

CONASAUGA JUDICIAL CIRCUIT SEXUAL ASSAULT PROTOCOL
O.C.G.A. 15-24-1, et. seq.

I. DEFINITIONS

- A. ADVOCATE - A designated victim advocate from the District Attorney's Office, Victim Witness Assistance Program, Domestic Violence Unit, or GreenHouse, as appropriate.
- B. CONASAUGA JUDICIAL CIRCUIT – Judicial Circuit in Georgia comprised of Whitfield and Murray Counties.
- C. DETECTIVE – A certified peace officer of the State of Georgia working as an investigator for the law enforcement agency within the Conasauga Judicial Circuit with jurisdiction over an alleged sexual assault or as appropriate, an agent with the Georgia Bureau of Investigations. The term as used in this protocol shall include where appropriate a detective supervisor but does not include uniformed patrol officers or supervisors.
- D. DFCS – Department of Family and Children Services.
- E. FORENSIC MEDICAL EXAMINATION (FME) – An examination provided to a victim by trained medical personnel in order to gather evidence. Such examination shall include, but not be limited to an examination for physical trauma, a determination as to the nature and extent of the physical trauma, a patient interview, collection of physical evidence and evaluation of the evidence collected, any additional testing deemed necessary by the examiner in order to collect evidence and provide treatment, and proper documentation of the above. See O.C.G.A 17-15-2(6) See O.C.G.A. §17-5-70(1).
- F. GREENHOUSE - The GreenHouse Child Advocacy and Sexual Assault Center located in Whitfield County, Georgia.
- G. OFFICER – A certified peace officer of the State of Georgia working for the law enforcement agency within the Conasauga Judicial Circuit with jurisdiction over an alleged sexual assault. Shall generally refer to a uniformed patrol officer or patrol supervisor as appropriate.
- H. PROTOCOL COMMITTEE OR COMMITTEE - A multidisciplinary, multiagency sexual assault committee established for a county pursuant to Code Section 15-24-2, charged with developing local protocols to investigate and prosecute alleged cases of sexual assault. See O.C.G.A. § 15-24-1(1).
- I. SANE - Sexual Assault Nurse Examiner. A registered nurse or advanced practitioner who has completed SANE training and clinical preparation in the medical forensic care of patients who have experienced sexual assault or abuse.

- J. SART - The Sexual Assault Response Team (SART) is a multidisciplinary team that provides a comprehensive response to victims of sexual assault and sexual abuse. The team will typically include members of law enforcement, prosecution, victim advocates and health-care providers.
- K. SEXUAL ASSAULT – Any act which would constitute the crimes of rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child molestation, improper sexual contact by employee, agent, or foster parent, incest, sexual battery, aggravated sexual battery or similar offenses, as these terms and offenses are set forth and defined in Chapter 6 of Title 16 of the Official Code of Georgia. See O.C.G.A. §17-5-70(3) and §15-24-1(2).
- L. VICTIM - An adult, youth, or child, male or female, who has made a report of sexual assault. As it relates to consent for a forensic medical examination, the term as used in this protocol shall include the non-offending parent or legal guardian of the child victim which may include the Department of Family and Children Services if DFCS has taken custody of the child.

II. GENERAL INFORMATION

- A. PURPOSE – The purpose of the Protocol shall be to ensure coordination and cooperation between all agencies involved in sexual assault cases so as to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim by the legal and investigatory process; provided, however, that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, preclude the admissibility of evidence, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action. See O.C.G.A. §15-24-2(e).
- B. INTENT - The Sexual Assault Response Protocol is intended to assist persons who have been sexually assaulted, by ensuring to the extent possible, that the physical and emotional well being and needs of the sexual assault survivor are recognized, taken into account and given a priority in determining appropriate response protocols. As such, the policies set out in the Sexual Assault Protocol are not intended to impinge upon or to exclude investigative procedures, treatment options, or other actions taken by individual agencies. Nor is the purpose of this protocol to mandate certain investigative procedures for law enforcement or prosecutors. The failure to follow protocol however indicates actions that may potentially cause harm to a survivor.

C. AGENCY REPRESENTATION – Development and implementation of The Sexual Assault Protocol is governed by OCGA §15-24-2 and effectuated by the Sexual Assault Protocol Committee. Agency representatives include:

1. Whitfield County Sheriff's Office
2. Murray County Sheriff's Office
3. District Attorney's Office
4. Whitfield County Magistrate Court
5. Murray County Magistrate Court
6. Dalton Police Department
7. Chatsworth Police Department
8. Whitfield County Health Department
9. Murray County Health Department
10. A local citizen appointed by the Chief Judge of the Superior Court
11. The GreenHouse, Child Advocacy and Sexual Assault Center
12. SANE Coordinator

D. MEETINGS – The entire protocol committee will meet at least once annually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating the same. The SART will meet from time to time as necessarily to coordinate sexual assault investigations and to ensure all agencies are in compliance with the protocol.

E. FORENSIC MEDICAL EXAMINATIONS

1. Any victim of sexual assault 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 the forensic medical examination (not to exceed \$1,000) shall be paid for by the Georgia Crime Victims Emergency Fund, as provide for in Chapter 15 of Title 17 of the Official Code of Georgia. See O.C.G.A. §17-5-72. The cost of any other medical care, unrelated to the forensic medical examination, shall be the responsibility of the victim and/or the victim's insurance carrier. Financial reimbursement may be available from the Georgia Crime Victim Compensation Program. Victim advocates from the District Attorney's Office will assist victims wishing to apply with this program including with appeals should compensation be denied.
2. Unless requested directly by the victim pursuant to O.C.G.A. 17-5-72, a forensic medical examination should only be conducted where:
 - a. A detective requests the examination pursuant to an ongoing criminal investigation, the victim consents to the examination, and the SANE determines that the examination is appropriate, or

- b. DFCS requests the examinations pursuant to its own active investigation as necessary to ensure the safety of the child victim, DFCS has custody of the child victim or a non-offending parent/guardian consents to the examination, and the SANE determines that the examination is appropriate.
 3. Forensic medical exams should generally be conducted at the GreenHouse examination room but may be conducted at other appropriate locations such as a hospital emergency room or other medical facility if the GreenHouse is unavailable, or if the best interests of the victim and investigation warrant an alternate location as determined by the investigating detective or SANE.
4. CHILD ABUSE PROTOCOL – In addition to the terms of this protocol, there exists a Child Abuse Protocol in Whitfield and Murray Counties that should be referenced in cases of sexual assault against victims under the age of 16 as well as severe physical abuse of victims under the age of 18.
5. POLYGRAPH EXAMINATIONS – No prosecuting attorney, investigating law enforcement agency, or government official shall ask or require any victim of a sexual assault to submit to a polygraph examination or any other truth-telling device as a condition precedent to investigating such alleged crime. The refusal of a victim to submit to a polygraph examination or any other truth-telling device shall not prevent an investigation or prosecution of any sexual assault. See O.C.G.A. §17-5-73.

III. RESPONDING TO REPORTS OF SEXUAL ASSAULT

- A. INITIAL RESPONSE - All reports of sexual assault should be investigated by a Detective. Reports may come to be assigned to a Detective in a number of ways, which may affect how victim services are provided at the beginning of an investigation. The following priorities and procedures apply at the onset of an investigation, generally prior to a Detective becoming involved.
 1. The physical safety, health, and welfare of the victim are always the first priority. Those in contact with the victim including 911 operators, first responders, hospital personnel, and others should assure that the victim receives appropriate emergency medical services including transportation to an appropriate emergency medical facility as needed.
 2. Non-emergency medical care should be postponed if possible until the need for a forensic medical examination is determined and in should be provided after consultation with the SANE to ensure that the non-emergency medical care does not interfere with the collection of evidence during the forensic medical examination.
 3. If the victim presents at the emergency room or is transported to the emergency room, hospital staff should as soon as possible provide the victim with a private area to wait pending medical care and/or the arrival of a responding officer, victim advocate, or other individuals

involved in the investigation. Hospital personnel should advise the victim when such persons are in route and when they have arrived.

4. The responding officer should, consistent with the victim's medical needs, make contact with the victim and begin the initial collection of information and initial assessment of the case. This should include verifying jurisdiction, collecting the victim's information, suspect information if known, basic information about the allegation, any special needs or requirements of the victim, and as to adult victims, whether the victim is requesting a forensic medical examination pursuant to O.C.G.A. §17-5-72 (See II-F above) and whether the victim intends to cooperate with a law enforcement investigation.
5. The responding officer should also provide the victim with a crime victim rights notification form which should advise the victim of their rights under the Georgia Constitution, the Georgia Crime Victims' Bill of Rights, and of the right to a forensic medical examination provided under O.C.G.A. §17-5-72.
6. The responding officer or responding officer's supervisor should make an initial determination as to whether the on-call detective needs to be notified immediately or whether a referral should be made for a detective to follow up the next business day. This determination shall be based on all of the facts and circumstances of the case and allegation including on whether a forensic medical examination needs to be conducted right away. The officer should then contact the on-call detective to take over the investigation or should make an initial report and refer the case to their agency's criminal investigation division for further action.
7. When the responding officer or any other team member determines that the victim is a child under the age of sixteen years, the Department of Family and Children Services (DFCS) should be notified as soon as possible. In such investigation, both this protocol and the Child Abuse Protocol shall apply.

B. ONCE DETECTIVE RECEIVES THE CASE

1. Unless the victim has requested a forensic medical examination pursuant to O.C.G.A. §17-5-72 (See II-F above), the detective should decide based on all of the facts and circumstances of the case and as appropriate, after consultation with the District Attorneys' Office and/or the on-call SANE, whether a forensic medical examination is needed. In the event that a forensic medical examination is appropriate, the detective should contact the on-call advocate from the GreenHouse to request and arrange for the examination as soon as feasible or at a later date as appropriate in the specific case.
2. The on-call advocate in coordination with the Detective and with DFCS as appropriate should make arrangements for the SANE to respond to the GreenHouse for the forensic medical examination.

3. If necessary, the agencies involved should assure that the victim has appropriate transportation to get to the GreenHouse for the forensic medical examination.
4. The Detective should, where possible, relocate to the GreenHouse for the forensic medical examination and to take custody of any evidence produced from such examination, or where not possible, make other arrangements for authorized law enforcement personnel to take custody of such evidence from the SANE following the examination.
5. Victim advocate responds to the exam location, or to the victim's location as appropriate, and offers victim support, crisis intervention, information, and referrals as appropriate prior to, during and after the examination.
6. Except where specifically requested by the victim pursuant to O.C.G.A. §17-5-72 (see II-F, above), SANE may determine based on the nature of the allegations and taking into consideration the best interest of the victim that a forensic medical examination is not appropriate and may in such instances decline to conduct the examination. In such an event, the SANE shall document the reasons for declining to conduct the examination and shall provide a copy of such report to detective and upon request, to the District Attorney.
7. Otherwise, SANE shall conduct the forensic medical examination according to standards set by the Georgia Bureau of Investigation (GBI), using the GBI Sexual Assault Evidence Collection Kit. In addition, all forensic medical examinations shall be conducted according to standards set by the International Association of Forensic Nurses (IAFN).
8. The SANE shall turn over the completed Sexual Assault Evidence Collection Kit to the Detective or other law enforcement personnel authorized by the Detective. The GreenHouse will maintain records of the examination and any photographs for the requesting law enforcement agency and the District Attorney's Office but the records belong to the law enforcement agency. The District Attorney agrees to respond to any subpoena or other outside request for the documents consistent with O.C.G.A. §49-5-40, et. seq. and as otherwise provided for by law.
9. Documentation and reports concerning the forensic medical examination shall be the property of the SANE and shall be made available upon request to the detective conducting the examination and/or to the District Attorney's Office. Such documentation shall otherwise only be provided subject to proper subpoena or as otherwise provided by law.
10. The detective or other authorized law enforcement personnel shall obtain the completed Sexual Assault Evidence Collection Kit from the SANE and follow appropriate departmental evidence procedures concerning such evidence. The evidence should be maintained as required by O.C.G.A. 17-5-71, which includes preservation of the evidence for not less than 12 months when the victim chooses not to report the sexual assault to law enforcement. Otherwise, such evidence should be preserved for 30 years from the date of arrest, or

seven years from the completion of sentence, whichever occurs last, and if no arrest, then for 50 years.

11. The detective should arrange for the victim to be interviewed at the GreenHouse or other appropriate location based on the nature and circumstances of the case (but see Child Abuse Protocol, II-G, above concerning child victims). This interview may occur before or after the authorization of a forensic medical examination as deemed appropriate by the detective.

B. WHEN REPORT NOT MADE TO LAW ENFORCEMENT

1. Individuals or agencies, other than the law enforcement agency with jurisdiction to investigate the sexual assault, who receive reports of sexual assault should call 911 to report the sexual assault and begin the process as outlined in Section III-A above.
2. Note that when the victim is under the age of 16 and when the individual or agency receiving the report is a mandated reporter under Georgia Law, forwarding the report to the appropriate agency is mandatory and the failure to report such assault may result in civil and/or criminal penalties. See the Whitfield County or Murray County Child Abuse Protocol for additional information and requirements upon receiving a report of sexual assault involving a victim under the age of 16.

IV. ADOPTION OF PROTOCOL

The Conasauga Sexual Assault Protocol is hereby adopted by the Protocol Committee and will remain in effect until amended or replaced by the Committee at a future date.

This the 19th day of October, 2021.



Bert Poston
District Attorney
Conasauga Judicial Circuit



Danny Nuckolls, Region 1 Director
Georgia Division of Family & Children Services



Lt. Scott McAllister
Whitfield County Sheriff's Office




Jimmy Davenport
Sheriff, Murray County

Adoption of Protocol (continued)



Judge Chris Griffin
Chief Magistrate, Whitfield County




Judge Connie Reed
Chief Magistrate, Murray County




Lt. Ricky Long
Dalton Police Department




Chief Josh Ethridge
Chatsworth Police Department




Holli Collier
Whitfield County Health Department



Debbie Pearson
Murray County Health Department



Natima Walker
Executive Director
GreenHouse CAC/SAC



Ashley Cloer, KN, SANE-P, SANE-A
SANE Coordinator
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