

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

21 AP 1465

SEXUAL ASSAULT PROTOCOL

ORDER

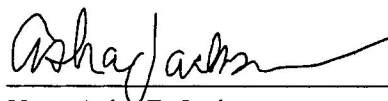
WHEREAS, the Legislature of the State of Georgia enacted O.C.G.A. Section 15-24-2 requiring the establishment of a Sexual Assault Protocol; and

WHEREAS, the undersigned established a Sexual Assault Protocol Committee pursuant to O.C.G.A § 15-24-2; and

WHEREAS, the Committee has met on numerous occasions and discussed the Protocol which was approved by a majority vote and adopted on December 15, 2021 as the protocol for cases of sexual assault in the Stone Mountain Judicial Circuit of the State of Georgia, a copy of which is attached hereto,.

NOW THEREFORE IT IS HEREBY ORDERED, this document is accepted by the Court as the protocol to be used in responding to, investigating and prosecuting cases arising from an alleged sexual assault and shall be spread upon the minutes and filed with the Clerk of the Superior Court of DeKalb County.

SO ORDERED, this 20th day of December, 2021.



---

Hon. Asha F. Jackson  
Chief and Administrative Judge  
Stone Mountain Judicial Circuit



DeKalb County  
G E O R G I A

SEXUAL  
ASSAULT  
RESPONSE  
TEAM  
PROTOCOL  
DeKalb County, Georgia

Adopted December 15, 2021

## **Section 1**

### **Introduction**

#### **I. Implementing the Protocol**

The Georgia Legislature enacted two key pieces of legislation during the 2004 Legislative Session that relate to the implementation of Sexual Assault Protocols:

- 1) O.C.G.A. §§ 15-24-1, and –2, which became effective on July 1, 2004, mandate that each judicial circuit establish a Sexual Assault Protocol Committee to adopt a written Sexual Assault Protocol for that circuit by no later than December 31<sup>st</sup> of each year. The statute was amended in 2021 to provide that the protocol must be transmitted each year by the due date to the Criminal Justice Coordinating Council. Non-compliance will be reported to the Office of the Governor.
  
- 2) O.C.G.A. § 19-15-2(k), which also became effective on July 1, 2004, amends the statute to provide that the Child Abuse Protocol Committee for each judicial circuit adopt a written sexual abuse and exploitation protocol by no later than December 31<sup>st</sup> of each year which details the procedures used in investigating and prosecuting child sexual abuse and exploitation cases.

In each case, the statute provides that the Committee continue to meet on an on-going basis after the formulation of the written policy to evaluate the effectiveness of the protocol and modify and/or update same as needed.

Each of these mandates embraces the recommendation that communities should address the issues of adult and child sexual assault with a multi-disciplinary response. While the statutes mandate participation from traditional law enforcement and judicial partners such as the Sheriff, the District Attorney, Magistrate Court, and Police Chiefs, they also require participation from the Board of Health, Mental Health Organizations, sexual assault centers, advocacy groups and local citizens.

The DeKalb County Sexual Assault Protocol will be distributed to the community at large for implementation. This will educate the community about how they can best help victims and discourage organizations such as colleges, religious organizations and schools from handling the matter “in-house.” This will also allow opportunities for community input and clarification of any issues.

## **II. Purpose of the Protocol**

This Protocol was adapted from the protocol developed by the Georgia Sexual Assault Task Force in 2018. The Task Force was initiated by the Criminal Justice Coordinating Council. The DeKalb County SART was established to ensure all victims of sexual assault are provided with fair and just procedures as they encounter the criminal justice system.

This Protocol is intended to

- Facilitate 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;
- Standardize the collection of evidence in order to aid in the prosecution of cases; and
- Develop coordinated efforts among health providers, law enforcement personnel, prosecutors, and victim advocates to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim during the medical, investigatory and legal process.

This Protocol should be used by health care providers, including hospitals, all branches of law enforcement, including prosecution, and programs which assist victims. An emphasis in this Protocol is upon letting a victim regain control over decisions by letting that victim choose whichever services are needed.

## **III. Organization of the Protocol**

The protocol is organized into six section: (1) Introduction; (2) Victim Support Services; (3) Law Enforcement Response; (4) Sexual Assault Examination and Evidence Collection; (5)

Prosecution; and (6) the Appendices. A check list summarizing the necessary procedures follows the victim support services, law enforcement response, and prosecution sections.

#### **IV. Persons Covered**

Victims of sexual assault are female and male, old and young, rich and poor, heterosexual and homosexual, cisgendered and transgendered. Persons may be sexually assaulted by strangers, acquaintances, or members of their family.

Sexual assault is defined as sexual contact or intimacy initiated by one or more persons against another without their consent. This includes instances when victims are unable to give consent due to age or mental or physical incapacity.

In DeKalb County, this Protocol covers adult victims of sexual assault. However, the sexual assault examination section describes the evaluation of child and adolescent victims. When a child has been sexually abused, existing county or jurisdictional child abuse protocols will be useful in detailing the role of the Division of Family and Children's Services, law enforcement, and the courts. Please see the DeKalb County Child Abuse Protocol for additional information.

#### **V. Confidentiality, Privacy and 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 orientation. Any documentation should be undertaken with sensitivity to the potential for long-term, negative consequences to a victim.

Special care should be given to protect the victim's privacy when an agency is required to provide information pursuant to an Open Records Request. In accordance with O.C.G.A. §16-6-23 and Doe v. Board of Regents of the University System of Georgia, 215 Ga. App. 684 (1994), the victim's name and identifying information should be redacted to protect anonymity.

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 also must 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 of a sexual assault can be devastating. The humiliation and degradation victims may feel often are compounded by feelings of guilt as 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 do 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 sexual assault 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, gender identity, and 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 identity 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 to become a survivor. Giving the victim control over decisions is an important part of the transition from victim to survivor.<sup>1</sup>

## **VI. Prosecution of Cases**

The DeKalb County Sexual Assault Protocol Committee, while recognizing the importance of the victim’s cooperation to the successful prosecution of a case, expects that prosecutors will consider each case carefully before deciding whether or not to prosecute the case. Rape is a very serious crime, and every effort should be made to bring the alleged perpetrator to justice.

## **VII. Reporting Requirements**

There are two laws which relate to the reporting of sexual assault and/or sexual abuse and two other laws designed to protect elderly persons who may be victims.

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

**O.C.G.A. § 31-7-9** mandates that physicians and certain other persons employed by a medical facility report to the administrator of the facility “non-accidental injuries.” The administrator 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 age 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.

Under **O.C.G.A. § 19-7-5**, certain categories of persons are required to report any reasonable suspicion of child abuse: physicians, registered professional nurses, licensed professional counselors, and licensed social workers. Staff of sexual assault programs would not be required to report such cases unless staff were licensed, according to the law. However, the general

---

<sup>1</sup> The term “victim” may also be used in the criminal legal context.

practice has been for sexual assault programs to report cases of child sexual abuse. The report must be made to the local child welfare agency and, in Georgia, this agency is the Department of Family and Children's Services. 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**

**O.C.G.A. § 30-5-4** requires the reporting of the need for protective services for elderly persons by certain categories of persons, such as physicians, nursing and social work personnel, and law enforcement. Adult Protective Services of the Department of Human Resources will then investigate to determine which services are needed. Those reporting the suspected abuse are immune from civil or criminal liability.

**O.C.G.A. § 31-8-80** requires the reporting by (1) administrators, physicians, nurses or other employees of a hospital or facility and (2) 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 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 Resources or to the appropriate law enforcement agency. The Office of Regulatory Services of DHR will then initiate an immediate investigation.

#### **VIII. Need for Consent of Victim for Medical Procedures**

The Georgia Code requires that there must be consent to any and all medical treatment (O.C.G.A. § 31-9-2). 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.



**IX. Testing for HIV: defendants and those convicted of an AIDS-transmitting crime**

A concern often expressed by a victim of a 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. An interpretation of the law and procedures may be in the Appendix to this document. 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 a local district attorney or judge.

**X. Financial Resources**

There are a number of 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. COSTS OF THE MEDICAL FORENSIC EXAMINATIONS**

The cost of examinations shall be paid pursuant to O.C.G.A § 16-6-1 (c), O.C.G.A § 17-5-72. Patients shall not be responsible for the payment of medical forensic examination costs.

Law enforcement no longer has responsibility for payment for forensic exams in Georgia. Medical providers can bill the Georgia Crime Victim's Compensation Program administered by the Georgia Criminal Justice Coordinating Council (CJCC) directly for payment for forensic exams. Forms for payment for forensic exams can be found on their website at [cjcc.ga.gov](http://cjcc.ga.gov). Also, medical providers can submit costs for forensic exams regardless of whether the sexual assault has been reported to police or proper authorities.

### **A. Victims' Compensation Fund**

For other medical costs associated with the assault, such as the pregnancy test, test for HIV, the "morning-after pill," and treatment for any injuries, reimbursement can be claimed through the Victim's Compensation Fund, and payment will be made directly to the hospital or other medical provider, including a Sexual Assault Nurse Examiner (SANE). However, if a victim is insured or on Medicaid, then those sources should be sought before the Victims' Compensation Fund is used. If the victim has to pay any part of the medical bill, then those costs can be claimed from the Victims' Compensation Fund. The Victims' Compensation Fund is administered by the Criminal Justice Coordinating Council (CJCC).

There are several stipulations regarding the Victims' Compensation Fund:

- the victim must report the crime to local law enforcement within 120 hours of the crime;
- the victim must submit a claim to the Victims' Compensation Board within one year of the crime;
- the victim must cooperate with law enforcement during the investigation; and
- the victim may not have been engaged in any illicit activity, such as using drugs, at the time of the crime.

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.

A victim who reported the crime after the 120 hours or submitted a claim after the one-year time period has expired can appeal a denied application. (A claim submitted 3 years after the victimization cannot be considered.)

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, funeral expenses, and crime scene clean-up.

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. Hospitals, law enforcement, victim advocates, and prosecuting attorneys' offices should inform victims of sexual assault that they are eligible to receive up to \$25,000 for costs associated with the crime. Victim Witness Assistance Program staff and staff of rape crisis centers are available to assist victims in the preparation and submission of these claims.

*Note: A victim may report the crime to the police and may seek health care at any time after the crime. The 120 hour limit on reporting to the police in order to qualify for the Victims' Compensation Fund should not impede a victim from seeking assistance.*

#### **XI. Crime Victims' Bill of Right, O.C.G.A. § 17-17-1**

This bill was passed during the 1995 legislative session. In addition to increasing the amount of money a victim can receive from the Victims' Compensation Fund, it also requires that victims be notified of the arrest of the accused, release of the accused from custody, court proceedings, hearings, arraignment, trial, sentencing, and release or escape of the perpetrator. A copy of this law may be found in the Appendix.

O.C.G.A. § 17-17-1 and O.C.G.A. § 17-17-2 also state that when an employee of the Department of Human Resources, a law enforcement agency, or a court has reason to believe that he or she is in contact with an adult who has been the victim of rape or aggravated sodomy, then the staff person shall offer or provide the adult a written statement of information, including information from the Crime Victims' Bill of Rights, and resources available to victims.

## Section 2

### Victim Support Services

Services to victims can be provided by rape crisis centers, victim assistance programs or organizations, hotlines, or other agencies. These programs can be community-based or system-based. A community may have one or more of these organizations providing services to victims.

- (1) **Family Protection Center (FPC)**, (770-438-4532) is a multidisciplinary center which provides a collaborative approach to providing services to survivors/victims throughout the criminal justice process. The FPC, provides immediate sexual assault examinations to survivors/victims on a 24-hour basis. The providers include Georgia Children Center of Advocacy (GCCA), Day League, DFACS, The International Women's House, DeKalb County Police Department (DKPD), DeKalb County Fire and Rescue, and DeKalb County District Attorney's Office. **This phone number is answered 24-hours per day.**
  
- (2) **Victim assistance programs** through the use of system-based advocates may be located in the offices of prosecuting attorneys or law enforcement agencies. These programs provide information, support, and guidance for the victim throughout the criminal justice process, including: information regarding the status of the court case; information and explanation regarding criminal proceedings; a companion to attend court with the victim; emotional support; and referrals to counselors and other agencies. Assistance is also provided to a victim applying for crime victims' compensation. The Office of the DeKalb County District Attorney's Victim/ Witness Assistance Program is based in the DeKalb County Courthouse and assists survivors and their families at all stages of the criminal process after arrest.
  
- (3) **Hot-lines** are a 24-hour safe and confidential services to provide support and information and referrals.

Day League, 404-377-1428

International Women's House 770-403-5557

Women's Resource Center 404-688-9436

Victim service organizations are involved at various points in sexual assault cases. 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 certain specific junctures in the case, many victim service programs help victims from "start to finish." The following section includes a discussion of issues relating to victim service programs and their involvement and coordination with other agencies which respond to sexual assault victims.

### **I. Initial Report of Sexual Assault**

If a victim of sexual assault decides to report an assault, the victim must decide whom to tell. Options other than family members, guardians, or caretakers are staff of law enforcement, the Division of Family and Children's Services, a hospital or other medical facility, or an emergency crisis line operated by a rape crisis center or other crisis agency.

At the outset, Victim Assistance Programs whether they are community-based or system-based, often play dual roles. They both often provide crisis intervention and act liaisons with other service providers/agencies.

Victim Assistance Programs should be involved at the earliest possible time after a report of sexual assault, no matter which agency receives the initial report.

### **II. Initial Response**

Whoever is contacted first by the victim should be concerned for the safety and well-being of the victim. The role of the victim service provider is to:

- With the consent of the victim, help identify and address the immediate concerns of the victims, e.g., are they in a safe place, are there family members or friends whom the

victim wishes contacted, is medical care or transportation to the hospital needed, is clothing needed to wear home from the hospital;

- Provide information to victims regarding the effects of destroying evidence, taking a bath, washing clothes;
- Provide emotional support and crisis intervention to victims and their families;
- Be present during medical exam and police questioning if the victim wishes; and
- Help arrange transportation to and from the hospital or medical facility.

For their own safety, and to avoid interfering with the investigation, victim advocates do **not** go to the crime scene unless accompanied by law enforcement. Victim advocates are not investigators or attorneys and do not investigate cases or give legal advice. The role of the victim advocate should be explained to the victim, and the advocate should make sure the victim is comfortable with the advocate continuing to provide service.

Although several different agencies come in contact with victims at various stages after the assault is reported, the victim service organization is often considered the “hub of the wheel” for victims, providing consistent support and advocacy throughout

### **III. The Role of Community-Based Advocates**

The role of the community-based advocate is to provide services to the victims of sexual assault regardless of whether or not the victim chooses to participate in the criminal justice process. Advocacy services are provided by the Day League and International Women’s House, and advocates coordinated through the Women’s Resource Center. These agencies play a very important role in providing a response that keeps the victim central in the process, allowing the investigation and prosecution to be offender focused. Advocacy also has a critical role in promoting the healing process for the victim. Community-based advocates provide crisis intervention, support, family advocacy, information and referral, and other ancillary services to assist the victim through the criminal justice process. The support provided by the community-based advocate also benefits the criminal justice process, because supported, well-informed victims are more likely to continue through the process. Advocates will operate under the

































































































