

SEXUAL ASSAULT PROTOCOL
IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA

ORDER

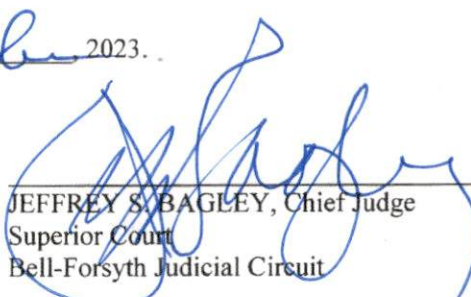
WHEREAS, the Legislature of the State of Georgia enacted O.C.G.A. Section 15-24-2 requiring the establishment of a Sexual Assault Protocol; and

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 November 29, 2023, and discussed the Protocol, which was approved by a majority vote and which is attached hereto, as the protocol for cases of sexual assault in the Bell-Forsyth Judicial Circuit, 9th Judicial Circuit District of the State of Georgia.

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 Forsyth County.

SO ORDERED, this 22nd day of December 2023.


JEFFREY S. BAGLEY, Chief Judge
Superior Court
Bell-Forsyth Judicial Circuit

FORSYTH COUNTY SEXUAL ASSAULT PROTOCOL

This Forsyth County Sexual Assault Protocol ("Protocol") is adopted pursuant to O.C.G.A § 15-24-2 for the purpose of outlining the procedures to be used in responding to, investigating and prosecuting cases of sexual assault. The purpose of this 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 process¹.

¹ O.C.G.A. § 15-24-2; 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.

For purposes of this Protocol, the term *victim* shall refer to victims aged 13 and older. Every sexual assault case involving victims under 18 shall refer to the Forsyth County Child Abuse Protocol in identifying appropriate services and resources. Per the state model Child Abuse protocol, those services and resources should include Rape Response in providing services to adolescents in acute cases. An agreement between Rape Response and Forsyth County Child Advocacy Center shall define access to and sharing of client records. In providing services to anyone under the age of 18, DFACS and/or law enforcement shall be notified pursuant to O.C.G. A § 19-7-5.

ADVOCACY

The role of the sexual assault victim advocate² is to provide services to the victims of sexual assault regardless of whether the victim chooses to participate in the criminal justice process. They 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. Sexual assault victim 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 sexual assault victim advocate also benefits the criminal justice process, because supported, well-informed victims are more likely to continue through the process.

Responsibilities of the sexual assault victim advocate include:

- Being available to victims and families 24 hours a day, 7 days a week via a 24-hour crisis line staffed by trained community advocates
- Providing services to victims and families that are sensitive to the unique barriers and special considerations that diverse victims encounter in reporting sexual assault crimes
- Providing options to victims so that they may make informed decisions
- Supporting victims who choose to report to law enforcement by providing a link to eliminate barriers effecting the victim's participation in the criminal justice process
- Maintaining victim confidentiality
- Offering services to non-reporting victims and assisting if and when the victim decides to report

Victims may also work with systems-based victim advocates if the case progresses through the criminal justice system to the point of prosecution.

LAW ENFORCEMENT

The role of the investigating officer is to ensure the safety of the victim and the community and to ascertain if the report of sexual assault meets the elements of a crime under Georgia law. Within their jurisdictions, law enforcement will investigate sexual assault crimes. Investigative responsibilities include:

- Identification, apprehension and interrogation of suspect(s)
- Interview of victim with an offender focused and trauma informed approach, which includes allowing an advocate to be present

² Defined as a trained sexual assault victim advocate working with a Georgia certified sexual assault center

- Interview of witnesses
- Collection and preservation of evidence
- Maintenance of chain of custody
- Timely submitting sexual assault evidence collection kits to GBI crime laboratory regardless of whether a suspect has been identified, per GBI recommendations
- Review of GBI Crime lab reports as soon as possible after they are released to investigating agency, per GBI recommendations
- Determination of probable cause and arrest
- Preparation of case reports with investigative summaries
- Assistance to District Attorney's office in prosecution of case
- Testimony and presentation of evidence in court

Investigating officers will work with victim advocates to ensure a victim centered response to the investigation and proper notification of case updates to victims.

MEDICAL FORENSIC EXAMINATION PROCEDURES

The role of the medical forensic personnel is to provide a timely, high-quality medical forensic examination that can potentially validate and address sexual assault patients' concerns, minimize the trauma they may experience, and promote their healing. At the same time, it can increase the likelihood that evidence collected will aid in criminal case investigation, resulting in perpetrators being held accountable and further sexual violence prevented.

Acute Medical forensic examinations shall be performed at Rape Response. . Acute cases are as follows: vaginal assault within 120 hours; anal assault 72 hours; oral assault 24 hours and saliva on skin within 96 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. Medical forensic exams should be made available if patient chooses to report or chooses not to report.

Medical forensic examinations shall be performed by a Sexual Assault Nurse Examiner ("SANE"), physician, nurse practitioner or physician's assistant ("PA") trained in performing such exams.

Medical forensic responsibilities include:

- Obtaining informed consent from the patient for the medical forensic examination, documentation and evidence collection
- Gathering the medical and forensic history
- Conducting a physical examination
- Coordinating treatment of injuries
- Documentation of biologic and physical findings
- Collection of evidence from the patient
- Documentation of findings
- Providing information, treatment, and referrals for STIs, pregnancy

- Follow-up as needed for additional treatment and/or collection of evidence.
- Providing testimony at trial

BIOLOGIC EVIDENCE COLLECTION

The examiner will collect biologic samples at the request of a patient, in accordance with currently accepted protocol (defined as the *National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents*), to obtain timely biologic reference samples for possible analysis at the GBI Crime Lab. At the conclusion of the sexual assault medical forensic examination, any evidence collected will be packaged and protected in a manner to ensure the integrity of specimens and the appropriate chain of custody of the evidence.

All biologic samples, fluids, hairs and other evidence requiring GBI analysis will be given directly to the case investigator for processing using a proper chain of evidence. Evidence will be collected up to a minimum of 120 hours after assault. In addition, cases should be evaluated on an individual basis as the medical forensic examination may be completed beyond 120 hours.

All biologic samples, fluids, hairs and other evidence requiring GBI analysis will be given directly to the case investigator for processing using a proper chain of evidence.

Pursuant to SB 304/O.C.G.A. § 35-1-2, it shall be the duty of every law enforcement officer who takes possession of the evidence collected during a sexual assault forensic medical examination to ensure that such evidence is submitted to the division within 30 days of it being collected.

Urine collected for analysis can be collected up to 120 hours and may be submitted to the Georgia Bureau of Investigations Crime Lab, the Federal Bureau of Investigations Crime Lab or other private lab for toxicology drug screen.

Blood collected for analysis can be collected up to 24 hours and may be submitted to the Georgia Bureau of Investigations Crime Lab, the Federal Bureau of Investigations Crime Lab or other private lab for toxicology drug screen.

All biologic evidence collected at the request of a patient who chooses not to initiate and participate in and/or cooperate with a law enforcement investigation shall be maintained by Rape Response.

REQUESTS FOR MEDICAL FORENSIC EXAMINATION

With the consent of the patient, medical forensic examinations can be performed at the request of (1) a law enforcement agency, (2) the District Attorney's Office, (3) a hospital, (4) pursuant to a court order, or (5) at the patient's request pursuant to O.C.G.A. 17-5-72.

Medical forensic examinations may be requested 24 hours a day by calling Rape Response at 770-503-7273.

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.

CONDUCT OF THE MEDICAL FORENSIC EXAMINATION

A SANE, physician, nurse practitioner or PA will perform the examination and assessment.

Medical forensic examinations and biologic evidence collection should be completed as quickly as possible after a report is received.

Medical forensic examinations and biologic evidence collection shall be conducted in accordance with Georgia Bureau of Investigation (GBI) procedures using a GBI Sexual Assault Evidence Kit.

The SANE, physician, nurse practitioner or PA will complete appropriate authorizations relating to the examination.

The SANE, physician, nurse practitioner or PA will photograph and document injuries and prepare a report.

The SANE, physician, nurse practitioner or PA will maintain and document the chain of custody of any evidence collected during the examination and assessment.

The SANE, physician, nurse practitioner or PA will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

PROCEDURES for HOSPITALS RECEIVING WALK-IN REPORTS OF SEXUAL ASSAULTS

Hospitals receiving patients reporting incidents of sexual assault shall immediately contact law enforcement in accordance with O.C.G.A § 31-7-9 mandating all non-accidental injuries be reported. Patients will retain the right not to initiate, participate in, and/or cooperate with any law enforcement investigation of such assault.

Law enforcement shall timely notify Rape Response of the incident.

PROSECUTION

The role of the District Attorney's office is to protect the rights of the victim while holding the offender accountable. Prosecutors should work in a collaborative fashion with law enforcement, medical forensic and victim advocates; Prosecutors will operate under the guidelines established by *The Georgia Crime Victim's Bill of Rights* (O.C.G.A. § 15-17-1) that state, for example, that victims have the right,

- To be treated fairly and with dignity by all criminal justice agencies involved in the case
- To proceedings free from unreasonable delay
- To reasonable, accurate and timely notice of a court proceeding where the release of the accused will be considered

- To reasonable, accurate and timely notice of court proceedings or any changes to such proceedings, including restitution hearings
- To reasonable, accurate and timely notice of the accused's release and/or monitoring program
- To be present at all criminal proceedings in which the accused has a right to be present
- To NOT be excluded from any scheduled court proceedings, except as provided in O.C.G.A. § 17-17-1 or otherwise provided by law
- To a waiting area, during judicial proceedings, that is separate from the accused and his or her relatives, friends and witnesses
- To be reasonably heard at any scheduled court proceedings involving the release, plea or sentencing of the accused
- To complete a Victim Impact Statement and have it presented to the court prior to the trial or plea of the accused (O.C.G.A. § 17-10-11)
- To refuse to submit to an interview by the accused, accused's attorney or agent of the accused.
- To a requirement by the court that defense counsel not disclose victim information to the accused (O.C.G.A. § 17-17-10)

If a victim attends any court proceeding, a victim advocate from Forsyth County Victim Witness Assistance Program will accompany the victim.

LOCAL SART COORDINATED RESPONSE

All members of the Forsyth County Sexual Assault Response Team will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

Members of the Forsyth County SART agree to meet annually for case review, discussion and evaluation to assure the coordination and cooperation between all agencies responding to sexual assault cases in the Bell-Forsyth Judicial District.

The foregoing Forsyth County Sexual Assault Protocol is hereby adopted and replaces any previously adopted protocol and remains in effect until such time as said protocol is amended and adopted.

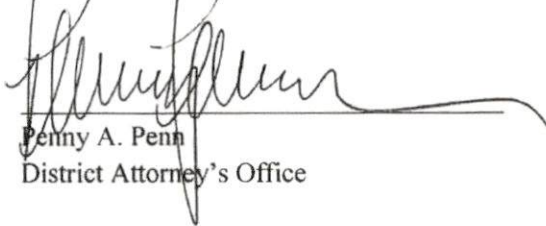
This ⁴⁸15 day of December, 2023.



Ron Freeman
Forsyth County Sheriff's Office



PJ Girvan
Cumming Police Department



Penny A. Penn
District Attorney's Office



Courtney Elliott, RN
Health Department



Keisha M. Chambless
Magistrate Court



Jen Tarnowski
Rape Response



Janie Steckenrider
Sexual Assault Nurse Examiner



Deanna Armstrong
Citizen