transported to either Wellstar Kennestone, Wellstar Paulding or Wellstar Cobb General Emergency Room for treatment. If the sexual

assault victim is transported to the Emergency Room, the SANE Nurse and Advocate can be activated to the hospital for the collection of evidence.

- Law enforcement should refer to local EMS protocols when determining whether a patient is stable enough to be transported to the exam site at LiveSafe Resources or the Emergency Room, or whether the victim's condition dictates the closest medical facility.
- Sexual Assault victims cannot be received at LiveSafe Resources if transported by EMS.
- If present, law enforcement must remain at the exam site until such time as the exam is complete.
- Investigative bodies must take possession of the evidence at the conclusion of the SANE Exam.

V. Law Enforcement Role During Medical Examination

Law Enforcement personnel should not be present inside the exam room during the medical examination of the victim, except for cases in which the victim is in police custody. During exams with victims that are in custody, law enforcement personnel may become privy to private communications. Some of these communications are protected by HIPAA and it is important for law enforcement in the room to note that protection and the victim's right to privacy of their medical history.

Follow Up Interview:

An investigating officer will immediately be assigned to the case. The officer's responsibilities are to:

- Compile the basic investigative information contained in the initial interview, criminal complaint, and evidentiary examination.
- Determine the victim's emotional and physical ability to participate in an in-depth follow-up interview and schedule the interview as soon as possible after the incident. Keeping in mind the time necessary for a victim who has experienced a drug facilitated assault to have their system restored to normal functioning.
- During this interview, the investigator should find a comfortable and private setting and explain the need for obtaining detailed information concerning the crime, including details of the sexual act, the suspect's modus operandi, clothing, means of restraining the victim, and the use or threat of weapons; words or instructions given to the victim; marks, scars, tattoos, deformities or other unusual physical features or body odors of the suspect, and any witnesses, participants, or accomplices that may be described or identified by the victim.
- Document the victim's actions in response to the attack to include the type and degree of any resistance offered, the nature of any acquaintance with the suspect, and the state of mind of the victim during the attack.
- Determine the degree, to which the victim has received support from family, friends, and victim advocacy programs, and encourage or facilitate these interactions.

Ongoing Involvement in the Case:

During the investigation of the sexual assault and after the arrest of a suspected assailant, the investigating officer continues to have a responsibility to interact with the victim by:

- Soliciting the victim's continued support in the investigation.
- Work with the prosecutor's office to develop the case and to familiarize the victim with the kind of questions, which may be asked during the cross-examination.
- Maintain continued contact with the victim to ensure that appropriate support services are available.

VI. Interviewing Procedures

The investigative officer should be trauma-informed, non-judgmental, and professional. It is not necessary that the interviewer be of the same sex as the victim. However, every effort should be made to accommodate a request from the victim for a same sex interviewer. Privacy for the interview is very important. When possible, the interviewer should select a location that allows both visual and sound privacy as well as freedom from unnecessary interruptions.

While it is generally preferred that the interview be conducted in a setting where only the interviewer and the victim are present there are occasions when additional persons may need to be present; including familial support persons and in some cases, it may be necessary for an interpreter to be present. However, consideration should be given to any request from the victim or the victim advocate for the advocate to be present.

The investigator or interviewer's role in connection with the investigation should be explained to the victim. Also, the investigator should inform the victim of the reason for asking certain intimate questions and why the victim will be asked to provide explicit details of the assault. The interviewer also should upon completion of the interview inform the survivor of additional steps needed in the investigation: composites, photographic, or live lineups, and means of obtaining updates on the investigation or judicial process.

It is important to keep in mind the sensitive nature of communications between the victim and investigative body. The trauma of a sexual assault can be both physical and psychological. The feelings experienced after an assault by a victim may be similar to the feelings experienced by a law enforcement officer after a critical incident on the job. It is vital to keep this in mind when interviewing the victim as they may be experiencing shock and a variety of other psychological impacts. Establishing rapport with the victim can lead to a more successful interview and long-term cooperation in the criminal justice process.

Privacy during the interview is extremely important as the victim's reluctance to reveal certain details may be greatly magnified. The investigator should use language that is readily understood by the victim. For example, if the victim uses slang terms for the parts of the body it

may be because of a lack of knowledge of the proper terms. If the interviewer must use slang terms, it should be done so unhesitatingly and without embarrassment. Keep in mind there are some questions that are inappropriate and do not aid in the investigation.

The skilled interviewer should be familiar with the specific needs of the victim to be interviewed.

VII. Guidelines: Law Enforcement and Dispatcher

Dispatch

- Determine if assailant is present.
- Obtain victim's name, location, where and when attack occurred, name or description of assailant, means assailant used in leaving.
- Determine if emergency medical care is needed and dispatch accordingly.
- Dispatch patrol officer(s) according to departmental policy.
- Advise victim not to change clothing, shower, or touch anything in the immediate area where the assault occurred.
- Make every attempt to keep sexual assault victim on-line until patrol officer(s) arrive.
- Keep copy of 911 calls.

First Responder

- Ensure immediate safety and security of victim.
- Respond to victim's physical and emotional needs.
- Determine need for emergency medical care.
- Ask sexual assault victim if the suspected assailant is at the crime scene.
- Ask victim for description and/or identification of assailant and broadcast BOLO message for the suspect.
- Advise victim of evidence preservation steps.
- Complete initial report and submit to investigative bodies

Medical Examination

- Inform *Emergency Room Physician/Mid-level Provider/SANE* of any information about the assault, which might be useful in conducting the medical examination and evidence collection procedures.
- If law enforcement has reason to believe that a drug facilitated sexual assault occurred, request necessary samples for proper testing.
- Present *Emergency Room Physician/Mid-level Provider/SANE* with the GBI standardized rape kit.
- Maintain and secure all evidence.

Investigators

- Preserve the crime scene (if sexual assault was recent). Contact supervisor/investigations division for possible activation of SANE nurse.
- Arrange transportation for victim to and from hospital or SANE examination site.

- Ask victim if the assistance of a family member or friend is needed and make appropriate contact.
- Complete incident report by obtaining preliminary information; interview with the witnesses, victim, and initial reporter of the crime.
- Inform the victim a sexual assault advocate will be meeting them at the location.
- Keep sexual assault victim informed about the state of the case.
- Address victim's concerns for safety and the possibility that the assailant will return.
- Accommodate victim's needs during investigator processes, which require victim participation, e.g., interviews, hearings, and line-ups.
- Notify sexual assault victim when suspect is taken into custody.
- When warrant is issued, request **No Contact and No Bond** provision for bond.
- When warrant is issued, update victim of status.
- Upon request, allow a victim advocate or LiveSafe Resources Sexual Assault advocate, to be available on premises during line-ups, interviews, etc. to provide emotional support for the victim.
- Request copy of the 911 call and initial report.

Initial Interview – Detective

- Determine information needs for police and prosecutor from victim interviews to minimize necessity of repetitious interviews.
- Provide appropriate steps to make sexual assault victim comfortable with the interview, i.e., ask victim about gender preference for interviewer or allow victim to have a LiveSafe Resources Advocate or friend present during the interview.
- Provide interpreter services, if needed, including language translation for the non-English speaking and signing for the hearing disabled sexual assault victims.
- If you have probable cause, proceed with the case.
- If there is a stated policy about the use of video and/or audio taping of the interview, e victim of this process and how the tape will be used in later proceedings.

Medical Accompaniment and Advocacy

From: Division of Public Health Standards/Guidelines for Georgia Sexual Assault/Sexual Offense Programs

The Sexual Assault Response Team works to secure written agreements with the local law enforcement agencies so that the law enforcement personnel will call the SANE nurse when they receive a sexual assault related call and the SANE nurse will call LiveSafe Resources victim advocate. Note: If patient is being seen at SafePath Children's Advocacy Center for forensic medical services, follow the procedures of the center.

In the event of reaching the 120-hour mark paired with the absence of a SANE; law enforcement will accompany victim to hospital facility for the forensic medical exam to be performed according to hospital policy and activate a LiveSafe Resources Advocate.

Otherwise, the best method for sexual assault kit collection for preservation of evidence and trauma-informed processes is with a specialty trained SANE Nurse at LiveSafe Resources.

The medical facility must obtain informed consent from the patient explaining all tests and procedures, which will be given.

The medical facility should perform the following for all patients of sexual assault: Physical exam by an *Emergency Room Physician/Mid-level Provider/SANE*, treatment for any injuries, collection of evidence for the Georgia Bureau of Investigation, pregnancy test, and prophylactic medications for such sexually transmitted infections as Chlamydia, gonorrhea and syphilis. Post coital hormonal prophylaxis will be offered to prevent pregnancy and referral for baseline serologic tests for hepatitis virus and screening for any appropriate sexually transmitted diseases, and HIV.

LiveSafe Resources SANE Nurses will offer and provide all of the above services to all victims that seek services at LiveSafe Resources.

LiveSafe Resources will work with the medical staff so that the facility will allow, with the victim's permission, the staff or sexual assault advocate to be present in the exam room as they will assist the victim at the Emergency Room and throughout the exam.

The LiveSafe Resources Advocate explains to the victim their rights and options. The SANE will explain the nature of the evidence collection and the physical exam, tests and lab work which should be provided, morning after medication and other prophylactic medications to prevent sexually transmitted diseases, options regarding testing for HIV and hepatitis B. The LiveSafe Resources Advocate and SANE will discuss follow-up options with the victim/patient.

The LiveSafe Resources Advocate provides information regarding the emotional and physical reactions which the victim may experience, and the assistance available to the victim, including where to obtain counseling, name of detective, and information about applying for victim compensation funds.

The LiveSafe Resources Advocate provides the victim and those persons accompanying the victim with handouts explaining services available from LiveSafe Resources Sexual Assault Program and how the center will contact the victim after they return home to assist them.

The LiveSafe Resources SANE Program will maintain internal protocol on performing medical forensic examinations in accordance with current evidence-based recommendations of practice. The LiveSafe Resources Sexual Assault Program will provide education to the emergency department and other medical staff on how to respond to and to treat the emotional needs of the patient, and symptoms of the Rape Trauma Syndrome.

Non-Reporting Victims

Per 42 U.S.C. § 3796gg-4(d), victims of sexual assault have the right to decide whether or not to report to law enforcement. The following steps should be followed if a victim 18 years of age or older chooses not to report to law enforcement but chooses to have a forensic-medical exam done:

- An advocate will speak with a victim to explain their rights, discuss their concerns, and discuss the pros and cons of an exam and reporting to law enforcement.
- The SANE will explain the procedure if the victim chooses to report.
- The SANE will store the evidence indefinitely in a locked location at the LiveSafe Resources' SANE exam suite.
- Only SANE RNs and the LiveSafe Resources Sexual Assault Program Director will have the keypad code to the storage unit in which the exam kits are stored.
- An advocate will attempt to contact victims for follow-up and to discuss options should a victim choose to report later.
- The SANE Coordinator will maintain chain of custody and keep detailed record of the date of evidence collection and storage as well as the date and details of any release of evidence.

Prosecution

I. Victim Expectation and the Role of the Prosecutor

The following guidelines are listed as suggestions for determining feasibility of prosecution and progression of any potential criminal case. However, final decisions to prosecute and/or the disposition of the case are within the discretion of the prosecutor assigned and based upon law and evidence. Sexual assault victims have been subjected to one of the most traumatic experiences possible. The following recommendations are made in an attempt to address the issues in the prosecution of the case.

II. Recommendations for Victim Witness Advocate and Prosecutors in Working with Sexual Assault Victims

The assigned victim advocate is responsible for informing victims of the status of a case in accordance with the Crime Victim's Bill of Rights (OCGA 17-17-1 et seq.) This responsibility includes the following specific statutory requirements. It is the job of the prosecutor to work directly with the victim advocate to ensure all rights are being afforded to the victim.

- Whenever possible, the assigned victim advocate shall notify the victim prior to any proceeding in which the release of the accused will be considered. (17-17-7(c)).
- Whenever possible, the assigned victim advocate shall offer the victim the opportunity to express the victim's opinion on the release of the accused pending judicial proceedings (17-17-7(d)).

- Upon initial contact with a victim, assigned victim advocate shall give prompt notification to the victim of the following:
 - The procedural steps in processing a criminal case
 - The rights and procedures of victims under the Victim's Bill of Rights.
 - Suggested procedures if the victim is subjected to threats or intimidation.
 - The names and telephone numbers of contact persons at both the office of the custodial authority and in the prosecuting attorney's office (17-17-7(a)).
- If requested in writing by the victim and to the extent possible, the assigned victim advocate shall give prompt advance notification of any scheduled court proceedings and notice of any changes to that schedule. Court proceedings shall include any changes to that schedule. Court proceedings shall include, but not be limited to pretrial commitment hearings, arraignment, motion hearings, trial, sentencing, appellate review, and post-conviction relief. The assigned victim advocate shall notify all victims of the requirement to make such request in writing. (17-17-7(b)).
- The assigned victim advocate shall offer the victim the opportunity to express the victim's opinion on the disposition of an accuser's case, including the views of the victim regarding plea or sentence negotiations and the perpetrator's participation in pretrial or post-conviction diversion programs (17-17-11).
- Upon written request of the victim, the assigned victim advocate shall notify the victim of the following:
 - That the accused has filed a motion for a new trial or an appeal of his or her conviction.
 - 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.
 - The result of the motion or appeal. (17-17-12(a)).
- In the event the accused is granted a new trial or the conviction is reversed or remanded and the case is returned to the trial court for further proceedings, the victim shall be entitled to request the rights and privileges provided by the Victim's Bill of Rights (17-17-12(b)).
- Each prosecutor to ensure that the above statutory requirements are satisfied should establish procedures compatible with a particular jurisdiction.
- If feasible, prosecutors should charge and pursue to the fullest extent of the law defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.
- Prosecutors should discourage case continuances once the State has completed its trial preparation. When such delays are necessary, every effort should be made to accommodate victims and witnesses in determining when to reschedule the court proceeding. The new court date, as well as the reason for the continuance, should be explained to the victim.
- The District Attorney's Office shall establish and maintain direct liaison with the victim to ensure they are receiving proper victim services.

III. Suggested Criteria in Deciding Whether or Not to Prosecute

Although there is no set number or type of factors, which must be present before a case involving sexual assault is deemed prosecutable, there are variables, which should be considered in making the decision. These include, but are not limited to the following:

- The availability and extent of cooperation from the victim.
- Whether or not there is independent evidence of the assault, such as eyewitnesses, photographs of injuries, forensic evidence, admissions of defendant, etc.
- What impact testifying would have on the victim.
- The existence of a past history of assaults, whether charged or uncharged, by the defendant.

IV. General Procedures for Handling Sexual Assault Cases

Assignment of Cases

The case will be assigned to the Domestic Violence and Sexual Assault Unit employed within the District Attorney's Office. The prosecutor will employ vertical prosecution and will be assigned the case from warrants through any post-conviction proceedings.

First Appearance

The victim will receive a phone call from a victim advocate that will explain the following, within 48 hours of the Defendant's arrest:

- Whether or not the Defendant has a bond
- Request any information from the victim about their feelings on a bond
- Establish the relationship between the victim and the defendant
- Get any other contact information from the victim, including a secondary contact in case of emergencies
- Brief description of the Judicial process and what to expect moving forward
- Will call the victim after first appearance to discuss what occurred and if a bond was granted

Contact by Victim Advocate

- Send out a Victim Packet to the address listed
- Call the Victim to establish a relationship and address any concerns
- Explain the Judicial system and what to expect
 - It is the State moving forward with the charges, not the victim
 - Parties are the State of Georgia v. Defendant
- Find out if the victim is safe in their current location and offer all resources
- Answer any questions
- Determine victim cooperation
- Discuss any details that may be pertinent to the case that was not received by law enforcement and forward that information to the DA Investigator
- History between the Defendant and the victim
- Complete a Lethality Assessment

Initial Screening

- Once the Office receives the warrants, the case will be assigned to the Domestic Violence and Sexual Assault Unit. Once the Victim Advocate has spoken with the victim, the case is then forwarded to the DA Investigator.
- The case will be screened by the DA Investigator to determine whether there is information missing or if further investigation needs to be completed. Factors that are reviewed during this initial screening include, but are not limited to, the following:
 - The extent and seriousness of injuries
 - Gun
 - Criminal History
 - Evidence
- Lack of Victim Engagement
 - If the victim is hostile, not cooperative or unavailable, it is by the determination of the prosecutor whether or not there is enough independent evidence to move forward with an evidence-based prosecution of the case. Such independent evidence includes, but is not limited to:
 - Victim availability
 - Documented Injuries/medical records
 - Eyewitnesses to the crime
 - 911 call or recording from another individual
 - Physical evidence presented on scene for processing
 - Admissions by the Defendant
 - Photographic evidence
 - Past history of assaults, reported/non-reported between the parties
 - If there is sufficient enough evidence to move forward with evidence-based prosecution, the State may decide to do so. If there is not sufficient enough evidence to move forward, the State may dismiss the warrants based on lack of sufficient evidence and lack of victim cooperation. The victim will be notified of the State's decision promptly.

Pre-Indictment Guidelines

When it has been determined to proceed with a case, the following preparations, when appropriate, should be made before the case is presented to the Grand Jury:

- Any corroborating witnesses should be interviewed.
- Name, addresses and phone numbers of all witnesses are included in the case file.
- A complete criminal history of the defendant is in the file.
- Where applicable, photograph of the victim's injuries have been received and reviewed.
- Contact has been made with the victim-witness assistant and service agencies, which have been working with the victim.
- All police reports have been received and reviewed.
- Results of all reports surrounding the case.

Trial

In sexual assault cases there are several factors which, if not unique to these offenses, are more likely to have an impact on the trial of the case. For this reason, the prosecutor should be sensitive to the presence and influence of these factors in preparing for and in conducting the trial. One such factor is the extreme embarrassment or humiliation a victim may suffer in having to testify in open court as to the assault. Efforts should be made to prepare the victim for these emotions and to “shield” the victim as much as possible during t testimony. Another factor to assess in the trial of these crimes is the prejudice and preconceived notions people often have when someone has been sexually assaulted. More so than in other cases, people will scrutinize the dress and conduct of a victim and the choices he/she made prior to the assault in judging the case. Similarly, jurors are likely to pay closer attention to the dress and conduct of the victim in court than they would with a burglary charge. The prosecutor should be sensitive to this in presenting the case to the jury. Depending on the type of assault, there may be other factors that will have a special impact on the case because it is a sexual assault crime. Attempts should be made to identify and deal with these factors during the presentation of the State’s case.

Consideration should be given to using expert testimony on victim and offender dynamics in appropriate cases. Ways to use the hearsay exceptions should also be explored when confronted with an uncooperative victim.

Recommended Guidelines: Prosecution Working with Victims

- Notify sexual assault victim of all hearings and changes in schedules.
- Consider the needs of the sexual assault victim when scheduling case-related activities, e.g. religious holidays, health requirements, family activities and occupational requirements.
- Facilitate victim participation in all activities at which the assailant has a right to be present.
- Establish communication methods to avoid unnecessary trips to the courthouse, e.g., on-call system for victims or voice mail system for victims to call in and receive current case status information.
- Object to requests for continuances that are dilatory and do not benefit the State or victim.

Preliminary Hearings, Arraignment and Bail Hearings

- Make every effort to discuss desired conditions of release with sexual assault victim prior to bail hearing.
- Request that any release on bond include protection orders for the victim.
- Keep sexual assault victim informed about the detention status of the suspected assailant and/or make sure that the victim has the name and telephone number of a contact person at the detention facility that will inform the victim as to detention status.
- When possible, allow the victim to express concerns about the danger posed by the suspected assailant.

Plea Negotiations

- Inform sexual assault victim of reasons to consider a negotiated plea, when appropriate.

- Describe optional courses of action other than a negotiated plea.
- In determining appropriate case disposition, take into consideration the desires/concerns of the victim.
- Consider the needs of the victim in accepting a plea, e.g. restitution, protection, emotional security.
- Provide sexual assault victim some method for making concerns, feelings, needs, etc. known to the court at or before sentencing on a plea.

Trial

- Provide separate areas for victims and defense witnesses.
- Provide court accompaniment for sexual assault victim.
- Keep victim informed about court schedules: dates, times and places.
- If requested by victim, provide information and explanation for the victim's absence to employers/teachers as to the victim's presence at court proceedings.

Sentencing

- Ensure opportunity for a victim impact statement as a part of sentencing considerations.
- Provide sexual assault victims some method for making their concerns, feelings, needs, etc., known to the court at or before the sentencing hearing.
- Include victim needs as part of sentence, e.g., restitution, protection, emotional security.

Post Sentencing

- Inform victim of the name and telephone number of the appropriate contact person at the Georgia Corrections and Parole Board Office of Victim Services for such information as changes in offender status, dates of scheduled parole hearings, method for updating victim impact statement, etc.
- Whenever possible, accompany victim to any face to face parole intervention.
- Provide priority prosecution for violations of release conditions.

The signing of this Protocol signifies the continued support and involvement of each agency listed for supporting the continued project functioning of the Paulding County Protocol for Responding to Victims of Sexual Assault.

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Tonny S. Beavers, Chief Judge
Paulding Superior Court

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Matthew Rollins, Acting District Attorney
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